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Religion tangled up with law is being used as weapon against individuals because of their gender, sexual orientation, race, and ethnicity. What can/should be done to ensure that our laws and their application are free from such bias?

Born a secular nation, the United States has always grappled with the balance of protecting individual rights of religious expression and the separation of state and religious influence. In the Constitution, the founders make clear that there ought to be both a freedom *to* practice any religion, and a freedom *from* any other religion being impressed onto us. As one of the great American Humanists, Jefferson wrote about this duality of religion in government as “building a wall between Church and State”; as it stands now, that wall is in deep disrepair, and the rightwing lurch of the courts threaten to smash massive holes into this fundamental palisade. With a stagnant Congress and increasing religious control on certain state legislatures, courts have been, and continue to be the origin of many policy decisions, and thus the main battleground for Constitutional protections and religious separation. In both federal courts and state legislatures, the ability of moneyed influence and religious fundamentalism to rear its head in decisions poses a large threat to Jefferson’s wall; and like many aspects of our long-neglected institutions, these influences threaten us with a vicious cycle of procedural and legislative decay. The ability for courts to so heavily influence individuals lives, at worst inflicting, or sometimes best, neglecting discrimination, is not how the founders intended the system to work; to protect marginalized groups, we must do the difficult work of strengthening our insitutions first: to patch the holes in our wall.

To solve any problem, the extent of it should be understood first. At the federal level, there have been cases where courts have ruled in favor of de facto legal discrimination against LGBTQ+ individuals. On the grounds of religious freedom and free speech (or by technicality), business owners have been given power by courts to refuse service and employment to

anybody that does not abide by their personal, often religious, sensibilities. Cases like *Masterpiece Cakeshop v. Colorado Civil Rights Commission* and the divisions in what should be a clear upholding of civil right protections in the 2019 cases *Altitude Express vs. Zarda and Bostock vs. Clayton County* shows that the rights of LGBTQ+ citizens are not as protected as they ought to be. Another point at which the wall seems neglected is the Supreme Court's complicity with companies imposing their owner's religious preferences on their employees. In *Burwell vs. Hobby Lobby*, SCOTUS upheld the ability of companies to deny their female employees access to birth control with their employer-provided health insurance; by allowing companies to do this, the freedom of their employees *from* the religious preferences of their employers is put at risk. For all of these cases, and the many more like it, the courts are deciding the policy of the country when it comes to social issues. With the absence of a filibuster and the prior abuse of the nominating process by Senate Republicans, President Trump is able to stack federal courts, most dangerously, the Supreme Court. By giving ultra-conservative judges (almost solely from the conservative Federalist Society) lifetime positions, they will use this almost startling power to chip away at any of the social progress gained in the last decades.

Furthermore, at the state level, religious influences are capable of completely taking over all branches of state governments to where protections for marginalized groups are eroded to the point of nonexistence, if they existed at all. According to the report 'State of Secular States 2019', these attacks on church and state separation are shown to be increasing on the state level. The report shows a grim picture: 14 states had bills introduced that wanted to require religious messaging in schools; 12 states had bills that wanted to require public schools to provide Bible study; and 5 states passed bills that allowed college organizations to freely discriminate on religious grounds. Even more concerning is the onslaught of bills attacking a woman's right to choose: as many as 58 restrictions on abortion access passed (a portion of the

400+ bills introduced). Many of these bills are given to state legislators by “Operation Blitz”, an organization of Christian groups that have the sole purpose of imposing Christian religious values and messages into public life. The extent and depth of these intrusions into church and state separation show that the best solution is not on the state level.

It is important to take a pragmatic step and divert focus and resources to reforming federal courts because in many ways they are the only stalwart against encroaching laws on both the federal and the state level. The problem is not that new legislation for protections needs to be passed, it is that the supreme law of the Constitution needs to be upheld as it is written when it comes to these protections: instead of playing the whack-a-mole of combatting highly organized and well supplied religious and conservative organizations like Project Blitz or the Federalist Society, we can instead fix our broken institutions.

To protect *Roe v. Wade*, to protect LGBTQ+ rights, to reflect the popular will and keep church and state out of politics, the best bet is to fix the federal courts. As the Center for American Progress identifies, the most critical components will be reducing bias, partisanship, and homogeneity within the courts. On the lower federal court level, as they identify, this would likely be done by introducing term limits, creating an independent council to recommend judges in the first place (and not leave it up to the Federalist Society), and also increase the ethical thresholds judges need to surpass. In addition to enacting the same changes as in the lower court, the Supreme Court would also likely need a system of rotating judges to do away with the political and societal power that SCOTUS nominations seem to carry. To patch Jefferson’s wall and to realize the Humanist principles of a secular and law-bound society, we need to reintroduce dynamism and urgency to our federal courts.

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