

THE ADMINISTRATION'S RELIGIOUS
LIBERTY ASSAULT ON LGBTQ RIGHTS

HEARING
BEFORE THE
COMMITTEE ON
OVERSIGHT AND REFORM
HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

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THE ADMINISTRATION'S RELIGIOUS LIBERTY ASSAULT ON LGBTQ RIGHTS

Thursday, February 27, 2020

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND REFORM,
Washington, D.C.

The committee met, pursuant to notice, at 9:04 a.m., in room 2154, Rayburn House Office Building, Hon. Carolyn Maloney, [chairwoman of the committee] presiding.

Present: Representatives Maloney, Norton, Lynch, Connolly, Krishnamoorthi, Raskin, Rouda, Sarbanes, Welch, Kelly, DeSaulnier, Ocasio-Cortez, Pressley, Tlaib, Porter, Haaland, Jordan, Foxx, Massie, Meadows, Hice, Grothman, Comer, Cloud, Gibbs, Norman, Roy, Miller, Steube, and Keller.

Chairwoman MALONEY. The committee will come to order.

Without objection, the chair is authorized to declare a recess of the committee at any time.

I now recognize myself for an opening statement, and good morning and thank you all for coming today.

When Donald Trump was inaugurated in 2017, many of us worried about the danger that a Republican administration could pose to lesbian, gay, bisexual, transgender, and queer peoples' rights.

When Donald Trump campaigned he gave lip service to caring about LGBTQ rights. But immediately after he took office, his administration began undermining vital LGBTQ rights.

The White House started out by removing all mentions of LGBTQ rights or people from its website and it has gone down since then. The Trump administration quickly dismantled important legal and regulatory protections for LGBTQ people that adopted discriminatory rules and undermined protections for LGBTQ people.

LGBTQ people face real dangers in our society. A month ago, a transgender woman, Serena Daniari, was physically attacked in a New York subway by individuals who yelled homophobic slurs at her.

I was horrified that this hate crime happened in the city I represent, New York City, one of the most progressive cities in the world. Transphobia, racism, and homophobia are real and LGBTQ people face real harms and real violence in their daily lives and that is precisely why the Federal Government must act to protect all LGBTQ people against harm.

One of the most cynical aspects of the administration's effort is how it has emboldened discrimination by distorting claims of reli-

gious liberty. The Trump administration is dividing America and pitting American citizens against each other.

That is a false choice. For years, Federal law has protected the rights of individuals and organizations to observe religious and moral tenets without unduly burdening the health and welfare of others.

Let me make one thing crystal clear. I am a strong supporter of religious liberty. But it should not be distorted and twisted into a weapon to enable discrimination.

Scrubbing the White House website of references to gay people has nothing to do with religious freedom. It has everything to do with the Trump administration's assault on the LGBTQ community.

Today, we will hear directly from some of our distinguished colleagues who understand the importance of protecting and strengthening rights of all people including the LGBTQ community.

We will also hear from witnesses on the forefront of the fight for LGBTQ equality including individuals who have personally felt the impact of anti-LGBTQ discrimination.

The Oversight Committee will continue to combat this administration's abuses and we will support our friends and neighbors who are being unfairly targeted by the president and his administration.

I want to add one last thing. The House passed the Equality Act on a bipartisan basis on May 17, 2017. That bill would add explicit protections against discrimination for LGBTQ individuals.

The Equality Act is sitting on Mitch McConnell's desk. Senator McConnell won't even give us the courtesy of a debate, even though senators from his own party support the bill.

I would urge him to change his stance. This is an issue of the utmost importance for our friends, our neighbors, our children, and our colleagues. America deserves a debate and a vote on the Equality Act.

With that, I would like to thank my good friend, Jamie Raskin, for his leadership on this important issue as chairman of our Subcommittee on Civil Rights and Civil Liberties.

And I yield to him.

Mr. RASKIN. Thank you, Madam Chair, and I appreciate very much your calling this hearing for the full committee and I welcome all of our witnesses today.

The extraordinary transformation that our country has experienced in the last decade on the question of marriage equality illuminates pretty much everything we need to know about how to reconcile the principles of individual religious freedom and equal protection under the law for all people.

Equal protection means that everyone, regardless of race, gender, or sexual orientation, must enjoy equal rights under the law.

That means that the institution of civil marriage cannot be roped off to discriminate against millions of gay and lesbian citizens for no compelling reason, and as the court found in the Obergefell decision, other people's moral or religious disapproval of gay people getting married cannot constitute a compelling reason for canceling out their fundamental right to marry the person that they love.

So, we learned that no matter how much same-sex marriage violates your religious scruples and beliefs you have no religious liberty right to impose your position through law and government on other people to interfere with their freedom.

This is a principle so powerful the Supreme Court struck down discriminatory and exclusionary marriage provisions that have been on the books for centuries.

The successful struggle over marriage equality liberated millions of people to participate on an equal basis in this central institution in society. It also established a new norm for inclusion in equal rights that has encouraged the LGBTQ community to demand full equal rights across the board.

But it did not leave anyone in our country with diminished religious freedom. If a state or a city ordered a church, mosque, or synagogue to conduct religious weddings for same-sex couples, the churches would absolutely win their right not to do so.

They have a First Amendment free exercise right to marry or not marry exactly who they please within their own churches. The Constitution decides who gets married in City Hall but the church decides who gets married in the church hall. This is a central aspect of religious free exercise.

The big question has been whether private businesses in the stream of commerce like restaurants, movie theaters, and apartment buildings where federally funded organizations like hospitals and foster care agencies can decide not to serve, rent to, or do business with LGBTQ Americans if they are obligated to do so under law but assert that it would violate their religious beliefs to do so.

There may be a handful of close calls in harmonizing individual religious freedom and equal rights. But the vast majority of cases are, in fact, easy.

Yet, alas, the Trump administration has been working zealously to turn the government into an instrument of hostility and opposition toward LGBTQ rights across the executive branch of government.

Since inauguration day, the administration has worked to purge all mention of LGBTQ rights and to systematically roll back protections for that community in Federal law and policy.

Following inauguration, agencies across the executive branch began undermining and stripping vital protections. The Trump administration Department of Justice has filed several amicus briefs advocating for legal interpretations that erode civil liberty protections.

DOJ also filed an amicus brief in the Masterpiece Cake Shop case, arguing that a cake shop owner does not have to serve gay customers because it violates the First Amendment to force them to create expression for and participate in a ceremony that violates his sincerely held religious beliefs.

This is the exact same argument that the Supreme Court rejected in the 1960's in cases repudiating the alleged constitutional right of restaurant and lunch counter owners to refuse to serve African-American and interracial parties as a burden on their religious or associational freedom.

The Trump administration Department of Health and Human Services has similarly been instrumental in the campaign to end

protections for LGBTQ individuals. The administration has rapidly turned "religious liberty", in quotes, into a pretext and excuse for denying LGBTQ citizens the ability to participate equally in all aspects of the economy and society.

On May 2 last year, HHS finalized a rule that dramatically expanded the ability of health care providers to deny services based on religious or moral objections.

The administration cited the case of our witness, Evan Minton, as an example of the need for the rule in order to permit more discrimination against patients like him.

The Trump administration used everything in its power including executive orders, litigation decisions, amicus briefs, and agency guidance and regulations to undermine protections for LGBTQ people and expand the availability of religious exemptions.

These actions go against the true meaning of both religious liberty and equal protection under the law. These two values stand best when they stand together.

Indeed, the religious liberty of the people is protected by vigorous enforcement of equal protection in the establishment clause.

As Madison emphasized, the major threat to my religious freedom comes from another person or group's capture of state power and their use of government to impose their religious dogma and control on everyone else.

Today, the equal rights of the LGBTQ community are threatened by the administration's determination to pass out licenses to discriminate based on the rampant misinterpretation of the meaning of religious liberty.

Thank you for calling the hearing, Madam Chair, and I yield back.

Chairwoman MALONEY. Thank you.

I now yield to Mr. Hice, ranking member representative.

Mr. HICE. Thank you, Madam Chair, and I would like to thank everyone for being here and our fellow representatives, thank you, and the next panel to come.

The title of the hearing today, "The Administration's Religious Liberty Assault on LGBTQ Rights," is in itself, to me, a fundamental misconception of reality.

To begin with, the notion that the Trump administration is somehow attacking the LGBTQ community is just wrong. The United States continues to be a world leader in guaranteeing the civil rights of all including the LGBTQ community.

Under President Trump, the Federal Government has sought to treat all Americans, gay or straight, religious, nonreligious fairly and justly, and I think even given the recent nomination of Richard Grenell as the director of National Intelligence is yet another example of that.

President Trump, in my opinion, is striving to bring the rest of the world into line with our country which provides the greatest freedoms for all our citizens. The freedom to believe, the freedom to speak freely. Freedom to pray, freedom to associate.

These are freedoms that allow all Americans to live according to their deeply held beliefs and convictions, and as we all know in this room, we have had individuals who have fought and died for these

rights with Americans and I believe it is important that we continue that.

I am deeply concerned that we are living in a time where so many seem to misunderstand the meaning of the First Amendment.

I mean, we are talking about inalienable rights, rights that we as a nation fundamentally believe have been given us by God, not by government, and right at the beginning of that is the First Amendment where we are told that Congress shall make no law establishing religion or prohibiting the free exercise thereof.

So, we see that Congress cannot mandate a national religion. We get that. But we also understand from this that neither can Congress prevent Americans from practicing their faith in the public square, and fundamentally the First Amendment protects Americans from an ideological coercion from government.

And this is the rub for me—the part that becomes difficult for many of us. But I believe and I have seen personally, tragically, that for years now we have watched religious liberties in this country be under siege and attacked, often under the false guise of fighting discrimination and enforcing tolerance.

Make no mistake, discrimination is wrong. It is un-American. And to fight against discrimination is worthy. It is the right thing to do. It is honorable in every way.

But the right to disagree with someone without the government interfering to promote one viewpoint over another is at the core of what the First Amendment is all about. I think Supreme Court Justice Alito had it right when he warned all of us that using anti-discrimination laws as a back door to, quote, “stamp out every vestige of dissent,” end quote, is equally just as wrong, and I believe that is precisely what is at stake here.

I know we all have different views. I respect that. But my sincere concern is that too many on the left would like to shame and vilify millions of religious Americans and thousands of faith-based organizations nationwide simply because they don't share the same liberal beliefs as those on the left.

I believe many on the left have become relentless in trying to force others to accept their own views across society. For example, in 2017 the Supreme Court ruled that individuals cannot be targeted for their religious beliefs and that open hostility to religion has no place in our society.

Yet, in spite of that, Masterpiece Cake Shop owner Jack Phillips was targeted not once, not twice, but three times because of his deeply held religious beliefs on marriage.

Barronelle Stutzman, the florist, went through similar things. There are many examples. The targeting of this nature has now expanded far beyond its initial focus on artistic expression of a baker or a florist and now the left is adopting these same tactics to create mandates forcing pharmacists to dispense chemical abortion drugs or medical professionals to perform abortions against their deeply held beliefs.

Take, for example, the Little Sister of the Poor. Obamacare forced them to provide contraceptives against their beliefs, and now that is going before the Supreme Court yet again.

This is not religious freedom and I believe that increasingly we are seeing Democrats want faith-based adoption foster care agencies to either violate their religious beliefs that it is their duty to place children in homes with moms and dads or to shut down altogether, to do what the left wants or to be excluded from operating in the public square.

When Catholic Charities were shut down in Illinois there were nearly 3,000 children displaced. So, whatever our political or cultural views, I think surely we can all agree that vilifying well-intentioned and loving charities like faith-based foster homes does not help anyone.

But this assault on religious liberties is certainly not confined to faith-based organizations. All across America now from school rooms to social media platforms we are seeing social justice crusades increase against those who have not accepted the new cultural norms of the left.

We saw, for example, in Obama—when the Obama Administration adopted the change in Title 9 to impose gender identity mandates on federally funded schools and we saw many Christian colleges and universities trying to keep their exempt status only to find themselves placed on shame lists where they have experience massive pressure campaigns to relinquish their long-held religious beliefs on sexuality.

In Florida, there is an activist campaign underway to attack and defund Christian schools that participate in educational tax credit programs and those companies who support these scholarships of underprivileged children to get a better education, those companies themselves are experiencing massive pressure to defund these schools. And it is only the kids who end up suffering.

Currently, the Virginia General Assembly is poised to adopt sexual orientation and gender identity legislation that I believe will severely impair freedom in religious schools and, unfortunately, I believe when all is said and done here these are nothing but measures that open the door for government-mandated discrimination and coercion.

So, this hearing really, to me, is an attempt really to polarize what has always been a unifying factor in American society and culture and that is religious freedom—the right for everyone to live and express their beliefs in the public square.

In closing, I, again, just want to say thank you to each of you who are here and for those who will be joining the next panel. I know without question we are going to hear some moving and compelling stories and many of you have been through some very difficult times and have experienced discrimination, and for that I am deeply sorry. That kind of behavior should never happen in America and you should never have experienced it.

But at the same time, I wonder where are the other witnesses, individuals who have lost virtually they have had because they have tried to stand for their religious beliefs and live according to those beliefs in the public square.

So, I thank you, Madam Chair, for holding this hearing. Mike Kelly, thank you for being here today to share your perspective. Hiram Sasser, I am looking forward to hearing as well, and to each of you I want to thank you and I look forward to our time together.

With that, I yield back.

Chairwoman MALONEY. Thank you.

I will begin by welcoming our first panel of witnesses. Our first witness is Congressman Sean Patrick Maloney, a member of the Maloney Caucus but not a relative, but a very good friend.

[Laughter.]

Chairwoman MALONEY. He has represented New York's 18th congressional District since 2013. He is a co-chair of the congressional LGBT Equality Caucus.

Mark Takano—Congressman Takano—has represented California's 41st congressional District since 2013. He is also co-chair of the congressional Equality Caucus.

Mike Kelly—he has represented the 3d District of Pennsylvania since 2011, and Joe Kennedy III has represented Massachusetts' 4th congressional District since 2013. He chairs the congressional LGBT Caucus's Transgender Equality Task Force. He also introduced the Do No Harm Act.

Mr. Maloney, you are—Representative Maloney, you are recognized.

STATEMENT OF SEAN PATRICK MALONEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. MALONEY. I thank the chairwoman.

Thank you, Chairwoman Maloney, Ranking Member Hice. I thank the committee for having this important hearing today.

You know, in listening to the ranking member's opening remarks, I was thinking maybe the day will come where people like me and Mark, some of the people behind us, won't have to come in here like supplicants seeking our basic rights and we won't be treated to expressions of discrimination dressed up as religious liberty.

But even today, that is not the country we live in. You know, I have been with my husband for almost 28 years. We were allowed to get married just five years ago, and for 27 of those years we have been raising children. We have three children.

My oldest came to us when he was not quite three years old. He had been barely eating solid foods. He was sleeping in a drawer. He was living in squalor in one of the toughest neighborhoods in New York City. His parents were heroin addicts. They had four children. I think they loved their children. I know they loved drugs more, and they were unable to take care of them.

We didn't set out to be parents. This wasn't about fulfilling some desire we had. It was because someone asked us if we could help and we said we would. And soon after that his mom OD'd and there was no one to bury her, so we did.

His dad went to jail and there was no one to take care of this little boy, so we did. And it was the greatest thing that ever happened to us. We had been together for four months as a couple.

That young man is 30 years old today, and I think if you asked him, Representative Hice, about the family he was raised in—well, let us just say I would go with what he has to say about the ability of LGBT couples to parent and to foster.

You know, it was a few years later that an adoption agency called us from Texas, sir—a group called the Adoption Alliance that

was licensed in Texas and Nevada—and the reason they were calling us in New York was not because we were seeking to adopt.

It was because they had learned in the 1990's that there were certain types of kids who were not going to be adopted, where the circumstances of their birth through no fault of their own, obviously, was difficult or confronting for traditional adoptive parents, where there were issues of HIV or rape or incest, sometimes mixed with concerns about interracial adoption.

And what these adoption agencies learned to their credit was that there were LGBT couples in cities like New York who would say yes to these children. Not as an alternative to the straight couple that was going to raise them, but as an alternative to never being adopted because no one was going to adopt these kids.

It was that insight that LGBT couples were willing to cross lines of difference because they had experienced doing so in their own lives that they had less preoccupation or hysteria with things like HIV that they were more willing to adopt across lines of difference like race or religion—that there was an opportunity for kids that would not have a home to have a home.

So, it is because of that that on January 10, 2001, I learned of my oldest daughter, who had been born just five days earlier—we had no intention of adopting—that she had been born in Texas to a United States military member—excuse me, to the granddaughter of a United States military member.

Her mom was 14 years old. She didn't even know she was pregnant. She was playing basketball and complained of cramps and delivered the baby when the doctors thought she had appendicitis.

They called us because no one else was going to do it. So, 13 days later my partner and I were standing in front of a Texas judge at 8 o'clock in the morning before his docket started and he said, "Are you fellows going to raise this child?" We said, "Yes, sir," and he finalized the adoption on the spot. No rescission rights in the state of Texas.

Thirteen days after that child was born she was home in New York with two loving parents and that child is 19 years old today and a freshman at John Jay College in New York. She is a beautiful young woman. And she would not have had a mom and a dad.

So, you keep having them and we will keep raising them is the way we felt about it.

Did she deserve a mom and a dad? Yes, she did. But she also deserved people who loved her who were going to raise her and that is what is at stake today.

Our third child, the adoption agency—same one—two years later came to us. Same story. Very similar. They sought out LGBTQ parents because they knew they would adopt when others wouldn't.

So, the point is—the point is is when you allow people to discriminate against those couples, you deprive children of good moms, dads, families who are going to love them; and when you dress it up as religious liberty you simply sanction discrimination and deprive those children of a home that they deserve.

We are here because the Trump administration, as we know, has green-lighted license to discriminate laws to allow federally funded organizations—federally funded organizations—to discriminate against adoptive and foster parents who don't share the organiza-

tion's religious beliefs and that means also LGBTQ parents and people of other religions won't be able to adopt. Those kids are the ones that are going to lose. Hundreds of thousands of kids who are—who need foster parents, who need adoptive parents.

That is the collateral damage that will ensue if we allow these discriminatory practices to occur under the guise of religious freedom.

Our only goal, when providing—our only goal when providing child services should be looking out for the best interests of the kids. That is all that matters. LGBTQ couples are not afraid of that test.

Parents are parents. Good parents are good parents. Bad parents are bad parents, and it doesn't matter what they look like, who they love.

So, I have, of course, joined my colleagues in writing the secretary of Health and Human Services opposing the South Carolina waiver allowing federally funded foster care agencies to deny services to same-sex and non-Christian couples, making clear that his agency is misusing Federal law to allow these organizations to discriminate against LGBTQ people and other people of other religions.

I support Representative Kennedy's Do No Harm Act, which is so important to clarify that religious exemption laws guaranteeing fundamental civil and legal rights is not a license to discriminate.

I am also here today in support of the Every Child Deserves a Family Act so we can put an end to these bigoted restrictions once and for all.

So, I want to thank you, Chairwoman Maloney, for your leadership on this issue. I want to thank my colleagues, Representative Kennedy and Representative Takano.

I want to thank my colleague, Mike Kelly, for being here today. I know his beliefs are sincerely held. But I believe they are profoundly misguided and will create real damage to families like mine. But I respect him as a person of faith.

You know, I would close by saying that LGBTQ people are also people of faith. One of the most frustrating misunderstandings is the notion that it is—that this is a disagreement between people of faith and people without faith.

It is an act of faith to take care and love for a child, and so it is because of our faith, not in spite of it, that we oppose these discriminatory measures.

We will keep fighting these hateful rules down in Washington because every child deserves a home.

Thank you.

Chairwoman MALONEY. Thank you.

Congressman Takano?

**STATEMENT OF MARK TAKANO, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. TAKANO. Thank you, Chairwoman Maloney, for convening this historic hearing, and Acting Ranking Member Jody Hice for the opportunity to address the committee.

I am Congressman Takano, Mark Takano, and I represent California's 41st District. I also serve as one of the seven co-chairs for the congressional LGBT Equality Caucus.

The caucus is comprised of 169 members, LGBT people and allies who all share one basic value—the belief that everyone deserves to be treated with dignity and respect regardless of their sexual orientation and gender identity.

You know, and I do want to address a couple of things that the acting ranking member sort of claimed in his opening statement. He talked a lot about the ability to express one's religious beliefs in the public square, and I have no problem with that.

We have a robust tradition of that in our country and our country was founded by people coming from Europe who were suppressed and weren't able to do that and were punished.

But we need to make a distinction between the public square and public accommodation and entities that are supported by Federal dollars or entities that are given certain kinds of dispensations—a tax-free status because of what they are, and we have certain expectations that anything favored by the government or supported by the government treats all people equally.

So, the public square is different from this idea of public accommodation. You know, Alexis de Toqueville, when he was traveling around our country in the early 1800's, noting the differences between the Old World of Europe and this new democracy in America, he was very curious to see how religion operated in America.

And he—as I recall, he noted the corrupting way—the corruption that occurred when the state favored religion and that the religion itself became corrupt, and he saw the possibility of that in America where religions had to compete on equal ground for the souls of Americans. That kept religions more pure.

So, I offer that as a kind of way to look at how we regard religion in America. The government has to be this neutral place, neither favoring or disfavoring any religion, and if any taxpayer dollars go to an institution that that institution has to treat everyone fairly and cannot discriminate, and cannot use religious liberty as the reasoning for why it would discriminate.

Now, as a former teacher, I am particularly attuned do the ways in which children are affected by government and policies. Because LGBT children are very, very vulnerable. The rates of suicide are much higher among this—among young Americans who are LGBTQ.

Now, the gentleman noted the appointment of Richard Grenell as evidence that this administration bears no ill will toward LGBTQ people.

Well, I am going to say that the appointment of one gay person to an important post does not compensate for the systematic discrimination against LGBT people that affect millions of people. So, one person is not evidence of a benign—of a benign executive. It is actually an insidious argument.

So, let me just sort of outline these policies that have been pursued by the Trump administration despite the president's claims that he was going to be for LGBTQ people in this campaign.

In the spring of 2019, the Housing and Urban Development Department proposed changes. HUD proposed changes to the equal

access rule which would allow shelters to explicitly discriminate against transgender people.

They want to make it harder for LGBTQ people who suffer from high rates of homelessness to put a roof over their heads.

This is an example of a systematic discrimination against LGBTQ people through policy, and the appointment of one person who is LGBTQ to an important post does not—does not compensate for that.

Last fall, the Trump administration made legal arguments before the Supreme Court that would limit nondiscrimination protections for under Title 7, which exists to prevent people from being fired for their sexual orientation.

They want to give employers the power to fire you based solely on who you are or who you love. I say religious liberty does not extend to firing people based on who they are.

They give—they have also given taxpayer funds to organizations that provide essential social services the power to turn away LGBTQ people seeking their services, and the list goes on.

In addition to attacking LGBTQ Americans in their place of work and threatening their ability to have a safe place to live in, this administration has rolled back protection in schools.

In 2019, Secretary of Education Betsy DeVos refused to confirm whether or not her department supports policies that prohibit discrimination on the basis of sexual orientation or gender identity.

But we don't need her to admit this. We know that this is happening and that she is failing LGBTQ youth. She did acknowledge, however, in her 2017 decision to roll back a key Title 9 interpretation that disproportionately affects transgender students.

It is true. It is a shame that the secretary is hell bent on rolling back protections for students who need it most. And as a former teacher, as I said, this is personal to me. I want to ensure that schools are welcoming for all students regardless of their gender identity or sexual orientation.

All Americans and especially children deserve equal protection under the law. I also have the honor of serving as chairman of the House Committee on Veterans Affairs and have witnessed how this president and his administration are disrespecting the service of brave Americans who step up to serve our country by instituting a trans military ban.

Banning transgender people from serving is an affront to American ideals of fairness and justice and it undermines our national security. This administration will go to extremes to make discriminatory policies the law of the land in the United States.

But this won't happen on our watch. The Equality Caucus will not sit back as the Trump administration continues to dismantle crucial nondiscrimination protections to the detriment of vulnerable members of the LGBT community.

We have decades of experience in fighting back against these types of homophobic attacks. And while it is disheartening to still have to wage these battles in 2020, we have no plans to back down.

We will fight this taxpayer-funded discrimination and continue to defend the LGBTQ Americans and, once more, I end with this thought.

The appointment of one single LGBT person to a position of importance does not compensate for the systematic assault on the dignity of LGBTQ Americans.

Thank you, and I yield back.

Chairwoman MALONEY. Thank you.

Representative Kelly?

**STATEMENT OF MIKE KELLY, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF PENNSYLVANIA**

Mr. KELLY. Thank you, Chairwoman Maloney and Ranking Member Hice, for holding this meeting today.

I think that sometime, and I don't know when it will happen, that we need to take a look at policy instead of politics. I just don't get the idea we always got to go to the point where we are attacking each other all the time.

You know, yesterday was the beginning of Lent, these 40 days. And the Lord says, "Return to me with your whole heart." That is the purpose of these 40 days that we practice—a lot of Christians practice—and I saw so many people yesterday with ashes on their forehead.

Now, I don't know whether they were part of the lesbian, gay, trisexual, transgender, or queer people community. I don't know what they were.

I know what they believe because they show it, and I think today's hearing is one of those things where you start to think about what is it that we are trying to do and what is this hearing about.

I would just submit to my friends on both sides of the aisle and across the country this is about providing loving homes for children who are put in the position that they don't have a loving mother and father, and I would suggest that if we look at the very beginning of that it all started in the faith-based community.

It started with religious people who said, we have to find homes for these children. We have to have them grow up in a home where they are loved and they are cared for and they are nurtured.

I have met Mr. Maloney's husband and they have done a great job raising their kids. I think that is wonderful.

The part I am here to talk about today is a piece of legislation, H.R. 897, the Child Welfare Provider Inclusion Act. The Child Welfare Provider Inclusion Act. I want to really place the emphasis on inclusion act and not exclusion act.

The purpose of the legislation is to promote inclusivity and diversity among child welfare service providers and prohibit government entities from discriminating against a child welfare service provider on the basis that that provider declines to provide a social service that conflicts with sincerely held religious beliefs or moral convictions of the provider.

This is not an act that says anything about anybody else who is providing these services. It is not saying to exclude them, and I find it interesting that in a situation like this where we are sitting today that we have decided that unless you believe what I believe you are not entitled to provide loving homes for little boys and little girls. Unbelievable. Unbelievable.

Mr. Maloney talked about discrimination. I was, like, discrimination does not go one way. It seems to go both ways. If you do not

believe what I believe, then you are discriminating against me. So, on the other side of that issue say, well, wait a minute. That is not what discrimination means. It means that we are open to all that.

This bill, H.R. 897, excludes no one, no entity, no service, no agency from having access to Federal funds, not to take care of a political issue but to take care of homeless children that are looking for a loving home.

If we are going to continue to tear apart what this country is based on all because it doesn't fall within our agenda that day, then how far have we fallen as a country, and, more importantly, as a Nation.

I have sat here for nine years. This bill has been out there. All you need to do is get sponsors that say, you know what, we are with you. History tells us that this all began in the faith-based community. They have deeply held religious beliefs.

The LGBTQ community has deeply held beliefs. We do not discriminate against their beliefs and we say if that is what you choose that is fine. All we ask is that you don't discriminate against the faith-based community because they don't hold those same beliefs.

In America we are going to decide who is morally right, who is wrong. It makes absolutely no sense that we are even having these debates and we are saying that unless you believe as we believe you are not entitled to any funding, and what we are forgetting about as we are going through this with this opioid situation, how many children—how many children are waiting to go into a loving home?

Are we really going to tell them, these agencies that provide foster care and adoptive care, you know what, you are not thinking the right way?

Well, I will tell you, I think they are thinking the right way and I think they are thinking with their hearts and I think they are thinking that it is more important to take care of children who need a loving home than to have a debate.

I have absolutely no problem with the LGBTQ community and what they believe that is fine. All I ask is don't discriminate against somebody else who doesn't hold those same beliefs and that believe something different.

If the issue is children, and it should be children—if the issue is providing loving homes, and it should be about providing loving homes—why would you tell the faith-based community you are not entitled to do that anymore, even though you started it and you are the ones that have provided it for so many years?

We are now going to tell you, because you don't believe as we believe, you could do it. There is nothing in H.R. 897 that would ever take away anything from other agencies that think differently.

And if we really are American, if we really do believe that everybody has a voice and we really do believe that all are welcome and we really do believe that our mission is to do the right thing for the right reasons, then I would just suggest it is time to really take a good strong look at where we are today and those things that divide us are so much farther away than what this country was founded on.

We need to stop having this type of divisive talk and talk about inclusive talk. And I get where my friends are coming from and I would just say there is not one thing in H.R. 897 that would divide—that would take any funding away from other agencies that believe differently than what the religious and the faith-based community believe.

So, I thank you so much for inviting me here today. I would ask all my—all my friends on both sides of the aisle to please take a look at H.R. 897 and let us really concentrate on what we need to concentrate on, and that is the children.

If this is about children, let us make it about children. Let us not make it some type of political divide instead of a strong policy that takes care of children that are so in need of loving homes.

I thank you for having me and I yield back.

Chairwoman MALONEY. Thank you very much.

Congressman Kennedy?

**STATEMENT OF JOSEPH P. KENNEDY, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF MASSACHUSETTS**

Mr. KENNEDY. Madam Chair, thank you. I want to thank Subcommittee Chairman Raskin and the ranking member for convening this extremely important hearing today and for your tireless efforts to expose this administration's dangerous assault on LGBTQ Americans.

I want to acknowledge the testimony that we heard so far today from Mr. Kelly to my right, a man of deep faith—I think somebody who genuinely believes in the best for our country and his constituents.

I want to recognize Mr. Takano and Mr. Maloney's testimony and how grateful I am that they serve the country the way that they do.

I am going to give a little bit of history here and then clarify a couple points for the record.

In 1993, Madam Chair, Congress passed the Religious Freedom Restoration Act with overwhelmingly bipartisan support in response to *Employment Division v. Smith* which saw two Native Americans fired from their jobs and denied unemployment after they consumed a drug outside of work as part of their religious faith.

The intent of that law was simple—that Americans have a right to practice their faith freely and fully, that Native Americans had a human and legal right to practice their religion as they wished, that no Jewish child should be told they cannot wear a yarmulke to school, that no Sikh worshipper can be forced to reject the tenets of their faith to protect their communities or serve in our military.

But the enforcement of RFRA has morphed into something far more dangerous, something that threatens the freedom of religion for each and every one of us. Because instead of shielding vulnerable Americans from persecution, this has now become a sword used to marginalize vulnerable communities.

In our Nation's history, few have wielded that sword more violently, more painfully than this president and this administration, most recently with nine proposed rules to open up our society to increased hate and violence.

Let us be very clear about who has been left in that hateful wake. Students bullied by peers, faculty, and school leadership with nowhere else to turn. Pregnant teachers forced out of lifelong careers.

Patients forced to suffer because of someone else's religious belief. Workers fired or forced onto an unemployment line for living their own lives. Homeless Americans denied shelter because this administration does not believe that they are worthy of housing.

Children denied loving families. Prisoners denied human rights and basic dignity. Migrants and asylum seekers literally denied life.

And unlike the claims of members of this administration's Cabinet, these are not people seeking, quotes, "extra rights."

These are Americans asking and begging to be treated the same as the next student at the desk, the next loving parents looking to adopt a child, the next employee to put on a uniform and the next person seeking asylum or shelter. That is what the Do No Harm Act is about that I worked on and filed with Bobby Scott.

It is a bill intended to restore RFRA to its original purpose and to clarify that no one can claim religious exemption from laws that protect against basic discrimination, government wages and collective bargaining, prevent child labor and abuse, provide access to health care, regulate public accommodations or provide social services through government contracts.

A bill to reestablish a lesson that Americans have learned painfully for generations that if civil and legal rights exist only in the absence of a neighbor's religious objection, then they are not civil rights but empty promises. The ability to freely and fully exercise sincerely held religious beliefs in this country is a liberty each of us cherishes.

Across the Nation, religious principle inspires countless families, organizations, and communities to champion economic justice, human dignity, and common decency.

But there is a difference between exercising religious beliefs and imposing them on others. Our Constitution fiercely protects the former and expressly prohibits the latter.

If this administration cannot see the harm that they are causing not just to LGBTQ Americans and vulnerable communities but to religious liberty itself, then Congress must act quickly and powerfully to open their eyes.

Transgender Americans deserve better. LGBTQ Americans deserve better. Every single American deserves better.

And let us get to the crux, if I may, briefly, about what we have heard today. This comes down to two big pieces. One, a complete juxtaposition and a redefinition of who is a victim.

We have learned across our society that the denial of services based on the central tenet of who the recipient of those services are constitutes discrimination.

This idea, the formulation that you have heard from our colleagues, fundamentally flips that to say that the restaurant owner is being discriminated against, not the person denied services.

It flips civil rights history on its head. That is the jujitsu that this Supreme Court and that a Republican majority seeks to sell

on the American public today. A redefinition of who, in fact, is a victim.

And two, this is about state-sanctioned discrimination and state-sanctioned dollars. As Chairman Raskin pointed out, churches are free to do what they want with their own private dollars, their own philanthropy.

But when it comes to your taxpayer dollars, my dollars, being used to tell somebody like Mr. Maloney that he is not a good enough parent because of who he is, then yes, I believe our government should say no because we believe in the ability of parents to be parents and children to deserve a home, and that is what this is about. Nothing more and nothing less.

And, last, let me just end on this. One of the proudest moments of my congressional career was marching in the gay pride parade in Boston, Massachusetts, in 2013. Tens of thousands of people lined the streets of Boston.

As I walked down that street with my predecessor, Barney Frank, a former Congressman, one of the first people to come out as gay in service to his country, and Jewish, and my former college roommate, a seven-foot-tall African-American professional basketball player who was the first person in a major professional sport to come out as gay—a gay Jewish former Congressman, a pasty-white red-haired Irish Catholic, and a seven-foot-tall African-American professional basketball player walking down the streets of Boston with thousands of people cheering them on—our Founders may have been brilliant but they never thought that that was going to happen.

Our society has progressed to recognize the basic dignity of every single soul. That is what today is about.

I yield back.

Chairwoman MALONEY. I thank my colleagues for their testimony before us today. Thank you very, very much.

Our next panel should come forward. Thank you.

[Pause.]

Chairwoman MALONEY. I now would like to welcome our second panel of witnesses and our first speaker will be Ernesto Olivares.

Mr. Olivares entered the foster care system at 13 years old. He is currently a member of the Every Child Deserves a Family Campaign.

Second, we have Evan Minton. Mr. Minton is a public servant who was denied medical care for a gender transition-related hysterectomy at a religious hospital system. He is also a national advocate for LGBTQ rights.

Third, we have Sarah Warbelow. She is the legal director of the Human Rights Campaign. She is also an affiliated professor at George Washington University in George Mason Law School.

Fourth, we have Hiram Sasser. Mr. Sasser is the executive general counsel of the First Liberty Institute.

And last, we have Reverend Sloan from New York. Thank you for being here. Reverend Sloan is the chief executive officer of the Family Equality and a trustee for the Union Theological Seminary. He has been an ordained Episcopal priest since 1991.

I would like to begin by swearing in the witnesses. If you would all please rise and raise your right hand.

Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

[Witnesses are sworn.]

Chairwoman MALONEY. Let the record show that the witnesses answered in the affirmative. Thank you, and please be seated.

The microphones are sensitive. So, please speak directly into them. Without objection, your written testimony will be part of the record.

With that, Mr. Olivares, you are now recognized to provide your testimony, and we will go right down the list.

Thank you all for coming.

STATEMENT OF ERNESTO OLIVARES, SAN ANTONIO, TEXAS

Mr. OLIVARES. Chairwoman Maloney, Congressman Hice, Chairman Raskin, and Ranking Member Roy, thank you for permitting me to testify today on a topic of great personal importance to me.

My name is Ernesto Olivares. I am from San Antonio, Texas. I spent five years in the Texas foster care system. I was only 13 years old when I went into the system. I was still trying to figure out who I was as a young man.

My brother and I were placed in a shelter 180 miles away from my home city of San Antonio. I hated it. The staff was rude and the other boys were mean. Youth and staff at my shelter used derogatory language. Words like "faggot" and "homo" made me feel uncomfortable, alone, and out of place.

After leaving, I ended up at my only other placement, a group foster home, with 11 other boys for the next five years. The foster care agency that I was placed through was a Christian agency. I believe my foster parents were good people with good intentions. They attended a Christian church. I am religious but I am not a Christian. At first I went with them to the Christian church out of curiosity.

But as I got older it became awkward and hurtful to hear that I would go to hell for being gay and that I wasn't normal. But if I didn't go, I might be made fun of or seen as weird and different. I was worried the other kids would think there was something wrong with me or suspect I was gay. So, I never came out.

Even though most people probably knew I was gay, when I saw people get bullied it struck fear into me to be different. I wasn't wrong to fear coming out. LGBTQ+ and two-spirit youth are over twice as likely to report being treated poorly by the foster care system compared to non-LGBTQ youth.

The thing that scared me the most is that I heard rumors that gay kids got sent to a special home, 24-hour surveillance with other youth who really had mental issues and special needs.

If I came out and one of the other boys in the home didn't like it, would I be sent there? What about my brother? Would I lose being with him, too?

My sisters and I went to the same high school. Would I not see them again until I was 18? There was too much to lose. My brother and sisters mean the world to me and the thought of being separated from them killed me inside. I would do anything to keep

those relationships close and safe to me. It is unethical and outrageous to separate any siblings for identifying as LGBTQ.

I remember one day we were getting ready to go on a family vacation and I went to grab my bag, the big bright blue one they give you to put all your things in when it is time to move placements.

Someone had scratched out my name and written "faggot" in its place. I cried and I kept it to myself until we got back from vacation. Eventually I did tell my therapist what happened. I had asked her not to bring my foster parents into the room and she decided to bring them in anyway.

Even though I showed them the tag as proof, they denied that anyone in the house would ever do that. So, nothing was ever done about that incident. I wonder if the agency serving me had been required to protect me from discrimination regardless of religion, mine or the agency's. Whether they would have been more proactive about preventing anti-gay bullying targeting me.

It is not surprising to me that LGBTQ foster youth are more likely to become homeless. Many LGBTQ foster youth receive such poor treatment in foster care that they choose homelessness over foster care.

South Texas isn't known for accepting kids or adults like me. The agency I was with wasn't either. I never met an LGBTQ foster parent or adoptive parent while I was in care. I only wish that I could have—I wish I could have those opportunities to live and be who I was.

The challenges I face should not be a part of a youth's experience in the child welfare system. That is why one day I want to be a foster dad, open up my home, heart, so that kids like me—for kids like me.

However, the discrimination that is happening in my state and other states around the country I worry that I will be turned away simply because I am gay. That is wrong. No foster child should be denied a loving family when a qualified person is willing to provide them a home.

That is why I do support the bipartisan Every Child Deserves a Family Act, H.R. 3114, which would end discrimination based on religion, sexual orientation, and gender identity.

This bipartisan bill, introduced by Chairman John Lewis, which currently has 180 co-sponsors, would also provide states like Texas with resources to provide better services for LGBTQ foster youth so that children in care now wouldn't have to go through the same hard times I did.

I urge the committee to support passage of H.R. 3114 and require the U.S. Department and Health and Human Services to end discrimination in foster care programs and to provide affirming services to every LGBTQ child in foster care regardless of religion of the agency serving that child.

Thank you.

Chairwoman MALONEY. Our next speaker is Evan Minton.

STATEMENT OF EVAN MINTON, LIVERMORE, CALIFORNIA

Mr. MINTON. Thank you, Congressman Maloney, Congressman Hice, and members of the committee. I am honored to be here today.

In August 2016, I was in the process of undergoing a series of medical treatments stemming from my diagnosis of gender dysphoria. After my doctors determined that a hysterectomy was medically necessary, I was scheduled to undergo the surgery at Mercy San Juan Medical Center, a hospital in the Dignity Health chain near Sacramento, California, where I live.

I did not know much about Mercy San Juan Medical Center or Dignity Health. But I did know that my doctor regularly performs hysterectomies at that hospital. Two days before the surgery date a nurse called me to go over the details and I mentioned that I was transgender.

The very next day, a day before my surgery, the hospital called my surgeon to inform her that my surgery had been canceled. The reason? Because of my gender transition.

When I heard the news I remember being so devastated that I collapsed to the ground. I felt distraught and helpless that the hospital was refusing to treat me simply because of who I am.

To make matters worse, the fact that surgery was canceled then put all of the other medical procedures that I had scheduled in flux. Because I had already experienced delays in getting the care that I needed, the timing of this surgery was particularly important.

I was fortunate in the fact that I was able to undergo a hysterectomy at a different hospital. But the experience leaves scars.

I had no idea prior to seeking a hysterectomy that my local community hospital was a Catholic hospital or that they would argue that religious doctrine permits them to deny medically necessary care just because the patients happen to be transgender. It should never ever be okay to deny transgender people or anybody care just because of who they are.

In 2017, the ACLU and the law firm Covington and Burling LLP filed a lawsuit against Dignity Health on my behalf. California law prohibits businesses that are open to the general public, including hospitals, from discriminating on the basis of gender identity.

Just last fall, a California Court of Appeal agreed with me, that I suffered discrimination when the hospital canceled my surgery. While my case has been pending in the courts, the Trump administration weighed in.

In January 2018, less than a year after I filed my case, the U.S. Department of Health and Human Services issued a proposed rule titled “Protecting Statutory Conscience Rights in Health Care.”

As opposed to working to protect patients and expand access to health care, the entire purpose of the refusal of care rule is to support religious people and entities in limiting the care they provide to patients.

In the rule, three court cases were mentioned as a reason why the rule was necessary. Mine was one of them. The fact that the Trump administration singled me out—my name is now in the Federal Register—truly knocked me down for almost a year.

When I try to explain this to people, some folks feel that I should—feel that this is badge of honor or that I am doing something right if the Trump administration is coming after me personally.

I don't feel this way. I have felt like it is a heavy burden to carry, that it is emotionally draining, and that it is pressure filled and it is completely overwhelming, and I still feel this way today, two years later.

The Trump administration's refusal of care rule labels me as a threat. Their rule legitimizes what happened to me and encourages other hospitals to do the same.

According to the Trump administration, I am not deserving of health care. According to the Trump administration, my life and the life of every single transgender American is disposable and just doesn't matter.

So, by inviting me here today, I am so grateful that I get to be more than just a name on a harmful, harmful document. I feel like I can finally reclaim my voice and attempt to take back my power, and I am so grateful for that.

Thank you very much for allowing me to be here today and I am happy to answer any questions that you may have.

Chairwoman MALONEY. Thank you so much for your testimony. Ms. Warbelow?

**STATEMENT OF SARAH WARBELOW, LEGAL DIRECTOR,
HUMAN RIGHTS CAMPAIGN**

Ms. WARBELOW. Chair Maloney, Congressman Hice, and members of the committee, thank you for having me here today.

My name is Sarah Warbelow. I am the legal director for the Human Rights Campaign, America's largest organization working to achieve full equality for lesbian, gay, bisexual, and transgender people.

It is an honor and a privilege to submit this testimony on behalf of our more than 3 million members and supporters nationwide. I am here today before you not only as a legal expert but also as a bisexual woman who is the proud parent of a transgender girl.

The right to believe and to worship or not are core American values. These constitutionally protected rights have shaped our Nation and have cultivated the Founders' dream of a pluralistic and free society.

We are also a nation built on the values of equality, access to opportunity, inherent individual dignity, and a belief that each one of us must be allowed to shape our future free from the limiting stranglehold of bias.

Since taking office, the Trump administration has consistently attacked our communities most vulnerable, employing a public policy strategy designed to divide and otherize, encouraging individuals and communities to see each other as enemies rather than neighbors.

Despite these dangerous efforts to create a narrative of opposition, faith and civil rights communities are intertwined and continue to recognize our shared values and shared future.

Under Trump's leadership, Federal agencies have engaged in a dangerous effort to redesign the evidence-based approaches to our Nation's administrative infrastructure. In the absence of legal or empirical support for these changes, agencies have instead relied on an oftentimes dramatically myopic and disingenuous legal interpretation.

The Trump administration's regulatory agenda regarding religious exemptions has been predicated on a misrepresentation of three recent court decisions from the Supreme Court: *Masterpiece Cake Shop*, *Trinity Lutheran*, and *Hobby Lobby*.

Numerous Federal agencies, from HHS to HUD to DOL, have cited these cases as mandates to incorporate expansive religious exemptions into the Federal Register.

They mischaracterize these decisions by ignoring the limiting language of the holdings and instead suggesting that they require the Federal Government to grant expansive exemptions to Federal contractors and grantees.

The Department of Labor engaged in this acrobatic legal analysis to support its revisions to the implementing regulations for Executive Order 11246, severely undermining the original mission of the executive order by stripping workers of basic protections and empowering federally funded businesses and organizations to discriminate against their employees with few safeguards.

The thrust of these administrative actions has been to empower businesses and organizations to engage in discrimination without consideration for the impact on beneficiaries or workers.

Every year the Federal Government implements hundreds of social safety net programs designed to support and empower our Nation's most vulnerable communities.

The Federal Government accomplishes many of these programs through valuable partnerships with nonprofit organizations nationwide. The new Trump regulations not only turn a blind eye toward discrimination in social service programs but have empowered and encouraged it.

Looking to HHS as an example, we have seen this department erode patient and beneficiary protections since day one. This has been accomplished through numerous regulations including revisions to the department's charitable choice and grant requirement regulations and those implementing Section 1557 of the Affordable Care Act and statutory conscience amendments.

These changes undercut explicit beneficiary protections, empower discrimination and denial of service to our community and all HHS programs. Programs like homeless emergency services, child welfare programs, and substance abuse and mental health treatment.

In some of these cases these changes attempt to codify overly broad interpretations of RFRA. HUD has taken similar regulatory steps. The language provided by HUD to OMB proposing to revise the equal access rule would empower providers to consider a range of factors in making housing determinations including religious beliefs.

As drafted, the HUD proposal would empower religious organizations operating HUD-funded programs including emergency and homeless shelters to turn away transgender people because of gender identity or refuse to provide family services and housing to a same-sex couple because of its views on marriage.

Similarly, the regulations adopted by HHS undermine the rights of young people struggling with homelessness and housing insecurity.

Relying on flawed and unsupported legal reasoning, the White House has time and time again prioritized the rights of bigoted or-

ganizations to discriminate against people who rely on the government for support and protection.

Chairwoman MALONEY. Thank you so much.
Mr. Sasser?

**STATEMENT OF HIRAM SASSER, EXECUTIVE GENERAL
COUNSEL, FIRST LIBERTY INSTITUTE**

Mr. SASSER. Chairwoman Maloney, Congressman Hice, and members of the committee, thank you for the opportunity to share my perspective on some important issues.

My firm represents people of all faiths, from Native American Sweat Lodge to the Falun Gong, and when the government tried to ban a development of an Islamic cemetery we fought and won for the Muslim community.

As President Clinton stated on November 16th, 1993, as he signed the Religious Freedom Restoration Act, "Our Founders cared a lot about religion and one of the reasons they worked so hard to get the First Amendment into the Bill of Rights at the head of the class is that they well understood what could happen to this country, how both religion and government could be perverted if there were not some space created and some protection provided."

We live in a pluralistic society with millions of Americans sharing different views about family, faith, and conscience. In such a multicultural society we must pursue tolerance and mutual respect.

We can do this effectively without resorting to a zero sum game of political power. Cooperation for mutual benefit is the goal. Coexistence with people of differing beliefs and backgrounds is the ideal.

We must, as President Clinton urged us, explore how the First Amendment provides this space and protection we need for religious liberty to flourish in a pluralistic society.

In *United States v. Seeger* in 1965, the Supreme Court had to interpret what Congress meant about the belief in a supreme being when Congress exempted conscientious objectors from compulsory military service.

Taking a step back, it is quite remarkable that the state interest at stake is the very preservation of the state itself. But conscientious objectors have always received some form of protection since the Revolutionary War.

Yet, we as a Nation, through our elected representatives in Congress, decided to exempt such objectors from compulsory service even though doing so increased the possibility of another one among us bearing the burden, even the ultimate burden.

The Supreme Court in *Seeger* gave the fullest effect of that language, noting, quote, "It must be remembered that in resolving these exemption problems one deals with the belief of different individuals who will articulate them in a multitude of ways.

The validity of what he believes cannot be questioned. Local boards and courts are not free to reject beliefs because they consider them incomprehensible."

Developments in the law of religious liberty bear mention and should serve as a guide for understanding the current administration's position regarding religious liberty protections.

As Justice Brennan stated, "Concern for the autonomy of religious organizations demands that we avoid the entanglement and

the chill on religious expression that a case by case determination would produce.”

As he further said in *Corporation of Presiding Bishop v. Amos*, “I believe that a categorical exemption for such enterprises is appropriately balanced with these competing concerns.”

Religious accommodation and exemption laws in the constitutional underpinnings have a long history in our country and a fully developed body of law. The Religious Freedom Restoration Act is an excellent example of a broad religious accommodation and an exemption in that it applies to all Federal law.

While RFRA is broad in its application, it does not guarantee any particular outcome. It only ensures that people whose religious beliefs have been burdened get their day in court.

RFRA asks whether the rule or regulation is a substantial burden on religious activity of the person seeking an exemption from an otherwise neutral and generally applicable rule.

If the court determines that the person seeking the exemption demonstrates that the rule or regulation causes a substantial burden on his or her religious exercise, the burden of proof switches to the government.

Protecting minority faith positions is the key to liberty for us all because we never know when we will be in the minority faith position. This is why we sued for the Muslim community when all they wanted was a plot of land on which to bury their loved ones.

Indeed, there are circumstances when members of the Muslim faith, for example, must refrain from participating in something that conflicts with their faith that may be a very important part of someone else’s life.

The question arises as to which branch of government should be the guardians of religious liberty. From conscientious objectors to the Religious Freedom Restoration Act, Congress has been the guardian of religious liberty.

Thus, the executive branch should defer to Congress and that role is what the current administration appears to embrace. Many of the administration’s newer proposed regulations hew very closely to the relevant underlying statutes as set forth by Congress.

In fact, much opposition to this administration’s regulatory changes comes from the administration’s refusal to deviate from its statutory authority, even when past administrations were willing to reinterpret Congress’s decisions.

The First Amendment remains a meaningful guardian should government stray from its constitutional obligations. As the Supreme Court said in *West Virginia v. Barnette*, if there is any fixed star in our constitutional constellation it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein.

Thank you

Chairwoman MALONEY. Thank you.

Reverend Sloan?

**STATEMENT OF STAN J. SLOAN, CHIEF EXECUTIVE OFFICER,
FAMILY EQUALITY COUNCIL**

Reverend SLOAN. Good morning, Chairwoman Maloney, Congressman Hice, and Chairman Raskin. Thank you for allowing me to be there today.

I am Father Stan Sloan. I am an Episcopal priest, a trustee for Union Theological Seminary in New York City and the CEO of Family Equality. We are the national organization for LGBT people with children and for LGBTQ people who want to form families.

I started my journey in the nonprofit sector by working for decades with the homeless in Chicago, the first part of that in Christian Service for Episcopal Charities and the last 16 years focused on the disproportionately large population of LGBTQ homeless people as the CEO of Chicago House.

Genesis 1:27 states that God created humanity in God's own image. Unfortunately, humanity has been returning that favor ever since, distorting God into whatever image many people may choose to form of God in order to justify their own comfortable lives or their own discriminatory practices. This distortion is at the very heart of our hearing today.

Decades of working with the homeless taught me what six years of theological study could not. The Christian Gospels have a preferential option for the poor and for the marginalized. More, Christ as seen in the Gospel narratives prefers to spend his time and share his life with those same people, the poor and the marginalized.

With the metaphor of overturning tables and of cleansing the temple for those who instead choose to distort religion for their own means, many of us are here today to begin overturning tables and to begin cleansing our Nation of distorted ideas of religion that have no place in the separation of church and state. Render unto Caesar that which is Caesar's and render unto God that which is God's.

There are currently over 440,000 children in our child welfare system. Over a quarter of those children are able to be adopted at this moment and, yet, 20,000 of those kids will graduate out of the system this year alone without finding parents.

Last year, Family Equality made the front page of USA Today with our research showing that 63 percent of LGBTQ Millennials plan on forming families. That is a huge increase in the decades ahead.

If you are LGBTQ in America you are seven times more likely to foster parent and you are seven times more likely to adopt a child than if you are straight. And yet, 11 states now have laws that allow for legal discrimination against LGBTQ people in foster care and adoption.

These laws have been put in place under guise of religion and under the name of religious liberty. Congressman John Lewis's Every Child Deserves a Family congressional act, H.R. 3114, will overturn those bad laws nationwide and those who care about children will support that act.

There are those who will tell you that people who are denied a wedding cake at one bake shop can simply go to another bake shop, and for my husband and I that is, largely, true.

One of the advantages of being middle or upper class is the mobility that it affords. My decades of working with the homeless in Chicago taught me that mobility is not a luxury that is afforded to those living in poverty.

Being denied proper medical care as a trans person at the nearest clinic too often means being denied medical care entirely. Similarly, for those in LGBTQ and isolated by poverty or geography, being told no when seeking basic human needs such as food or shelter could be mean being told no to survival itself.

The abuse of Christian scripture and principles to justify prejudice is nothing new. The Book of Philemon was used by Christians to justify slavery during the Civil War and again to justify discrimination in the 1960's.

It is my belief that those supporting religious liberty have chosen religion as a parallel war of discrimination today. Yet, any objective reading of scripture shows Christ himself as a man shunning zealots and embracing the marginalized.

If, instead, we are respectful of church and state and if we move this battlefield of discrimination from religion to our judicial, legislative, and executive systems, it becomes readily apparent that discrimination based on religion cannot stand if we are true to our valued principles.

Regardless of the battlefield, it is time that we as a country begin overturning tables and cleansing our Nation. For me, as a middle class American, this protection of civil rights is important.

But for those that are poor and most marginalized, it is not only important but necessary for life itself.

Thank you for allowing me to be here today.

Chairwoman MALONEY. Thank you so much for your testimony and all the panelists for your testimony. I recognize myself for questions.

Title 9 of the Civil Rights Act of 1964 protects students at publicly funded schools from discrimination based on sex. The scope of Title 9's protections has been a primary target of the Trump administration as it has rolled back protections for the LGBTQ community.

In 2019, nearly one in three LGBTQ students were physically harassed. They were physically harassed based on their sexual orientation while one in four were physically harassed based on their gender identity.

Reverend Sloan, you have extensive experience working with LGBTQ youth. In your opinion, what message does the rollback of Title 9 protections send to transgender students and other LGBTQ students who face discrimination based on their gender identities or sexual orientation?

Reverend SLOAN. So, when our kids—when LGBTQ people are faced with this discrimination, it does emotional and lasting harm to them.

You know, even if they are able to, you know, as Mr. Minton did, find another place to receive the services or the benefits that they need, the mere rejection is a micro aggression that scars us and that is very hard to heal from.

Chairwoman MALONEY. Thank you.

Ms. Warbelow, President Trump's own Secretary of Education, Betsy DeVos, initially resisted rolling back these Title 9 protections, stating that she was uncomfortable because of the potential harm that rescinding them could cause to transgender students.

Was Secretary DeVos right in her initial assessment regarding the impact of rescinding these protections, Ms. Warbelow?

Ms. WARBELOW. Rescinding the guidelines to schools about their obligations to transgender students created a vacuum which encouraged schools to either engage in discrimination or, for most well-meaning administrators, created a lack of understanding of how they should move forward.

They were frightened to protect transgender students despite the fact that they have an obligation not only under Title 9 but under the equal protection clause as well.

It is dangerous for students not to have the full protection of the government. Terrifyingly, the Department of Education is also failing to investigate claims of discrimination against LGBTQ students, particular transgender students.

Chairwoman MALONEY. Well, can you give us some examples of some of the harms you have actually seen from the repeal of these protections?

Ms. WARBELOW. Transgender students are expected to use restrooms that are not consistent with their gender identity. Students have been forced to use restrooms that are all the way across the campus from where their peers are using restrooms, singling them out for discriminatory behavior.

Teachers refuse to intervene when trans students are being harassed by their peers and their classmates. And there are teachers who are disrespectful enough to refuse to call trans students by their names and appropriate pronouns.

Chairwoman MALONEY. In 2018, the Department of Education issued a troubling proposed rule that would undermine equal access to education for LGBTQ sexual assault survivors under Title 9.

The rule would make it harder for survivors of sexual assault and harassment who disproportionately identify as LGBTQ to address their claims.

How would rolling back these protections harm LGBTQ youth, Ms. Warbelow?

Ms. WARBELOW. Nearly 40—excuse me, nearly half of bisexual women have experienced sexual assault, as have nearly half of transgender people in their lifetime.

The Title 9 rule on sexual assault makes schools more dangerous for all, especially LGBTQ students. There are many provisions of the rule that would harm students.

But there are some that are particularly dangerous for LGBTQ students.

First, allowing religious institutions to discriminate against LGBT students without warning places them in a situation where they are unaware of whether or not their schools support them if they experience sexual assault or violence.

The narrow definition of harassment from unwelcome conduct of a sexual nature to only incidents that are so severe and pervasive

to be objectively offensive—effective denies all students equal access to education.

Chairwoman MALONEY. Well, earlier this month I led ever committee Democrat in sending a letter to Secretary DeVos asking for documents related to this proposal and who was behind it.

So far, we have not gotten the documents we asked for. But we will continue our oversight of Title 9, this rule, and Secretary DeVos' troubling record at the Department of Education.

Every young person deserves the right to an educational environment in which they are respected and protected. Instead, the actions of this administration have created an environment where LGBTQ youth are made to feel unprotected, unsupported, and unseen.

I would now recognize—

Mr. MASSIE. Madam Chairwoman?

Chairwoman MALONEY. I will now recognize the gentlewoman from West Virginia.

Mr. MASSIE. Madam Chairwoman, I would like to enter something into the record.

Chairwoman MALONEY. Without objection.

Mr. MASSIE. So, I would like to enter into the record, among many others to come, a letter from His Excellency, George Murray Bishop of Youngstown, and chairman of the U.S. Conference of Catholic Bishops, Committee for Religious Liberty, expressing his disappointment with the framing of this hearing, specifically its title, asserting that religious liberty is an assault.

And while we may disagree on specific applications of religious liberty claims or the impact of these regulations, in particular, I would like to enter this letter as well as others from other organizations.

Chairwoman MALONEY. Without objection, so ordered.

Mr. MASSIE. Without—

Chairwoman MALONEY. And I now—you may submit it.

Mr. MASSIE. OK. Thank you, Madam Chairwoman.

Chairwoman MALONEY. I now recognize Mrs. Miller from West Virginian, and she will be followed by Jamie Raskin, and I am asking Jamie to now chair this committee. I have been called to a markup in another committee.

I thank everyone for being here on this important issue.

Mrs. MILLER. Thank you, Chairwoman Maloney, and thank you all for being here today to discuss this important topic.

I do want to say from the beginning that I am commending the Trump administration's strong commitment for advancing rights for all people and, particularly, the commitment to eradicating AIDS epidemic worldwide, and I am encouraged by the work that the administration is doing to treat all people with dignity and respect that they deserve.

I think it is very important that we understand that. Freedom of religion is one of the foundational tenets of our country. Additionally, liberty and freedom from a burdensome government is a right afforded to every American.

I believe in equality for everyone in the eye of law and this discussion is an opportunity to find the balance that we strive to work toward.

There are many views surrounding the topic of equality and religious freedom today and I hope that we can all have a productive discussion that will ensure the rights for all people and that all people are protected.

Mr. Sasser, do you believe that the regulations proposed by the Trump administration seek to maximize individual liberty?

Mr. SASSER. I think that the Trump administration is trying to focus on its duty as the executive branch to conform its regulations to Congress's decisions that they have made through legislation.

Many of the regulatory changes that have been proposed or enacted were simply to try to bring the language back into conformance with statutes that this body had already previously passed.

I will give you an example, since Title 9 was raised. There was an issue in the previous administration with religious schools having to seek exemptions and having difficulty receiving their exemptions from Title 9 because Congress said that religious schools shall be exempt.

As a matter of fact, Congress was very specific it was granting an exemption without having to go through all the jumps and hoops and everything else that the previous administration had enacted.

I think what this administration is trying to do is to conform its definitions and conform its regulations to the statutes that this body has passed. Congress, Article 1 branch of government, is the guardian of liberty. These are the representatives of the people of the United States from all parts of the United States and all different types of backgrounds.

Obviously, there is going to be a difference between Waxahachie, Texas, and New York City. This is the place where those negotiations take place and that language is crafted.

It is not perfect. It is not what everybody wants. Somebody has to give a little bit here and there, as we all understand, as part of that negotiation process. And I think that it does a disservice to ask the executive branch to try to go beyond the language that this body has negotiated.

Mrs. MILLER. Thank you.

Can you explain the background behind your organization's support for eliminating unfair barriers for faith-based organizations?

Mr. SASSER. Well, we represent people of all faiths, and in particular, any time a particular viewpoint, religious viewpoint, is in the minority from the mainstream ideas of what is orthodox and what is—what the mainstream might think is the right thing to do, there is going to be a lot of pressure on them, both social pressure and political pressure and then, ultimately, legal pressure to change their mind, to conform their religious beliefs to what the larger public would like them to have.

I think it is the work of the First Amendment to protect those minority positions and that is what we focus on. We focus on battling against government overreach into religious affairs because we believe that what the promise that Thomas Jefferson made to the Danbury Baptists is true, which is that the government should not be interfering with religious entities and their beliefs.

Mrs. MILLER. I have one other quick question. How can we strive to make sure that the LGBTQ rights and the religious freedoms rights coexist?

Mr. SASSER. The best way to do that is through the proper negotiation and congressional process that we have here instead of asking the executive branch to do it by fiat, which this particular administration doesn't appear to want to do.

Mrs. MILLER. Thank you. I yield back my time.

Mr. RASKIN.[Presiding.] Thank you.

The gentlewoman from the District of Columbia, Ms. Norton, is now recognized for her five minutes of questions.

Ms. NORTON. Thank you very much. I particularly appreciate this hearing because my own district, the District of Columbia, is regularly targeted by the minority for its laws regarding the LGBTQ community.

An example is the Religious Freedom Restoration Act, which, as you know, is used to overturn—has been used to overturn laws that protect the LGBTQ community. But it was declared unconstitutional as applied to the states but not the Federal Government and the District of Columbia, which is another reason that the passage of our statehood bill this year is so important.

RFRA has been used as a justification even recently—Senator Ted Cruz, here in the House, Representative Vicki Hartzler—for attacks on the District's human rights amendment, and that was an amendment which I was—that I was able to get that rider, as they are called, taken off.

But that was a law in the District of Columbia that said that you couldn't deny that universities, public schools or private schools, both, could not deny the use of their facilities—their school facilities.

An example of that would be your facility to holding a meeting. Initially, Georgetown University, very distinguished Catholic university—perhaps the most distinguished—were in favor of that denial.

But Georgetown has overturned its own views on that and now allows LGBTQ students to organize on their campus and to have use of their facilities to hold meetings.

We are seeing a repeat here by some on the other side of what we have just gone through with respect to the Census. And the Census, you will remember, we were enshrining ignorance of who was in the country. So, want to count noncitizens even though the Constitution says all persons shall be counted.

So, what we are seeing with this administration is they don't want to count LGBTQ people either. So, while initially, I guess, from the Census as left to them by the Obama Administration, they included sexual orientation in the 2020 Census.

But then they quickly came back and said, oh, that is a mistake. We don't want to know anything. We don't want to count the LGBTQ community.

So, just as with whoever is in the country they don't want to know, so they don't want to know anything about the LGBTQ communities, right. They don't exist as far as this administration is concerned.

So, I would like to ask all of you to discuss how you think, why you think, the Federal Government could better serve the LGBTQ community, or not, if they knew more about the size of that community, the demographics, the needs of that community.

Why do you think the Federal Government—could the Federal Government better serve or is it simply irrelevant to the Federal Government who LGBT community people are in our jurisdiction—if I could get everyone to respond to that—in our country, everybody to respond to that question. Do we need to know and, if so, why do we need to know?

Mr. OLIVARES. Thank you for the question. I believe that the Federal Government should step in and help end discrimination. I can't talk about a lot of the laws and a lot of the government things, but I can talk about my personal experience of how the government could have helped me.

I could have helped support my foster parents, first and foremost, with services on how to speak, how to handle, how to take care of a gay young man in their home and how they could have cut down the bullying, cut down the derogatory terms and—

Ms. NORTON. If they had had—if we had had information on what—I want to get everybody to answer. So, if we had had that information then maybe action could have been taken of the kind you had lived through.

Mr. Minton?

Mr. MINTON. Yes, I certainly believe that the Federal Government needs to count LGBTQ people in the Census, and I believe that they need to do that for a number of reasons.

The LGBTQ population is greatly underserved and if we know how many of us are truly out there then I think that that would lead to the services that we need.

For example, 40 percent of the transgender community has attempted suicide. We need culturally competent care. When the transgender community is subject to medical denial due to anti-transgender bias that number jumps to 60 percent attempted suicide rate.

We need—we need medical providers out there. We need all sorts of services. But we are never going to know how much we need unless we are truly counted. So, I thank you for all of the work that you have done, and I urge all of us to continue in these efforts.

I think if the Federal Government were to sit down with us—I fear that they are hostile to our community and by their actions they have shown that—but if they were to sit down with us then perhaps they could have a sense of compassion and see that we are people and that we do count and that we should count.

Mr. RASKIN. OK. The gentlelady's time has expired.

Now we are going to go to the gentleman from Kentucky, Mr. Comer, and he is recognized for his five minutes of questions.

Mr. COMER. Thank you, Mr. Chairman.

I just want to take a moment to reset some context for today's hearing.

Freedom from government coercion is a right afforded to every American no matter their sexual orientation or gender preference.

The Trump administration's regulations do not deny LGBTQ individuals their fundamental civil rights. What the administration

is doing, as they should, is revisiting the balance between religious conscience and LGBT rights, because many Americans had concerns with how this balance swung way out of proportion during the Obama Administration.

LGBT Americans should and do have absolute freedom from discrimination, just as all Americans should have the absolute freedom from mandated acceptance of an ideology.

So, with that in mind, I really want to shed some positive light here on the vital role that faith-based organizations play in my communities in the 1st congressional District of Kentucky and in many communities throughout the United States.

There is a spectacular organization in my district called New Pathways for Children. They are a faith-based organization running two group homes with licensed counselors and any resources that children would ever need.

They care for children who suffered maltreatment from neglect, abandonment, or abuse. They serve children who experienced poverty, homelessness, incarceration of a parent or parents who enter drug or alcohol rehab.

And yes, children are encouraged to explore faith and given regular opportunities for personal spiritual growth through biblical study, worship, retreats, camps, and mission trips.

So, today, I really do take offense to framing religious organizations like these as the enemy when in fact they are doing some of the best work to help aid children in need.

To that end, Mr. Sasser, I have a couple of questions with respect to foster care. Can you elaborate on the diverse backgrounds and needs of the hundreds of thousands of children in foster care, briefly?

Mr. SASSER. Well, the foster care industry is served by a wide variety of different types of agencies, some of which are motivated by their religious beliefs. Some are secular. Some are religious but have different beliefs about how families should be structured and that sort of thing.

One of the best things about our system is that we have a lot of freedom and a lot of choice, and not every family is going to be the same. I think that it is important to have different agencies that are recruiting parents from different types of backgrounds because I think it is important.

If you have an orthodox Jewish child who suddenly is in the foster care system, I think that it is important that there be an orthodox Jewish foster care agency that can help recruit and find a home for that person.

I don't know how else, you know, you would properly serve them in that way.

Mr. COMER. And I agree. These children need a diversity of individuals working on their behalf to provide them a loving home.

Mr. Sasser, why would anyone want to close a loving supportive well-run foster home and why would anyone want to close off such an avenue to help these children in need?

Mr. SASSER. I don't know. I think President Clinton actually said it best. He said, "But let us never believe that the freedom of religion imposes on any of us some responsibility to run from our convictions."

Let us instead respect one another's space, fight to the death to preserve the right of every American to practice whatever convictions he or she has. But bring our values back to the table of American discourse to heal our troubled land."

I don't think anyone can say it better than that.

Mr. COMER. My last question, and you can educate me on this. Did Pennsylvania close a foster home run by a parent of the year? Are you familiar with that situation?

Mr. SASSER. I am not familiar with that specific situation. I apologize.

Mr. COMER. OK. Well, I appreciate—I appreciate the hearing and I hope that my statement isn't meant to offend anyone.

But people in the faith-based community provide so many valuable services to people in need and it is just unfortunate that they are constantly under attack by many members of this committee.

I hope that in my brief five minutes I can shed some light as to some of the good things they are doing and, hopefully, we don't create any more unintended consequences for these faith-based organizations that are providing an invaluable service to children and women all across America.

Mr. Chairman, I yield back.

Mr. RASKIN. Thank you very much.

Now the gentleman from California, Mr. Rouda, is recognized for his five minutes of questions.

Mr. ROUDA. Thank you, Mr. Chairman.

There is one undeniable fact and that is discrimination is discrimination, period, regardless of how it occurs. And with the testimony we have heard today I feel like I am on the Republican absurdity train as we hear some of these arguments.

I want to be clear here. Federal law does not expressly prohibit discrimination against the LGBTQ community.

And Ms. Warbelow, I am going to direct my questions toward you. Is that a correct statement what I just said?

Ms. WARBELOW. There are very few places in Federal law where there are express protection for LGBTQ people, and right now the Supreme Court is contemplating whether or not to strip away rights from the LGBTQ community under Title 7 and, potentially, other laws as well. We need express protections to guarantee non-discrimination.

Mr. ROUDA. So, let us walk through these religious exemptions as we take a trip on this absurdity train. We talked a little bit earlier about the idea in a court case that supported the notion that an employer can withhold birth control and condoms to people that work for them because it is against their religious beliefs. Is that correct?

Ms. WARBELOW. That is correct. Hobby Lobby.

Mr. ROUDA. OK. There are religions who believe that no medical care should be provided whatsoever to them or their children.

So, if we take this absurdity train a little bit further down the road, is it possible that in the belief of religious exemptions that you would then not have to provide any health care to your employees if that was your religion?

Ms. WARBELOW. Ignoring the confines of Hobby Lobby, this administration has put forward the idea that doctors and other med-

ical care providers should be able to refuse to perform any type of medical service that conflicts with their beliefs.

Mr. ROUDA. So, going back to the situation that Mr. Minton experienced first hand, if a hospital, religious based, that did not believe in addressing the medical needs of the LGBTQ community under the Trump administration in the absurdity of the Republican argument that they are making, all health care services could be denied by that hospital and it is not a problem because Mr. Minton can just go somewhere else. Is that the argument?

Ms. WARBELOW. That is the intention of this administration, as they have made clear through their regulations.

Mr. ROUDA. So, let us go a step further down the path here, because there are many protected classes that include race and color.

So, if those classes were not directly protected under U.S. law and somebody had a faith-based reason to discriminate against them, under the Trump administration and the Republicans who support it they too could be discriminated against. Is that correct?

Ms. WARBELOW. So, the Trump administration in their filings has drawn a hard line at race in most circumstances. But they have made clear that individuals with disabilities, women, people of minority faiths, and the LGBTQ community should be subject to a different set of standards, allowing for widespread discrimination including in the health care space.

Mr. ROUDA. So, it is okay to discriminate against some people, just not all people, depending on their specific circumstance, and whether those circumstances are specifically protected under United States law.

I guess my question is if there were other communities that were not specifically covered under U.S. law is it possible that Republicans would also seek religious exemptions that would allow discrimination against those communities?

Ms. WARBELOW. It is certainly possible. What I am hearing is an expectation that everything be codified in statute before someone be provided protections. That is not the history of our country.

Agencies have long adopted regulations that provide protections for beneficiaries on a number of bases and the idea that they would no longer have the freedom to do so is quite troubling.

Mr. ROUDA. Mr. Minton, if I could move to you. I would like you to expand a little bit more on your personal experience of having health care denied to you. If you would take a few moments.

Mr. MINTON. Yes. Well, my personal experience is having health care denied to me did not end with my original hysterectomy. It has continued.

Shortly after my phalloplasty surgery I had an issue with my catheter not staying place, and I went to the Urgent Care and they couldn't take care of me because they couldn't take care of that issue, and they sent me to an emergency room. Unfortunately, the emergency room was in the same parking lot that—and it was a Dignity Health hospital.

I refused to go to the emergency room that was a Dignity Health hospital because they refused to recognize that I exist as a transgender person and instead I went into a public restroom and I called my surgeon and asked that they give me the directions

over the phone, and while they were giving me the directions I performed the operation on myself.

Not only that, but more recently a pharmacy made a mistake and instead of giving me five pills of 25 milligrams each they gave me five pills of 125 milligrams each. I was staying at my parents' house and they discovered me barely able to speak and unable to walk.

The nearest emergency room was Mercy San Juan Medical Center which, as I said earlier in my testimony, was a Dignity Health chain. They wanted—I needed to go to the emergency room and instead of going in my drug stupor and my—even in my inability to talk, I was able to make out the sound no, not that.

They took me to emergency room farther away, and just to relay the seriousness of this, when I got to that emergency room, they treated me as a stroke victim for a number of hours.

So, it is not only me that is avoiding these hospitals. I talked to friends and family who are both LGBTQ+ and not, and they won't go to these hospitals either. It is important to mention that one in six hospitals in California are Catholic—are in Catholic—are Catholic beds.

We can't go to these hospitals, and when it is in rural areas it is even worse. It is the only hospital around. This is a matter of life and death.

Mr. ROUDA. Thank you, Mr. Minton, and thank you for your compelling testimony and showing the absurdity of this situation we are addressing.

I yield back. Thank you.

Mr. RASKIN. Thank you very much.

The gentleman from Georgia, Mr. Hice, is now recognized for his five minutes of questions.

Mr. HICE. Thank you, Mr. Chairman.

I will begin by saying upholding the First Amendment is not an absurdity train. Protecting the religious liberties of the people of this great country is not in any way absurd.

Mr. SASSER, let me go to you quickly. On the issue of beliefs, the beliefs that people have, just in general, is it fair to say that beliefs impact people's behavior?

Mr. SASSER. Well, beliefs drive and serve as the motivation for people and especially for charitable organizations. I mean, for example, some—

Mr. HICE. Well, just generally speaking, it is fair to say that beliefs do impact behavior?

Mr. SASSER. Well, sure.

Mr. HICE. All right. So, let us take it a step further. Deeply held religious beliefs—do those deeply held beliefs impact the way people live?

Mr. SASSER. Of course they do.

Mr. HICE. OK. So, would it be fair to say that as it relates to religious beliefs, just within that context, would it be fair to say that people with those deeply held religious beliefs literally practice what they believe? Everything else is just religious talk.

But if it is a deeply held religious belief they actually practice that?

Mr. SASSER. I am sure they do.

Mr. HICE. OK. So, is it also fair to say that when we are talking about religious liberty in America and the protections that we have under the First Amendment that those are not just an issue of where I worship or how I worship?

Mr. SASSER. It is part of their everyday life.

Mr. HICE. It is part of their everyday life. So, an individual's deeply held religious beliefs go far beyond the walls of a church or synagogue or a building of faith.

Those deeply held religious beliefs actually literally daily impact issues related to how that person works, play, their recreation, their politics, their family life and their—obviously, their worship life. Is that fair to say?

Mr. SASSER. Exactly. It is their entire life.

Mr. HICE. OK. So, with that, would you consider any attempts from government or otherwise that would prevent or disable people who hold deeply held religious beliefs from practicing those beliefs to be problematic?

Mr. SASSER. Well, not only—I don't think that just me that thinks it is problematic. Our founders thought it was problematic and that is why they put in the First Amendment to the United States Constitution, in order to protect religious liberty.

That is why this body passed the Religious Freedom Restoration Act in 1993 when they felt that the Supreme Court was not honoring the original meaning and understanding of the First Amendment.

Mr. HICE. So, what you do on a daily basis is help defend people of faith who are increasingly in this country experiencing hostility, an environment—and we see it. I have dealt with this myself for 20 years plus, seeing an increase of hostility toward people of faith on multiple fronts.

Would you consider it in and of itself discriminatory toward people of faith for government or other entities to come in and try to force those people with deeply held religious convictions to forsake those convictions or close the doors of their business or whatever it is that they are involved with?

Mr. SASSER. Well, not only is its unconstitutional religious viewpoint discrimination but, I mean, there are entire bodies of law that support—to support that.

Mr. HICE. So, you would say that is in of itself discriminatory?

Mr. SASSER. Sure, it is.

Mr. HICE. All right. Your organization has called religious freedom the foundational right that all others are built upon. Would you elaborate on that?

Mr. SASSER. Well, sure. The worst competition for a totalitarian form of government is for its people to believe in a power that is greater than government and for people to have an allegiance to something that is greater than the government.

I remember teaching at a law school, a seminar, in Romania. It wasn't too long after the fall of communism there but it had been some years, and the students found it quite remarkable that I would suggest that right preexisted government and that there are certain foundational rights that are embedded not only in the Constitution but are embedded endowed by our Creator as our Declaration of Independence acknowledges.

And those rights pre-exist government and any attempt of the government to impact those rights must be met with heavy resistance.

Mr. HICE. I thank you, and I thank the chairman.

We have got to understand discrimination goes both ways and deeply held religious beliefs impact the way people daily live, and any attempt to eradicate that is, in itself, discriminatory.

Thank you, Mr. Chairman. I yield back.

Mr. RASKIN. Mr. Hice, thank you for that illuminating exchange, and I want to pick up on that with my own five minutes of questioning because the moment that we are at right now in terms of trying to clarify the relationship between the nondiscrimination norm under equal protection for all citizens and religious liberty is a moment that we have arrived at at other times in our history.

So, I would like to go back to the 1960's when the first civil rights laws were created to try to include African Americans who had been the victims of Jim Crow discrimination.

So, I am thinking of Supreme Court decision like Heart of Atlanta Motel, Dolly's Barbecue case, and other public accommodations decisions where restaurant owners, lunch counter owners, department store owners made precisely this same First Amendment claim, invoking either religious freedom or the freedom of association, and they said that if you are making me serve black customers or interracial parties you are violating my religious freedom because we believe that this is fundamentally offensive to our religious system. So, we don't want to use our restaurant or department store or hotel or motel or lunch counter in this way.

Yet, that was overridden by the Supreme Court saying if you are a place of public accommodation and you are dealing with civil rights law, you have to comply with the law just like everyone else does.

So, isn't that illuminating in terms of this debate that we are having today, Ms. Warbelow? Let me ask you.

Ms. WARBELOW. Absolutely. The Supreme Court recognized, as it has over and over again, that there are limitations to our fundamental rights when those fundamental rights end up impeding upon the rights of others.

It is one of the reasons that the Supreme Court, so critically in Piggie Park, made clear that despite the owner's sincerely held religious beliefs about separation of the races he was still obligated to serve African Americans.

Mr. RASKIN. OK. So, those views are sincerely held by racist restaurant owners or racist amusement park owners or racist theater owners. Yet, the courts repeatedly found throughout the 20th century that those views could not overcome the fundamental public accommodation equal protection rights of the people, right? That is because they are in the stream of commerce in a public accommodation.

Now, of course, any person who disfavors interfaith marriages or same-sex marriages or interracial marriages doesn't have to invite people over to their house for dinner if they don't want to.

They don't have to be friends with them. But if you enter the stream of commerce and you set up a restaurant or you set up a

hotel or motel, you are subject to all of the public accommodations laws, aren't you?

Ms. WARBELOW. That is correct.

Mr. RASKIN. That is true for hospitals as well, isn't it?

Ms. WARBELOW. For those places that define hospitals to be places of public accommodation.

Mr. RASKIN. And it is true for the provision of Federal Governmental services, isn't it? Isn't—that is really what this discussion is about, whether the equal protection norm, the anti-discrimination norm, should apply when we are talking about the distribution of Federal tax dollars that come from all citizens, right?

Ms. WARBELOW. This is about protecting the most vulnerable among us.

Mr. RASKIN. So, the argument about whether or not it is the rights of the person who wants the services of a hospital or it is the right of the hospital to deny service, that is a problem that we have seen before, isn't it?

Ms. WARBELOW. Yes, it is.

Mr. RASKIN. I mean, is there any reason to think that America would be better off if we turned the clock back to a time when it was okay for the providers of services, whether it is a hotel or motel or restaurant, a hospital, an adoption agency to discriminate against the people who are served?

Ms. WARBELOW. Not only is this dangerous for LGBTQ people, it is also dangerous for people of faith. There are many disfavored religious minorities within this country, and it is terrifying to think that we would undermine our longstanding civil rights laws to allow for discrimination against people of faith as they operate through daily life. That is why those nondiscrimination laws that apply equally to all protected characteristics exist.

Mr. RASKIN. All right. The—I think Mr. Hice began by stating something which I found very optimistic and promising. He said the notion that the Trump administration is somehow attacking the LGBT community is wrong. The United States continues to be a world leader in guaranteeing the civil rights of all including the LGBT community.

Under President Trump the Federal Government has sought to treat all Americans, gay or straight, religious or nonreligious, fairly and justly. I would like that to be true. Is that true?

Reverend Sloan, let me come to you.

Reverend SLOAN. No, that is not true.

Mr. RASKIN. Well, can you just explain why?

Reverend SLOAN. We have seen our rights continue to be eroded under this administration. It takes different forms. But relative to religious liberty, you know, I am—I am one of those rare clergy I don't like to talk in front of people. I get nervous, and I am not a lawyer.

But I have always believed, and I have always been taught that your right to swing your fist stops at somebody else's nose. And what we have seen under this administration is that—is that we are hitting, and it is hurting people and, in particular, it is hurting people who are isolated geographically and it is hurting people who are isolated by poverty.

Mr. RASKIN. OK. I will just close with the thought that if you read James Madison's beautiful "Memorial and Remonstrance" against religious taxation in Virginia, the argument he made was that we want so much religious liberty in America that the government would not interfere in anybody's worship, anybody's relationship between himself or herself and God—that that is what the heart of religious liberty is.

And to transmogrify it into the right to discriminate against other people in the provision of essential services strikes me as a deformation not only of equal protection but of religious freedom as well.

With that, I am going to recognize the gentleman from Texas, Mr. Roy, for his five minutes of questions.

Mr. ROY. I thank the chair.

I would like to start with a couple quick questions. Mr. Sasser, I only have five minutes so let us try to move through a couple of them quickly.

But on this point that the—my friend from Maryland there has raised, my recollection, right, was that the Civil Rights Act, for example, is very careful in the way Congress talked about it in terms of—or structured it, I should say, not talked about it—in terms of enumerating the businesses it would cover, right, in motels, restaurants, places that serve food and so forth in the stream of commerce.

Can you talk a little bit about what the gentleman from Maryland just talked about in the context of our current conversation with respect to public accommodation and then protecting religious liberty, for example, for cake bakers or florists and others where these issues arise?

Mr. SASSER. Sure. Well, actually the Congress led the way in the late 19th century in passing the Civil Rights Act. It was the Supreme Court that overturned it and I believe erroneously, which set back civil rights many, many decades.

But to the point with the Civil Rights Act of 1964 it, obviously, has a very—it is long, but it is a limited list of various institutions that are covered by that.

But one of the things that even—that has gone further is some states have passed various accommodation laws that have gone further than what Congress has passed, and those states are subject to the Constitution and, for example, for the cake bakers like Masterpiece Cakes the state of Colorado overstepped its bounds—its constitutional bounds—in enforcing its accommodation laws against Jack Phillips and Masterpiece Cakes and the Supreme Court ruled that in a 5–4 decision that that was a violation of the free exercise clause.

Mr. ROY. Thank you for that, and I think that is an important point for us to be contemplating as we are talking about this and, you know, I understand my friend from Maryland is talking about the balance there and where the line—you know, to use the analogy that where the—somebody's fist stops at somebody's nose.

But I think this is really important, right, because we have got individuals who, according to their religious faith, find it objectionable to bake a cake, deliver flowers, whatever, and we want to

make sure we are protecting religious liberty and ensuring that that is covered.

Let me switch gears for just a quick second here. Mr. Sasser, I think you are probably aware of Mr. Russ Vought. He is the director of the Office of Management of Budget and he had a rather contentious hearing over in the Senate.

And there is a notable senator who may or may not be engaged in the current Democratic Presidential nomination process who berated Mr. Vought for comments he made about his views on his Christian faith.

He had been a—he is an alumnus of Wheaton College and he had expressed in his private capacity prior to being nominated his beliefs in his Christian faith and expressed those publicly and, yet, Mr. Sanders sought to block his nomination and, importantly, I think put forth a religious test, essentially, and he said that Mr. Vought is, quote, “really not someone who this country is supposed to be about.”

To your limited knowledge of those facts, can you comment about whether religious tests are appropriate and whether Mr. Sanders was appropriate in that attack?

Mr. SASSER. Well, the Constitution—the original Constitution, not just in the Bill of Rights—the original Constitution prohibited religious tests for public office very specifically because we are not going to discriminate against people because of their faith or if they don’t happen to share the faith of someone else or in certain beliefs. Reverend Sloan and I, we may have different religious beliefs and we should not exclude each other, obviously, from public service.

Mr. ROY. I appreciate that. I agree. You and I worked together before. I am proud of you being a Texan and what you do in protecting First Amendment rights and religious liberty.

We worked together, as I recall, in a hearing, gosh, probably 14 or 15 years ago when I was in the Constitution Subcommittee with John Cornyn on religious liberty and we brought forward a host of examples of religious persecution across all faiths.

If I recall correctly, we had a young lady who was quite delightful that we brought in from Oklahoma who was persecuted, basically, for wearing her hijab, and she came in and was a witness in our hearing and we made sure to highlight religious persecution in all respects across the Nation.

I was wondering if you might, for the benefit of the committee—and I will turn it over and yield back my time and ask you a question. Can you provide some real-life examples of individual religious liberty being infringed upon at the expense, you know, of another and others, and can you just go through some of the examples you guys have dealt with at First Liberty?

Mr. SASSER. Well, sure. One of the nearest and dearest to our heart and one that we are working on very much so are the Jewish synagogues that are just of New York City, and, you know, just in the neighboring town of Airmont, New York, just neighboring Monsey where they had the machete attack in one of the house synagogues there.

Those communities are extremely hostile to the Orthodox Jewish community, and if you would see some of their campaign ads and

some of the other things that they do, it is despicable that this is what is going on in this Nation.

It is a difficult fight and it is a fight that the Department of Justice has been waging in that area for almost 20 years and we still have not been able to eradicate the anti-Orthodox Jewish community discrimination that is going on in that community.

Religious discrimination is alive and well in this Nation and it takes vigilance to fight it.

Mr. RASKIN. All right. The gentleman's time has expired.

Thank you, Mr. Roy.

Now the gentleman from Illinois, Mr. Krishnamoorthi, is recognized for his five minutes of questioning.

Mr. KRISHNAMOORTHI. Thank you very much, Mr. Chairman.

You know, I think that we are all talking about the coronavirus right now as a huge contagion. I think that discrimination is a contagious disease and I think that the more that the Trump administration justifies discrimination, I think the more that discrimination spreads and it hurts a lot of people.

On May 4, 2017, in the White House Rose Garden, President Trump called the United States a, quote, "nation of faith" and a, quote, "nation of tolerance." But I am concerned that his words that day did not reflect his actions.

On that day, President Trump signed an executive order supposedly promoting free speech and religious liberty.

Ms. Warbelow, before this executive order was signed, LGBTQ+ activists expressed concerns that it could lead to discriminatory policies across the Federal Government. Isn't that right?

Ms. WARBELOW. A leaked version of the original executive order outlined myriad ways in which the Trump administration intended to discriminate against LGBTQ people, and when the final executive order was signed it directed the Department of Justice to go agency by agency to implement unfounded interpretations of Supreme Court case law privileging religious viewpoints over the rights of LGBTQ people, women, people with disabilities, and, importantly, people of minority faiths.

Mr. KRISHNAMOORTHI. Can you give us a couple examples of that?

Ms. WARBELOW. So, you know, one of the things that we have been talking about is discrimination on the basis of religion by religiously affiliated adoption and foster care agencies.

The Department of Health and Human Services gave a waiver to the state of South Carolina to allow for discrimination by an agency that is a conservative Christian agency that has discriminated not only against LGBTQ people but the waiver was specifically given to allow that agency to discriminate against Jewish people and against Catholic people. And this is an agency that receives 90 percent of the funding available to provide foster and adoption care within the state.

Mr. KRISHNAMOORTHI. Well, this is deeply concerning. You know, as a member of a racial, religious, and ethnic minority, I am deeply concerned when anybody is allowed to discriminate on the basis of what you said is happening.

You know, Mr. Sasser, my name is Raja Krishnamoorthi. In a prior hearing I was called Roger Christian Murphy and, in fact, the

other day Huff Post called me Ro Khanna, and Ro Khanna was called Raja Krishnamoorthi.

I prefer to go by Raja Krishnamoorthi. You can call me Raja or you can call me Mr. Krishnamoorthi. I presume you are Mr. Sasser. Is that right?

Mr. SASSER. Yes, sir.

Mr. KRISHNAMOORTHY. And I presume that you would like me to call you Mr. Sasser, not Ms. Sasser. Is that right?

Mr. SASSER. Whatever floats your boat.

Mr. KRISHNAMOORTHY. Well, let me ask you this. Do you think it is an attack on religious liberty to refer to someone by the pronouns they prefer if that person happens to be transgender?

Mr. SASSER. I know that just in my personal practice if somebody wanted me to call them something, I would call them that. I think most people are that way.

You know, I think that there may be some religious institutions that have institutional reasons why they want to make sure that they adhere to their faith in some way that requires them to be very specific and I think there is room for that in our country, too. I think the way the—

Mr. KRISHNAMOORTHY. Hold on. Let me stop you there. You think there is room in our country for a religious organization or a religious figure to refer to someone by a pronoun or gender that is not consistent with the pronoun or gender that they prefer?

Mr. SASSER. Well, if the alternative is that the government is going to by force make somebody use speech that they find religiously objectionable, that the government by force will make them do that, I don't think that there is room for a totalitarian move to have government force.

Mr. KRISHNAMOORTHY. I am sorry. You think that calling someone by a certain pronoun that they prefer would be a totalitarian move on our part?

Mr. SASSER. No. That is not what I said at all. That is not what I said.

Mr. KRISHNAMOORTHY. That is exactly what you said.

Mr. SASSER. No, it is not what I said at all.

Mr. KRISHNAMOORTHY. That is exactly what you just said.

Mr. SASSER. I said that I would call somebody whatever they wanted, and I think most decent people would. But I also do believe that to have the government show up and try to force me—

Mr. KRISHNAMOORTHY. Is that an attack on your religious liberty to ask you to refer to someone by the pronoun they prefer?

Mr. SASSER. Well, the alternative is that we have the government forcing people to engage in speech with which they have a religious objection. I don't know if everyone wants to go down that road.

If the government can force someone to say something that they have a disagreement with, a deep religious disagreement with—forced speech—I mean, the U.S. Supreme Court dealt with that in *West Virginia v. Barnette* in 1943 during the height of World War II when everybody was trying to be as patriotic as possible, and West Virginia wanted to make little third graders stand up and say the Pledge of Allegiance. What is more American than that?

But they had a religious objection to that forced speech and the U.S. Supreme Court in 1943 said, we are not going to force people to speak against their religious beliefs.

Mr. KRISHNAMOORTHY. But you compare—you compare calling someone by a gender pronoun that they believe to be inconsistent with their identity similar to forcing someone to engage in political speech that they disagree with. Is that what you are maintaining today? That is political speech.

Mr. SASSER. What I am saying is that it is free speech and it was enforced by the U.S. Supreme Court.

Mr. KRISHNAMOORTHY. Well, free speech is calling people all kinds of slurs but that is something that we prohibit. Discrimination is something that we prohibit, and it is prohibited by the law. I would respectfully submit that you should also subscribe to that principle.

Thank you so much. I yield back.

Mr. RASKIN. OK. Thank you. The gentleman's time has expired and the gentleman from Wisconsin, Mr. Grothman, is now recognized for his five minutes of questioning.

Mr. GROTHMAN. Sure. How long have you been dealing in this area of law, Mr. Sasser?

Mr. SASSER. I have been practicing in this area of the law for almost 18 years.

Mr. GROTHMAN. OK. Have you seen any change over time in the attitude of our society? Obviously, we have freedom of religion in this country. We are not supposed to favor one over the other.

But I think, largely, this hearing is about whether we are able to impose one's either nonreligion or type of religion over somebody else's religion. And have you seen an increase of intolerance toward what I will call traditional religions in the last 18 years in this country?

Mr. SASSER. Well, I think that we have always struggled as a nation with religious liberty trying to make sure that we strike the appropriate balances.

We haven't always done it perfectly. There has been lots of cases at the Supreme Court over the years. The Jehovah's Witnesses had to fight. The Amish had to fight. There has been lots of different battles that have gone on.

What I think is going on now is that for whatever reason RFRA—the Religious Freedom Restoration Act—was passed in the Senate 97 to 0. It was a voice vote in the House of Representatives.

It was sponsored by Senator Ted Kennedy, and President Clinton had some really nice things to say in the Rose Garden when he signed the Religious Freedom Restoration Act. That bipartisan universal appreciation for religious liberty has collapsed.

Mr. GROTHMAN. Right. Twenty-seven years ago, could you ever imagine that bill coming to the floor, say, to this House right now? Maybe you don't follow the House right now. But would it ever—can you imagine coming to the floors—Ted Kennedy and Bill Clinton's bill?

Mr. SASSER. I would hope that we are still the Nation that respects religious liberty as one of our founding principles and I think that a law that was passed by a voice vote in the House and 97 to 0 in the Senate that we had bipartisan support for people all

across different political spectrums I would hope that we could achieve that once again.

Mr. GROTHMAN. OK. Talk about the establishment clause. Do you think it is accurate to say the establishment clause prohibits the government from favoring nonreligion over religion?

Mr. SASSER. Well, the establishment clause—do you want to talk about the original meaning of the establishment clause?

Mr. GROTHMAN. Sure.

Mr. SASSER. I mean, the original meaning of the establishment clause, as Justice Joseph Story pointed out in his—in his commentaries on the Constitution—I believe it was around 1833. He was a former chief justice of the U.S. Supreme Court.

Actually, [it] had a very limited view of the establishment clause as only applying, obviously, to Congress as it says, but only as to what we would call the establishment of religion as such—that the government would set up and support a particular religion.

It wouldn't be for another century and a half that the court would evolve that understanding into some of the establishment clause thinking that we see today.

Mr. GROTHMAN. OK. Are you familiar with *Hosanna-Tabor Evangelical Lutheran Church v. the EEOC*?

Mr. SASSER. Yes, I am very familiar with that. It was a unanimous decision by the U.S. Supreme Court.

Mr. GROTHMAN. Well, what scares me about the future of the country it was a unanimous decision. But, first of all, do you want to just briefly in 15 seconds describe to the crowd what the decision says?

Mr. SASSER. Well, the decision essentially says that it is not the government's business to determine who is a minister or who is not for a religious organization and that they cannot pass laws that would impose burdens on any—of any kind on the employment of people that a religious organization determines to be a minister.

Mr. GROTHMAN. It was unanimous, huh?

Mr. SASSER. Yes, it was.

Mr. GROTHMAN. Ruth Bader Ginsburg, that crowd?

Mr. SASSER. Of course.

Mr. GROTHMAN. OK. Now, something that is not, of course, what happened in that decision on the appellate court level?

Mr. SASSER. Well, it had gone the other way.

Mr. GROTHMAN. Three to nothing. Three to nothing. So, kind of scary in the future that there are a lot of people who graduated from our law schools who, apparently, don't get what the Supreme Court got, right?

I will—earlier this year, the Trump administration issued nine rules aimed at protecting religious organizations from unfair and unequal treatment by the government. How will these proposed rules protect constitutionally protected religious liberty?

Mr. SASSER. Well, I think the most important function of the executive branch is to conform the regulations to Congress and to existing law and clearly established.

Mr. GROTHMAN. I think I can give you one more question because we are limited to five minutes and I am sorry to cut you off.

A lot has been said here about freedom for religious institutions, freedoms I have once I step across the—step in the doorway of a

synagogue or a church. Do you think those religious freedoms should disappear just because I don't work for a church or I am not in a church?

Mr. SASSER. No, and neither did our Founding Fathers. That is why they use the word free exercise because the word exercise means doing things.

Mr. GROTHMAN. Thank you.

Mr. RASKIN. Thank you, Mr. Grothman.

Just one quick postscript to what you were saying about the Religious Freedom Restoration Act. Of course, the Supreme Court struck it down.

Justice Scalia wrote the opinion, arguing and holding that the free exercise clause does not excuse anyone from complying with neutral universally applicable laws. I just thought we needed to get that in there.

Mr. Connolly, you are recognized now for five minutes—the gentleman from Virginia.

Mr. CONNOLLY. I thank the chair.

Did you say Justice Scalia wrote that?

Mr. RASKIN. Yes.

Mr. CONNOLLY. My, my.

[Laughter.]

Mr. CONNOLLY. Reverend Sloan, you are with Union Theological Seminary. Is that correct?

Reverend SLOAN. It is, yes.

Mr. CONNOLLY. So, I assume from that title you have got something to do with, I don't know, religious matters.

Reverend SLOAN. Yes.

Mr. CONNOLLY. And, you know, what we have been hearing here, my friends on the other side of the aisle, is what I consider to be this false dichotomy.

To propound rights for American citizens who happen to have a different sexual orientation is directly in conflict with my religious freedom and when I weigh that dichotomy I got to come down on religious freedom because otherwise it is an assault on my religious freedom.

From the perspective of where you work and your own religious orientation, what is your view about that? Is religion being put under assault if we assert LGBTQ rights?

Reverend SLOAN. No, absolutely not. So, Union Theological is not only interdenominational, it is also interfaith. So, the work that Mr. Sasser does is very important, and we would be fully in support of that.

Yet, again, you know, we are just—we are making it more difficult than it needs to be. Of course, you get to practice your religion and you should, until that religion is used to discriminate and that is exactly what is happening with LGBTQ people.

Mr. CONNOLLY. So, just traveling down history a little bit, do you think religion was used to justify slavery?

Reverend SLOAN. It absolutely was, yes.

Mr. CONNOLLY. Absolutely was. And didn't some denominations actually break along the lines of North-South over that very issue, even though those were denominations? They were religious denominations.

Reverend SLOAN. Yes.

Mr. CONNOLLY. And did not those divisions, racial divisions, last for a very long time even after the Civil War?

Reverend SLOAN. Yes, and continue to do harm.

Mr. CONNOLLY. And were Biblical justifications or religious justifications used to also justify racial discrimination and segregation during the hundred-year Jim Crow period?

Reverend SLOAN. Yes.

Mr. CONNOLLY. So, we have a long history of people invoking religion for their own political purposes, one might say.

Reverend SLOAN. Yes. So, you used the word use, but I would say it is abused. It is an abuse of Scripture, yes.

Mr. CONNOLLY. Abused. Even more accurate. OK.

Ms. Warbelow, HRC exists to advocate for and promote the rights of LGBTQ individuals in America. Is that correct?

Ms. WARBELOW. That is correct, including LGBTQ people of faith.

Mr. CONNOLLY. Including LGBTQ people of faith. That is right.

The administration has, it seems, consciously rolled back protections for LGBTQ individuals in America. Attorney General Jeff Sessions, using religious liberty as a rationale to undermine protections that already were on the books or existed through executive orders for such individuals. Is that correct?

Ms. WARBELOW. That is correct. The attorney general has misused religious liberty in order to justify a widespread attack on LGBTQ people, erasing us from everything from websites to laws.

Mr. CONNOLLY. We have seen that across the board in terms of transgender rights advocacy, the Federal Government stepping in to protect. Now, we heard a little bit about, you know, the heavy hand of the Federal Government—tyrannical, I think, was the word maybe used.

I am going to ask you to go down the road of history just a little bit. Do you think—just speculate with me—that if the Federal Government hadn't intervened that civil rights and voting rights would have progressed nonetheless in America?

Ms. WARBELOW. Potentially, but it would have been a long slow road to hoe.

Mr. CONNOLLY. Well, Jim Crow was a hundred years. People were still being murdered for trying to exercise their right to vote in 1964 and 1965 and, of course, we still see the vestiges of hate in other examples, most recently in Charleston—the tragedy in Charleston.

But it is hard for me to imagine without the Federal intervention that things would have changed.

Ms. WARBELOW. People are still being purged from voter rolls today because of their race.

Mr. CONNOLLY. Right. So, sometimes that role of the Federal Government is about protecting the rights of everybody, even if that means an intrusive presence for those who are perpetrating discrimination for their own benefit. Is that correct?

Ms. WARBELOW. Look, it should be the role of government to use its powers judiciously. But it is often necessary for Congress to ensure that everyone has a fair chance in this country.

Mr. CONNOLLY. I thank you. I thank the chair.

Mr. RASKIN. The gentleman yields back. Thank you very much. Let us see. OK.

Then the gentlelady from Michigan, Ms. Tlaib, is recognized for her five minutes of questioning.

Ms. TLAIB. Thank you, Mr. Chair.

I want to be clear that, you know, one of the things that is frustrating is the administration's attack on LGBTQ+ communities started long before the recent attempts to expand religious exemptions.

I think on day one—literally, day one of this presidency—all mentions of LGBTQ+ rights were deleted from the White House website instantly.

Religious liberty—I am going to put it in quotation—is simply this administration's latest excuse to continue its painful oppression of other people, including our LGBTQ neighbors.

This type of consistent state-sanctioned discrimination has a detrimental effect on so many of our neighbors across the country, including in my home state of Michigan.

In May 2019, two gay men, Mr. Davis and Mr. Blancher, and one transgender woman, Paris Cameron, were murdered in an anti-LGBTQ hate crime in Detroit. And in this case, it wasn't really isolated, according to Human Rights Campaign. Ms. Cameron was one of the latest 22 transgender people murdered in 2019 alone, most of them who were women of color.

Ms. Warbelow, would you agree with the American Medical Association's assessment that we face an epidemic of violence for trans women of color?

Ms. WARBELOW. Absolutely. The fact that trans women are being murdered on our streets, particularly trans women of color, is terrifying and it really underscores the way and which the rhetoric in our country has been ramped up to justify violence against people who are unpopular. This is a disturbing trend that has to stop.

Ms. TLAIB. You know, violence in its nature is fueled by systemic issues like racism, homophobia, sexism, transphobia. But there is a role for the Federal Government to play.

The Federal Government can act to underscore the dignity and worth of transgender people. The Federal Government can provide legal protections for transgender individuals when they encounter discrimination in their workplaces or in their schools.

The Federal Government can prosecute hate crimes. It can create better reporting systems. It can train law enforcement on safeguarding transgender and gender nonconforming people from violence.

Ms. Warbelow, in your opinion, do robust legal protections for transgender people matter as we seek to combat violence against transgender neighbors across the country?

Ms. WARBELOW. The government, as you mentioned, needs to take a robust comprehensive approach to ending violence against the LGBTQ community, particularly transgender people.

No one single law or enforcement is enough, and even when the laws are on the books, we have to have an administration who is willing to enforce those laws and take seriously the day-to-day experiences of our neighbors and our siblings.

Ms. TLAIB. And Mr.—Reverend Sloan, do you agree?

Reverend SLOAN. Yes.

Ms. TLAIB. Mr. Olivares?

Mr. OLIVARES. Yes, absolutely.

Ms. TLAIB. Mr. Minton?

Mr. MINTON. Absolutely. Absolutely. And thank you for recognizing our transgender siblings, especially our transgender siblings of color who are being murdered on the street.

Ms. TLAIB. Yes. You know, and I would ask my colleagues, especially Members of Congress, before you make decisions about people sit down with them and actually talk to them. I don't want to cry because I do this all the time to myself.

But, you know, when you actually look at a person as a fellow human being and when sitting at a press conference as a mother—with a mother, another mother—that lost her child just because she was transgender, it was—it is very painful.

Like, talk to them as fellow human beings. They are people and it is really frustrating, especially those that come from a place of faith, that they could just take away somebody's human dignity and say that they are less than, that they are disposable.

Just watching this mother say, but she was the kindest woman ever and all she wanted to be was free, free to express herself, free to be whatever she wanted to be. But that is what our country is supposed to be about, right?

If I want to be a, you know, unapologetic Muslim Palestinian woman who wants to speak up about other people's oppression I should be able to do that and not be labeled as some sort of, you know, person that is somehow less American because I speak up for other people's rights or just because of my identity, and trying to use that and fuel that kind of discrimination.

So, I just don't feel like anybody in our country should live in fear of being who they are and we must do more to uplift these issues.

But I always tell people, especially my neighbors who come all throughout Thirteenth District strong to town hall saying, Rashida, can we really talk about, like, transgender people—I don't want my kids to do that.

I looked at them and I said, have you ever met a trans—have you ever met a trans person. Like, have you ever talked to somebody in the LGBTQ community? Many of them have not. They haven't encountered—some of them—I tell them, you probably don't even know.

Just like many of my colleagues probably have never served with a Muslim woman every before. I mean, they are probably in shock right now. But, you know, they are experiencing it for their first time.

I hope they see the passion or the thing because of my family's own oppression, my family's experience of being othered, of living in fear of who they are.

So, I just thank you all for your leadership. But I think we need to be truthful and honest with ourselves of who we are as really—if we are really going to be this country that we are about everyone truly being free, completely and utterly, and not using faith or anything like that to infuse fear, which later infuses violence.

So, thank you, Mr. Chair.

Mr. RASKIN. Thank you very much, Ms. Tlaib.

The gentlewoman from New Mexico, Ms. Haaland, is now recognized for her five minutes of questioning.

Ms. HAALAND. Thank you, Chairman, and thank you all so much for being here today.

There are more than 400,000 children in foster care across the country—400,000 children hoping to find a family to call home and love them unconditionally.

This administration is trying to make it more difficult for these children to find homes and for LGBTQ couples to adopt by supporting discrimination.

And on Monday the Supreme Court announced that it would take up a court case involving foster care to determine if states may act against discrimination or if they have to fund organizations determined to keep discriminating against the LGBTQ community.

My daughter is queer. Every official involved in making these choices should have to look her in the eye and explain why her life should have been difficult if she were in foster care and why she should be discriminated against if she wants to give a child a home.

Last year, I had the privilege of meeting Daryle Conquering Bear, an enrolled member of the Ogallala Lakota Sioux tribe and foster youth alumni. He is also two spirit. When he came out to his foster parents, they kicked him out. After that experience, he went back into the closet until last year.

Chairwoman Maloney, I have Daryle—Chairman Raskin, I have Daryle Conquering Bear's testimony in support of the Every Child Deserves a Family Act and experience in foster care system and I would like to submit that for the record.

Mr. RASKIN. Without objection.

Ms. HAALAND. Mr. Olivares, thank you for being here today. You and Daryle both had to deal with injustice in foster care and I would like to take a few minutes to ask you more about you and your experience.

You mentioned in your testimony that you spent five years in the Texas foster care system starting at the age of 13. What was it like having to navigate the foster care system as you were just become a teenager and figuring out who you are, including your sexuality?

Mr. OLIVARES. Thank you. It was very difficult. It was scary. It was very lonely. As I mentioned in my testimony, I was placed 180 miles away from my home city and it was me and my brother.

My brother was a year and a half younger than I was and so it was not—all those feelings but it was also trying to step in and be that parent for him and balancing all that with the sexuality battle that I was feeling inside it made it extremely difficult, which is when the suppressing started.

Ms. HAALAND. You mentioned the fears you felt when you went to church with your foster family or when you were called terrible slurs in your foster home. Were there times you thought you would rather be homeless than live under those conditions?

Mr. OLIVARES. Yes, absolutely. There were so many nights that I stayed up crying because I was so miserable, and I didn't know how to talk about it. I didn't know who to turn to.

I didn't feel comfortable or safe opening up to anybody and I would go to school the next day and just be so tired and sleepy just thinking would it be worth it just to step out of this house and never come back.

Ms. HAALAND. What difference could be more supportive homes and families make for the next generation of LGBTQ youth in the foster care system?

Mr. OLIVARES. I think the first step is just eliminating discrimination, which the Every Child Deserves a Family Act would do. Right now in my state, foster children are subjected to conversion therapy, a discredited practice attempting to change their sexual orientation or gender identity.

They say that discrimination, you know—you know, sometimes doesn't exist but it is not just existing for foster parents or adoption parents. It is for these young adults in foster care.

Ms. HAALAND. Thank you very much for your bravery in coming before the committee today. You are a powerful voice for change, and we are fortunate to have you in this fight. So, thank you very much.

I have a few more seconds. I would like to turn to Reverend Sloan. A recent study found that as many as 30 percent of youth in the foster care system identifies a member of the LGBTQ community.

Another study found than half of LGBTQ youth surveyed had at some point chosen to live on the street rather than in their foster home placement because they felt safer there.

Reverend Sloan, why do LGBTQ youth disproportionately experience homelessness and what dangers does homelessness pose to LGBTQ youth?

Reverend SLOAN. So, the reasons why LGBTQ people are more likely to be homeless are—start very young. As they come in touch with who they are and they come out, oftentimes they are kicked out of their homes.

Then if you add to that the harm that is done in the child welfare sector as it is to LGBTQ people, that further contributes to that.

That cycle of poverty that starts young does not stop there and it continues throughout LGBTQ people's experience. Up to a third of people who are in LGBTQ need food assistance.

This is a cycle that starts young and that the current systems to support getting out of it don't allow for and a lot of times that is on the basis of religious discrimination.

Ms. HAALAND. Thank you so much, and I yield, Chairman.

Mr. RASKIN. Thank you very much.

And now the gentlelady from New York, Ms. Ocasio-Cortez, is recognized for her five minutes of questioning.

Ms. OCASIO-CORTEZ. Thank you, Chairman.

I am experiencing this hearing and I am struggling whether I respond or launch into this question as a legislator or from the perspective of a woman of faith because I cannot—it is very difficult to sit here and listen and arguments in the long history of this country of using Scripture and weaponizing and abusing Scripture to justify bigotry.

White supremacists have done it. Those who justified slavery did it. Those who fought against integration did it, and we are seeing it today.

Sometimes, especially in this body, I feel as though if Christ himself walked through these doors and said what he said thousands of years ago, that we should love our neighbor and our enemy, that we should welcome the stranger, fight for the least of us, that it is easier for a rich man—it is easier for a camel to go through the eye of a needle than for a rich man to get into a kingdom of Heaven, he would be maligned as a radical and rejected from these doors.

I know, and it is part of my faith, that all people are holy, and all people are sacred, unconditionally, and that is what makes faith sometimes—that is what prompts us to transform because it is unconditional.

It is not about that it is up to us to love parts of people. We love all people. There is nothing holy about rejecting medical care of people, no matter who they are, on the grounds of what their identity is.

There is nothing holy about turning someone away from a hospital. There is nothing holy about rejecting a child from a family.

There is nothing holy about writing discrimination into the law and I am tired of communities being of faith being weaponized and being mischaracterized because the only time religious freedom is invoked is in the name of bigotry and discrimination.

I am tired of it. My faith commands me to treat Mr. Minton as holy because he is sacred. Because his life is sacred. Because you are not to be denied anything that I am entitled to. That we are equal in the eyes of the law and we are equal in my faith in the eyes of the world.

So, I just have to get that out ahead of time because it is deeply disturbing, not just what is happening here but what this administration is advancing is the idea that religion and faith is about exclusion.

It is not up to us. It is not up to us to deny medical care. It is up to us to feed the hungry, to clothe the poor, to protect children, and to love all people as ourselves.

Now, I want to take a moment to acknowledge a trans woman from my district. I represent Rikers Island and I want to acknowledge the life of Layleen Polanco, because Layleen was being held on \$500 bail at Rikers Island and she was put in solitary confinement. She was trans and she was neglected because of it.

Polanco's family claimed in a lawsuit that her daughter's death on June 7th occurred as a result of personnel who failed to provide her safe housing, adequate medical care, and proper accommodation for her disabilities. She was 27 years old, and her life was taken because of who she was.

There is nothing holy about that. Nothing.

Ms. Warbelow, the Human Rights Campaign has done a great deal of work in the area particularly around trans women of color and protections of trans people.

Is it correct that many transgender and gender nonconforming people experience a mosaic of marginalization—homelessness, pov-

erty, unemployment, denial of medical services, and abuse by law enforcement?

Ms. WARBELOW. And when they experience all of those things and they go to seek the critical benefits that the government provides, they are turned away once again, humiliated once again, and experience discrimination just for trying to survive.

Ms. OCASIO-CORTEZ. I am sorry. I believe my time has expired.

Mr. RASKIN. The gentlelady's time has expired. Thank you, Ms. Ocasio-Cortez.

Mr. Sarbanes is now recognized for his—oh, forgive me. You are next, Mr. Sarbanes.

Ms. Pressley from Massachusetts is recognized for her five minutes.

Ms. PRESSLEY. Thank you, Mr. Chair, and I would like to just say I associate myself with the impassioned Christian grace and words expressed by my colleague, Representative Ocasio-Cortez, a moment ago.

Last year, I introduced the Ending PUSHOUT Act to reverse the criminalization and marginalization of black and brown LGBTQ+ youth and cisgender girls in our schools.

LGBTQ students, especially gender nonconforming students, are up to three times more likely to experience harsh disciplinary treatment even though gay and transgender youth are often the victims rather than the aggressors in school conflicts.

The Ending PUSHOUT Act, which I introduced, would invest in the Department of Education's Office of Civil Rights, the sole office charged with holding schools accountable if discriminating against students.

Meanwhile, under the failed leadership of Education Secretary Betsy DeVos, the OCR has abdicated this critically important responsibility.

In February 2018, Secretary DeVos announced the OCR will no longer investigate any, any transgender discrimination claims in schools and according to the Center for American Progress, LGBTQ-related complaints were nine times less likely to be investigated under this administration than under the Obama Administration.

Ms. Warbelow, what are some of the consequences of the Trump administration's decisions not to protect one of our most vulnerable student populations?

Ms. WARBELOW. Not only will these students experience discrimination in schools that goes unchecked, teachers feel disempowered to address the discrimination they see in front of them and sometimes teachers and administrators are actually engaging in the discrimination themselves.

And when students face discrimination in education, they are more likely to end up a part of the homeless population that we were discussing previously. They are more likely to end up in that cycle of poverty and to need the services that the government so critically provides.

Yet, there too they experience discrimination because we have not closed the gaps. We have not passed laws like the Equality Act that are absolutely fundamental to ensuring equality for all Americans in this country.

Ms. PRESSLEY. And the data does support the fact that elevated rates of PTSD among our LGBTQ children—trauma linked to bullying, familial and religious rejection, higher rates of homelessness—all lead to emotional distress, self-harm, and suicidal behavior.

Ms. Warbelow, in what ways has this administration undermined the ability for schools to respond to trauma in LGBTQ students?

Ms. WARBELOW. This administration has discouraged students from seeking the appropriate care and support of school districts. It has allowed school districts to turn a blind eye and has encouraged school districts by rescinding critical questions on data collection instruments from understanding what the actual needs of the LGBTQ population are.

Ms. PRESSLEY. A moment ago, Representative Ocasio-Cortez brought into the room the tragic loss of life of a trans woman in her district and I want to bring into this space the loss of life of a—or, rather, a transgender man in my district who was denied health care.

We know that discrimination against transgender individuals is pervasive in health care. In my home state of Massachusetts, Alexander Pangborn, a Hospice nurse and transgender man, was denied medically necessary gender-affirming health care by his employer. He works 40 hours a week for this company delivering care to people in their twilight years and, yet, was denied medically necessary care in return.

This administration is reversing protections based on sexual orientation and gender identity in the Department of Health and Human Services and under the ACA. This means that people denied care who cannot afford a lawyer are denied justice.

Mr. Minton, thank you for sharing your personal experience. What threat is posed when transgender individuals are denied gender-affirming care and lack of a pathway to justice?

Mr. MINTON. I mean, the threat that is posed is anywhere from the lasting scars that are in my life and in my heart to death.

Ms. PRESSLEY. This administration continues to abandon our LGBTQ+ neighbors by removing protections and barricading justice for the most vulnerable while funneling taxpayer dollars into discriminatory organizations.

They think that by denying shelter and lifesaving medical care by starving, expelling, and incarcerating LGBTQ people they will just simply disappear, and this is abuse, plain and simple, and we just can't stand for it.

Last August, our committee joined in a multi-committee bicameral investigation to understand how a rule green lighting this kind of anti-LGBT discrimination in health care was developed as well as who was behind it.

Ms. Warbelow, could you explain how this refusal rule would further entrench marginalization of the LGBTQ community?

Ms. WARBELOW. By taking what is a statutory requirement and expanding it out of control, the administration is encouraging discrimination in a wide variety of health care situations including access to PrEP treatment for HIV/AIDS, fertility care treatment and access, and we know that hospitals are turning away trans patients

not only for transition-related care but also for things like having a broken ankle.

We have heard of a home nurse that refused to bathe a gay man because she believed that he was a sinner. She was his sole caretaker in a medical context. I can only imagine what people are doing to their trans patients.

Mr. RASKIN. Thank you. The gentlelady's time has expired.

Now, thank you, Mr. Sarbanes, for your patience. The gentleman from Massachusetts, Mr. Lynch, is recognized for five minutes.

Mr. LYNCH. Thank you, Mr. Chairman. I want to thank Chairwoman Maloney and also the ranking member for holding this important hearing.

First of all, I want to thank the witnesses. Thank you for your courageous and thoughtful testimony and helping the committee with its work.

I do want to repudiate this notion that has been floated here today that people of faith in the LGBTQ community are mutually exclusive. We have a huge population of LGBTQ+ members of our society across this Nation that unabashedly celebrate their faith and we have to acknowledge that.

I also hold a deeply held belief that the objective of our society and of our government should be to create a nation where every child born into this society should be valued and protected and supported and loved whether that child is LGBTQ+ or straight and that that should be a national goal toward a more perfect union. That is where we should be headed.

On January 16, President Trump announced that nine Federal agencies would be proposing new rules that heighten the risks that faith-based service providers might impose proscriptive religious practices on those seeking taxpayer-funded services.

Those include Department of Justice, Homeland Security, HHS, Energy, Labor, Agriculture, USAID, and the VA, and we are still waiting for HUD to come forward with their regulations, and these regulations impact preschool, foster care, disaster recovery aid, substance abuse treatment, and much more.

And under those rules, faith-based providers will no longer have to inform individuals that they are not going to be required to participate in religious practices, they are not required to inform individuals coming for services that there is a secular alternative.

If they come to a religious hospital that institution is not required to say, hey, there is a place down the street that will also provide you services.

So, in my own district we had to deal with a few years ago a suicide cluster. Fourteen young boys took their lives in about 18 months, and I founded a residential drug rehab and recovery home for adolescents because up until that point we were co-locating children in adult facilities, and it did not work out.

But, Reverend Sloan, from your testimony, you are dealing with the same demographic, right? And so, tell me how this, in your view—you are doing this on a regular basis in Chicago—tell me how this affects those kids.

You know, because a lot of these kids are coming from homes that there is no support there. They are detached. They have got nothing. They are sort of just out there.

How does this unwillingness of the administration to deliver these taxpayer-funded services in a way that is not open to all? How is that affecting the kids that you are seeing?

Reverend SLOAN. So, discrimination based on religion is wrong and it hurts in general. But when it comes to emergency services it is life and death itself, most often. And so, denying these kids or even adults who come for emergency services, denying them on the basis of religious discrimination is extremely serious.

If I could, I would also—

Mr. LYNCH. Please go ahead. Go ahead.

Reverend SLOAN.—I would also like to just kind of—you mentioned that, you know, the idea of being LGBTQ and of being religious are not mutually exclusive despite that perception, and I just wanted to say really where that perception comes from.

That comes from this small faction of religious people who kick kids out of their homes and who, you know, build this separation for some of us in the community between religion and who they constitutionally are and that goes forward within the faith communities themselves and then it, tragically, robs the young person themselves of their spirituality.

Mr. LYNCH. Thankfully, not every place in America is like that. In my own lifetime I have seen wonderful progress and I think we need to recognize that and keep pushing, keep pushing for, as we say, a more perfect union.

Mr. Chairman, I yield back.

Mr. RASKIN. Thank you, Mr. Lynch. The gentleman's time has expired.

And I come to the distinguished gentleman from Maryland, Mr. Sarbanes, recognized for five minutes for questioning.

Mr. SARBANES. Thanks very much, Mr. Chairman, and thank you to the panel today. Incredibly powerful and moving testimony. So, important that we are having this hearing. I want to thank you for joining us.

We have been talking about this refusal to care rule over the course of the day, which seems to be using the guise or the rationale or the pretext of religious liberty to target the right of LGBTQ people to access health care without fear of discrimination. Of course, it has other implications as well.

When the Department of Health and Human Services finalized that rule last May we perceived, obviously, that it could dramatically expand the ability of providers participating in Federal health care programs to deny care to patients on supposed religious or conscience grounds.

So, this committee joined in a multi-committee bicameral investigation. We really kind of—it was an all-hands-on-deck effort to understand how the rule got developed. We wanted to get behind that—what were the motivations, what was the process, who was behind it.

Six months later, HHS has not provided answers to the committee's questions, has not produced the documents that we requested. Instead, they just keep giving us publicly available documents that don't add any perspective.

It is really hard to overstate the harm that this rule could cause. Panelists have, I think, done an excellent job in helping us appre-

ciate that harm. When you look at things—examples that have been touched on—a pharmacist who could refuse to fill a prescription for the HIV prevention drug PrEP for the person who is gay, a provider who could refuse to perform or assist with gender reassignment surgery for a patient, a hospital room scheduler who could refuse to assist a patient because they are trans.

So far, fortunately, the rule has been blocked in the court. But we cannot take anything for granted. You have given a lot of testimony, a lot of specific testimony.

But Ms. Warbelow and maybe Reverend Sloan as well, step back from me for a moment and just explain kind of in broad ways, in broad terms, broad strokes the impact that this kind of rule if it goes forward is going to have, almost the shock impact, I would imagine.

Because we have been a lot of—this is the case with so many issues before the Trump administration where we felt like we were on a positive trajectory. We were making progress.

We were bending the arc of the moral universe more toward justice and then wham, the Trump administration comes in and it kind of stops all that in an instant and begins to reverse it.

So, if the two of you could speak to that in terms of your perspective on that, but also, because I know I will then run out of time and not be able to ask this next question, Mr. Minton, I would like your perspective as well.

I always think about how humans, when we wake up in the morning and we are slowly kind of fluttering into consciousness and setting our coordinates for the day—where am I, who am I—I think about children and young people coming into consciousness. Am I warm? Is there heat in my home? Do I have annoying hunger, or do I feel fed? Am I safe?

And so maybe, Mr. Minton, you can talk a little bit about kind of what it does to your coordinates as you are wanting to feel safe in the broader society to face the prospect of this kind of rule coming at you.

So, I will give the three of you a chance to respond and then I will be yielding back.

Ms. WARBELOW. Even prior to this rule LGBTQ people experienced discrimination in health care and were less likely to seek the health care they need because of experiences like rough handling by doctors and nurses, forced removal of partners and loved ones from hospital and doctors' rooms, intentional misgendering and harassment of patients.

With this new rule in place it encourages more of that bad behavior and, importantly, it discourages LGBTQ patients from seeking recourse when they experience that discrimination and bad behavior.

It doesn't have to be this way. There are religiously affiliated hospitals and doctors' offices who, in their faith tradition, would never marry a same-sex couple, who would not support a gender transition, frankly, who teach that you can't achieve entrance into the kingdom of Heaven based on a different belief and, yet, they ensure equal treatment of all of their patients and that is the model that needs to be followed nationwide.

Reverend SLOAN. I would just add, because I want to cede to Mr. Minton, but I would just add that, again, it is not simply hospital care.

When you are getting down to the homeless population and to lower incomes it is the full variety of emergency services and, again, it is not simply just a matter of discrimination. It is a matter of life and death.

Mr. RASKIN. The gentleman's time has expired. Thank you.

Oh, sorry.

Mr. MINTON. Thank you. I am so scared. I am terrified. I am terrified for myself and all of my community. I can't go to my nearest emergency room. When my pharmacist accidentally overdosed me, I and my life could have literally been in jeopardy.

I had to travel miles further to go to an emergency room. I have two little nieces and a nephew who are the apples of my eye. If they turn out to be LGBTQ, I don't want them to be turned away from a hospital just like I was.

I want America to get better. I don't want it to get worse. I don't want our community members to be turned away. I don't want them to be ushered away for care just like I was. You are saying that the arc of history bends toward justice. I want us to get back on track. So, I am terrified, and I thank you for asking me how I feel.

Mr. RASKIN. All right. Thank you. The gentleman's time has expired.

Now we come to the gentlewoman from California, Ms. Porter, who is recognized for five minutes of questioning.

Ms. PORTER. Mr. Chair, I would like to enter into the record the testimony of David Dixon from Rancho Santa Margarita, a town in my district in Orange County.

Mr. RASKIN. Without objection it is entered.

Ms. PORTER. David Dixon and his husband were foster parents while living in Georgia and were told on several occasions that they were not receiving calls for placement because they were a, quote, "nontraditional family," quote.

Mr. Dixon and his husband were finally able to have children placed with them. But then when they wanted to adopt these foster youth, the foster care system dropped David and his name from all the paperwork.

Only his husband was able to formally adopt the children. He was no longer recognized as their parent and had to fight to be added as a second parent, an experience that he describes as, quote, "humiliating and frightening," unquote.

Mr. Sloan, could you elaborate for me about how prospective LGBTQ parents have faced unnecessary discrimination while adopting children from religious organizations?

Reverend SLOAN. Yes. Thank you for asking this question.

We hear this all the time. There are stories constantly of applications to foster or to adopt being shuffled to the bottom of the pile and just running into their peers from the classes and all of their peers had—who were straight have kids and they still don't.

Ms. PORTER. Absolutely. I want to make sure the committee is aware of data from the UCLA Law School showing that signifi-

cantly more LGBTQ parents are raising an adopted or foster child compared to male and female couples—male-female couples.

Assuming this trend continues, I have serious concerns that we will have children who will not be adopted or fostered when there are prospective loving parents who are ready and able to raise them, and the reason that these kids will not be fostered or adopted is because of discrimination under the protection of the religious freedom rule.

Mr. Sloan, what do you think makes good characteristics in an application for foster parents and do you have any concerns that you would have for prospective parents who identify as LGBTQ?

Reverend SLOAN. No. Actually, LGBTQ parents and the children of those—of those parents are shown consistently to rank equal if not above in classic determinators like high school graduation, college graduation, emotional stability.

So, I have zero concerns about LGBTQ people being able to parent. I also—we are also sitting on a future Millennial—63 percent of Millennial LGBTQ people plan on forming families, and so the pool for placements for children will grow and if we have discrimination the 20,000 kids who age out every year will not be finding homes.

Ms. PORTER. And I just want to emphasize and get your thoughts on how these religious freedom rules are creating an economic issue.

So, I wonder if any of you have thoughts, starting with you, Mr. Sloan, about how the—there is a real cost to taxpayers, not to mention the very real human costs that come because more children remain in foster care or adoptive services because of the religious freedom rule.

Reverend SLOAN. Yes. So, the costs are exponential and they don't simply stop when a child ages out of the foster care or the child service system.

Children who do not find placement and do not get adopted are much more likely to become incarcerated or to live in extreme poverty, remaining a tax—a burden on our system and at the same time as they are the real victims.

Ms. PORTER. Yes. I just want to hold up again for the witnesses the picture of this amazing family that lives in my district, and when I came into the hearing earlier this morning I have the privilege to sit next to my colleague, Representative Haaland, and we are both single mothers.

And so, language about broken families or a family being a man and a woman—I remember I wrote to Deb, what does that mean about our families that we are proudly raising.

I just want to say that this fight, while it is very much a fight for the LGBTQ community, we also see a lot of the same kind of language and same kind of hostility to those who may be parenting alone.

I want you to know as the first single mother of young children to be serving in the U.S. Congress that I am all in for loving families, and I don't like labels like traditional and nontraditional because, to me, the only family that matters is a loving one.

Reverend SLOAN. Believe me, we are all in with you as well.

Ms. PORTER. Thank you. I yield back.

Mr. RASKIN. All right. And on that lovely warm note, I am going to start to bring things to a close here.

First, without objection, I am going to enter into the record letters and statement from individuals and organizations including the following: Queer Eye's Karamo Brown, Leslie Michelle McMurray, numerous LGBTQ children and parents who have been discriminated against in foster care and adoption who have written us, Americans United, CenterLink, Family Equality, GLSEN, Interfaith Alliance, the National Center for Lesbian Rights, and Congressman Raul Grijalva, all of whom are standing in solidarity with the LGBT community today.

Without objection, I will enter those.

Mr. RASKIN. I want to thank all of our witnesses for their terrific testimony today: Mr. Olivares, Mr. Minton, Ms. Warbelow, Mr. Sasser, Reverend Sloan. We are very grateful to all of you for coming and giving us your insight.

Without objection, all members will have five legislative days within which to submit additional written questions for the witnesses to the chair, which will be forwarded to you for your response. I ask our witnesses to please respond as promptly as you are able so we can complete the record.

I want to thank my friend, Mr. Meadows, for his participation and patience today.

And with that, this hearing is adjourned.

[Whereupon, at 12:14 p.m., the committee was adjourned.]

