

# Freedom of Religion and Freedom of Speech: The Effects of Alternative Rights Frames on Mass Support for Public Exemptions

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The first decades of the twenty-first century have witnessed an increase in the use of religious liberty as a warrant justifying

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conservative positions on social issues. The general outline of the recent history of the Free Exercise Clause is quite familiar to analysts of religious politics in the United States. Following the Supreme Court's decision in *Employment Division v. Smith*,<sup>1</sup> in which the Court took a restrictive position on the extent and scope of the Free Exercise Clause, Congress passed the Religious Freedom Restoration Act (RFRA). RFRA sought to restore the earlier Sherbert-Yoder standard, which had been much more deferential to legal exemptions based on religious liberty. Although the Court was not willing to apply the federal RFRA to the acts of state and local governments,<sup>2</sup> the Court subsequently applied RFRA to the federal government.<sup>3</sup> In response to the Court's decisions in *Smith* and *Boerne*, a number of states passed state-level RFRA's, which have provided for religiously based exemptions for state and local laws under a variety of circumstances.<sup>4</sup>

At first, these laws primarily provided increased protection for the religious freedom of small religious minorities, such as Muslims and Old Order Amish, along with Native Americans. More recently, however, prominent religious groups, such as evangelical Protestants and Roman Catholics, have sought RFRA protections, especially in the wake of the legalization of same-sex marriage and the Affordable Care Act. Claiming religious freedom rights has become frequent but highly controversial.

Such a shift should not be surprising. A number of analysts have suggested that "rights talk" is the *lingua franca* of American politics.<sup>5</sup> That is, given the pervasive individualism of the American political culture, characterizations of issue positions as empowering autonomous citizens to exercise unrestricted prerogatives is a powerful rhetorical device. Although some Americans may personally disapprove of abortion, pornography, or same-sex attraction, such citizens may support allowing other people to engage in such activities on the basis of support for constitutional rights or the value of personal autonomy.

Our focus in this study is not on the legal intricacies of state and federal RFRA's, but on the effect of rights talk<sup>6</sup> on public

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1. *Employment Division v. Smith*, 496 US 872 (1990).

2. *City of Boerne v. Flores*, 521 US 507 (1997).

3. *Gonzales v. O Centro Espirita Beneficiente Uniao Vegetal*, 546 US 418 (2006).

4. For an overview, see Ted G. Jelen, *To Serve God and Mammon: Church-State Relations in American Politics*, 2<sup>nd</sup> ed. (Washington, DC: Georgetown University Press, 2010).

5. See Louis Hartz, *The Liberal Tradition in America* (New York: Harcourt, Brace, and World, 1955); Mary Ann Glendon, *Rights Talk* (New York: The Free Press, 1991); Ted G. Jelen, "Political Esperanto: Rhetorical Resources and Limitations of the Christian Right in the United States," *Sociology of Religion* 66 (2005): 302-21.

6. Glendon, *Rights Talk*.

support for the extension of rights to others. This is a curious question to ask from at least one perspective since some have been critical of rights talk, suggesting that justifying political positions in terms of rights polarizes political discourse.<sup>7</sup> However, it is an open question from other perspectives that take a more pragmatic view that rights are a common, publicly accessible mode of political discourse.<sup>8</sup> Despite the academic debate, rights talk has become prevalent among elites, with both liberals and conservatives fortifying their positions with rights claims.

As a way of investigating the compatibility of rights talk with democracy, we seek to understand its effects, drawing on contemporary controversies involving the Christian Right and religious freedom. Does the framing of issues in terms of constitutional rights (e.g., the right to religious freedom and the right to free speech) make claims of religiously based exemptions from legal regulations more plausible to ordinary citizens? If rights talk is in fact a pervasive aspect of the political culture in the United States, it seems possible that some positions on social issues may gain greater tolerance when justified on the basis of constitutional or natural rights. For example, even someone who favors legal abortion under most circumstances may support the right of a pro-life activist to picket abortion clinics on the basis of that person's right to free speech or as an exercise of religious freedom.

The closest cousin to such attitudes on exemptions is political tolerance—granting equal rights to disliked groups. That long-lived literature has largely focused on the psychological and social conditions that lead to rejecting difference, amplifying threat, and remaining ignorant of democratic norms.<sup>9</sup> It is far less common for this literature to examine the effects of political communication on tolerance. However, some research has found that invoking the notion of rights may increase support for the civil liberties of unpopular groups<sup>10</sup> and for the elites who make

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7. Ibid. Robert N. Bellah, Steven M. Tipton, William M. Sullivan, Richard Madsen, and Ann Swidler, *Habits of the Heart: Individualism and Commitment in American Life* (Berkeley: University of California Press, 1985); Michael J. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy* (Cambridge: Harvard University Press, 1998).

8. Jelen, "Political Esperanto"; Hartz, *The Liberal Tradition in America*.

9. James L. Gibson, "Enigmas of Tolerance: Fifty Years of Stouffer's *Communism, Conformity, and Civil Liberties*," *Perspectives on Politics* 4 (2006): 21-24; John L. Sullivan and John E. Transue, "The Psychological Underpinnings of Democracy: A Selective Review of Research on Political Tolerance, Interpersonal Trust, and Social Capital," *Annual Review of Psychology* 50 (1999): 625-50.

10. Thomas E. Nelson, Rosalee A. Clawson, and Zoe M. Oxley, "Media Framing of a Civil Liberties Conflict and Its Effect on Tolerance," *American Political Science Review* 91 (1997): 567-83.

claims in this way.<sup>11</sup> The shift may be due not to augmented learning about constitutional principles but instead to communication of values and identity-laden cues.<sup>12</sup> This logic has an analog in the broader public opinion literature, where rights claims can affect blame attribution<sup>13</sup> though other factors, such as overwhelming threat, may overcome any legalistic claims.<sup>14</sup> One thing that is almost universally true about the tolerance work, however, is that it has been applied to small minority groups.

This is where the growing emphasis on religious freedom by the Christian Right offers an opportunity for study. While still a minority in the country as a whole, this group represents a very large group of evangelical Protestants, who constitute about 18 percent of the population.<sup>15</sup> Their use of rights justifications has encompassed various frames, some religious (religious freedom) and some secular (free speech). And their attempted frames have covered a broad range of issues: abortion, hiring discrimination, teaching creationism, prayer in schools, and refusing to cover birth control, among others. Their claims also venture into new territory as they do not simply seek the equal application of the law. In some cases, such as *Hobby Lobby*,<sup>16</sup> they seek exemptions from otherwise valid laws. Thus, we can assess whether rights claims, which have been found to positively affect the extension of equal rights (traditional tolerance), also enable a special form of exemptive tolerance.

We base our study on the expectation that frames matter in the formation of political attitudes. Frames are different ways of characterizing an object or claim, indicating what further arguments are appropriately attached to it. By now there is an enormous amount of literature exploring the differential frames that can be

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11. Paul A. Djupe, Andrew R. Lewis, and Ted G. Jelen, "Rights, Reflection, and Reciprocity: How Rights Talk Affects the Political Process," *Politics and Religion* 9 (2016): 630-48.

12. Paul A. Djupe and Brian Calfano, "Religious Value Priming, Threat, and Political Tolerance," *Political Research Quarterly* 66 (2013): 767-79.

13. Donald P. Haider-Markel and Mark Joslyn, "Gun Policy, Opinion, Tragedy, and Blame Attribution: The Conditional Effect of Issue Frames," *Journal of Politics* 63 (2001): 520-43.

14. Darren W. Davis and Brian D. Silver, "Civil Liberties vs. Security: Public Opinion in the Context of the Terrorist Attacks on America," *American Journal of Political Science* 48 (2004): 28-46.

15. Joanna Piacenza, "10 Things the American Values Atlas Teaches Us About America's Religious Landscape," *Public Religion Research Institute* (February 25, 2015): <http://publicreligion.org/2015/02/10-things-the-american-values-atlas-teaches-us-about-religion/#.V02oyJMrKH0>.

16. *Burwell v. Hobby Lobby Stores, Inc.* 573 US \_\_ (2014).

a (conditionally) effective means of changing public attitudes.<sup>17</sup> Here, frames may be more effective to the extent that they call on the exercise of constitutional or fundamental rights. If an unpopular action or opinion is framed as depicting autonomous individuals exercising generally accepted prerogatives or rights, support for such behavior is likely to increase. If a call for exemption is justified in terms of religion, it should occasion less support. Thus, we offer the following hypothesis:

*H<sub>1</sub>: Support for actors seeking exemptions will be higher among respondents who receive frames applying generally accepted rights.*

While rights frames might be universally effective, it is also likely that other considerations may condition their effects. In particular, a substantial literature suggests that many citizens organize their activities on the basis of group identities, rather than on general principles.<sup>18</sup> Thus, it may be the identity of the group that is exercising its rights, rather than the nature of the rights themselves, that shapes support. This possibility seems particularly acute given that many religiously based issues may involve unpopular groups, such as LGBTQ citizens, Muslims, or women seeking abortions. In the last decade, we can add to this list of conservative Christians seeking exemptions from otherwise valid laws. Christian conservatives have been a core Republican constituency for nearly a generation,<sup>19</sup> providing an inescapable partisan overlay to evaluations that may be mutually reinforcing. Thus:

*H<sub>2</sub>: Religiously based frames of support for exemptions will polarize partisans, building support among Republicans and weakening it among others.*

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17. Haider-Markel and Joslyn, "Gun Policy, Opinion, Tragedy"; Dennis Chong and James N. Druckman "Framing Theory," *Annual Review of Political Science* 10 (2007): 103-26; Nelson, et al., "Media Framing of a Civil Liberties Conflict"; Kimberley A. Gross and Donald R. Kinder, "A Collision of Principle? Free Expression, Racial Equality, and the Prohibition of Racist Speech," *British Journal of Political Science* 28 (1998): 445-71.

18. Philip E. Converse, "The Nature of Belief Systems in Mass Publics," in *Ideology and Discontent*, ed. David P. Apter (New York: The Free Press, 1964), 206-61; Ted G. Jelen, "The Political Consequences of Group Attitudes," *Journal of Politics* 55 (1993): 178-90; Djupe and Calfano, "Religious Value Priming."

19. Geoffrey C. Layman, *The Great Divide: Religious and Cultural Conflict in American Party Politics* (New York: Columbia University Press, 2001); John C. Green, *The Faith Factor: How Religion Influences American Elections* (Westport, CT: Praeger, 2007).

Finally, the effects of framing may vary according to the cognitive difficulty of the issue in question, as well as the intellectual resources available to particular citizens. Carmines and Stimson distinguished “hard” from “easy” issues, based on the issue’s longevity on the public agenda and on the information required to choose among competing positions.<sup>20</sup> Some issues on which claims of religious liberty have been made (e.g., abortion and creationism) have been on the political agenda for generations, while others (e.g., healthcare and LGBTQ rights) are of more recent vintage. For such newer issues, we suspect that the effects of alternative frames or rationales might be strongest among relatively sophisticated respondents since some analysts have suggested that, at the level of mass opinion, sensitivity to contextual information varies directly with political sophistication.<sup>21</sup> That is, respondents who are relatively knowledgeable politically and are interested in political matters are more likely to use additional information in making political judgments; they have greater access to political information and are more capable of incorporating it. At the same time, they have greater resources for resisting elite persuasion.<sup>22</sup> We hypothesize that:

*H<sub>3</sub>: On issues that are relatively demanding cognitively, the effects of alternative frames will be greatest for relatively sophisticated respondents.*

## Data and Methods

Data for this study were taken from a survey using Amazon’s Mechanical Turk (MT) in January 2015. Mechanical Turk is a crowdsource platform for work tasks, allowing “requesters” (the coauthors of this study) to propose a task (in this case, taking a brief survey) for “workers” who fit our qualifications. Within a week, 2,211 workers completed this task. Although the MT data are not ideally representative,<sup>23</sup> results found using MT data are

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20. Edward G. Carmines and James A. Stimson, “The Two Faces of Issue Voting,” *American Political Science Review* 79 (1980): 78-91.

21. Brad T. Gomez and J. Matthew Wilson, “Political Sophistication and Attribution in the Wake of Hurricane Katrina,” *Publius* (2008): 633-50; James Tilley and Sarah B. Hobolt, “Is the Government to Blame? An Experimental Test of How Partisanship Shapes Perceptions of Performance and Responsibility,” *Journal of Politics* 73 (2011): 1-15.

22. John R. Zaller, *The Nature and Origins of Mass Opinion* (New York: Cambridge University Press, 1992).

23. Adam J. Berinsky, Gregory A. Huber, and Gabriel S. Lenz, “Evaluating Online Labor Markets for Experimental Research: Amazon.com’s Mechanical Turk,” *Political Analysis* 20 (2012): 351-68.

in many ways comparable to those from data gathered with more traditional sampling and survey techniques, such as the General Social Surveys.<sup>24</sup> Compared to the national population, our respondents are too young, too educated, too irreligious, too white, and too male. We provide more detail about the specifics of MT and our sample in Appendix C. Despite these deviations from a nationally representative sample, the internal validity from the use of an experiment is quite strong, making these data a useful source for analysis.

To assess the effects of rights frames on support for actors expressing controversial positions, we designed a four-by-four experiment in which respondents were assigned one of four issues that have been the subject of a (more or less) recent Court decision: picketing at abortion clinics,<sup>25</sup> religiously based exemptions from the contraceptive mandate in the Affordable Care Act,<sup>26</sup> the teaching of creationism as an alternative to evolution,<sup>27</sup> and the ability of photographers to deny services to participants in same-sex weddings.<sup>28</sup>

In each instance, respondents read a different statement from a hypothetical candidate for the United States House of Representatives, who offered a justification for the conservative actor in the case. In three of the four experimental conditions, the hypothetical candidate offered a rationale for the position based on considerations of morality, free speech, or religious liberty. A control condition simply depicted the candidate as offering support without justification.

To illustrate, the alternative treatments on the issue of picketing abortion clinics were presented as follows. All conditions began with, “During the 2014 campaign for election to the US House of Representatives, a local candidate was asked at a town hall meeting about a recent Supreme Court case that addressed the constitutionality of restricting anti-abortion protests.” What came next constituted the different treatments (for a complete description of all treatments, see Appendix A).<sup>29</sup>

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24. Andrew R. Lewis, Paul A. Djupe, Stephen T. Mockabee, and Joshua S. Wu, “The (Non)Religion of Mechanical Turk Workers,” *Journal for the Scientific Study of Religion* 54 (2015): 419-28.

25. *McCullen v. Coakley*, 134 S.Ct. 2518 (2014).

26. *Burwell v. Hobby Lobby Stores, Inc* 573 US \_\_\_\_ (2014).

27. *Edwards v. Aguillard*, 482 US 578 (1987).

28. *Elane Photography, LLC, v. Willock*, 134 S. Ct. 1787 (2014).

29. In order to enhance the plausibility of the “religious liberty frame,” the actors in question were depicted as “faithful Christians.” Although this wording reduces the comparability of the experimental treatments, we considered that the wording we employed provided a plausible rationale for the behavior in

*Morality*—The candidate responded by saying: “We need to protect the moral foundations of our society. It is morally wrong to take the life of the unborn. Therefore, I believe that the pro-life protesters should be permitted to express opposition to the immoral act of abortion.”

*Free Speech*—The candidate responded by saying: “We need to protect the right to free speech in this country. In this case, the protesters were merely expressing their constitutional right to free speech. Therefore, I believe that the pro-life protesters should be permitted to exercise their right to free speech by expressing their opposition to abortion.”

*Religious Liberty*—The candidate responded by saying: “We need to protect the right to religious freedom in this country. In this case, the protesters were faithful Christians merely expressing their religious opposition to abortion. Therefore, I believe that the pro-life protesters should be permitted to exercise their right to religious freedom by expressing their opposition to abortion.”

*Control*—The candidate responded by saying: “I believe that the pro-life protesters should be permitted to express their opposition to abortion.”

Following the statement, respondents were asked a number of questions, including their own position on this controversy, which constitutes the dependent variable in this study. For instance, in the abortion case, respondents were asked, “Given what you know, do you support allowing the anti-abortion protests to continue? Pick a response toward the left if you strongly support their ability to protest and toward the right if you strongly oppose their ability to protest.” The initial scale ran from 1 to 10 but was recoded so that support for the conservative group taking action (the tolerant response) was high, and then compressed to a 0-1 range for analysis. For each issue, the effects of different issue frames on respondent positions were assessed using ordinary least squares (OLS) in which the effects of each frame were compared to the control condition. We then pivoted to examine interactions of the treatments with partisanship and education (as a proxy for sophistication). In each analysis, we included a few demographic controls to even out the minor variations in the composition of the cells, which were otherwise effectively randomized. Here we focus on the treatment effects of interest and leave the full model results to tables A1-A4 in Appendix B.

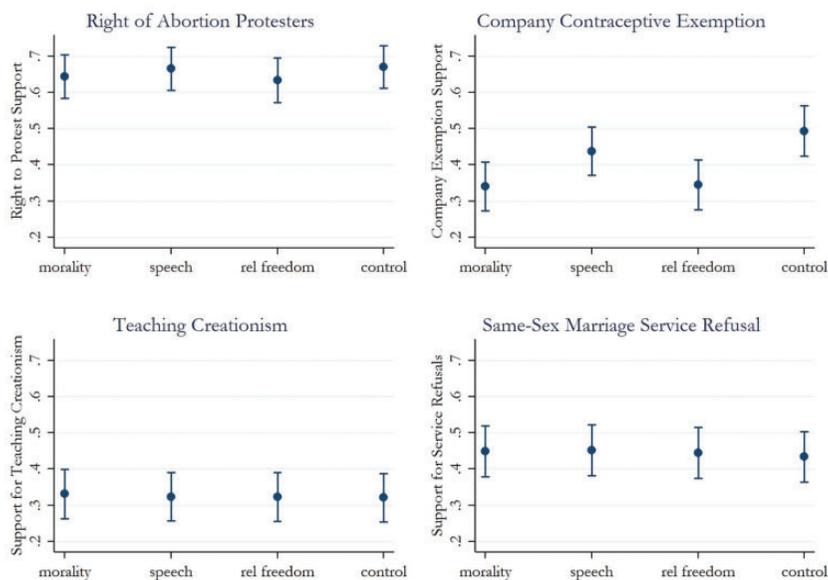
## Results

The sample-level findings can be summarized quite simply: On three of the four issues under consideration, variations in issue framing are insignificant. As the results presented in [figure 1](#)

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question. Other minor differences in the wording of the morality treatment condition for each issue should also be noted.

## Freedom of Religion and Freedom of Speech

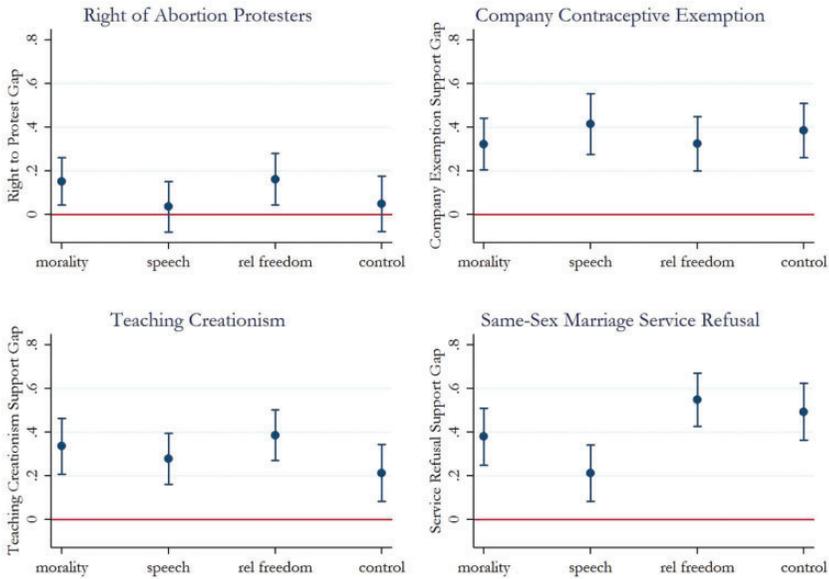


**Figure 1** Sample-Level Predicted Support for the Conservative Rights Claim by Treatment (OLS - 95% condence intervals)

Source: 2015 MT Sample. See full model results in tables A1-A4.

show, respondents' support for the prerogatives of abortion protestors, teachers seeking to teach creationism, and photographers who do not wish to participate in same-sex weddings do not differ across the alternative frames. Regardless of whether an issue is described as invoking morality, free speech, or religious freedom, the group mean of those exposed to that frame does not appear to differ significantly from the control condition.

Only in the case of contraceptive exemptions for businesses—parallel to the *Hobby Lobby* case—is there significant variation in the sample means by frame. The mean of the control is interesting in that it is equivalent to the free speech condition, suggesting the dominant frame out in nature. That is fortuitous for the pro-exemption forces since support is lower when exposed to any other frame. Both the morality and the religious liberty frames yield about .15 less support from the sample, taking the average support from .5 to .35. Thus, our results suggest that  $H_1$  is largely disconfirmed. Rights-based frames do not seem to affect citizens' own attitudes toward the issues in question. In the one case in which framing seems to matter, the effects are the opposite of those expected. In fact, for the entire sample, framing an issue in religious freedom terms has a similar effect to framing it in



**Figure 2** Marginal Effects of a Republican Identification by Treatment on Support for the Conservative Rights Claim (90% condence intervals)

Source: 2015 MT Sample. See full model results in tables A1-A4.

morality terms. The sample as a whole seems to have realized that today’s Christian Right is similar to the previous generation of the Christian Right.

However, it is possible that there are conditional effects hiding within the highly Democratic sample that effectively cancels each other out. Put differently, we do not expect that everyone in the sample will react negatively to the frames invoking religion. Specifically, we would expect that the religious frames appeal more to Republicans ( $H^2$ ), especially when attached to a conservative issue position, while the free speech frame appeals more to Democrats.<sup>30</sup> Again, we assess these interactions in models with a variety of covariates that help to equalize the minor variation in the composition of the treatment cells. The full results can be seen in tables A1-A4 in Appendix B.

The interactions of interest are shown in figure 2. We focus on the gaps between Republicans and others, expecting the gap to grow when these individuals are presented with the frames that cue religion and to shrink when they receive the free speech

30. In each case, the Democrats were not significantly different from independents, so we combined them and employed a Republican dummy variable in the analysis.

frame. Figure 2 presents the marginal effects of the Republican identity, which shows the gap between the two groups (a higher value means that Republicans show higher support in that case) and therefore directly connects to this story.

Two issues clearly support the expected pattern. In the abortion protester case (upper left panel), the gap between Republicans and others is significant only when participants receive the morality and religious freedom frames. It is insignificant in the free speech claim, which indicates that support among Democrats and Independents is equivalent to Republican support. It is also insignificant in the control condition, which reflects the strong free speech understanding of the nature of protest in the United States. The expected pattern also obtains in the case of refusals to serve same-sex weddings (lower right panel). The gap is quite high when participants receive the religious freedom and morality frames, and is much reduced when framed in terms of free speech. The free speech mean is distinguishably lower from the religious freedom and control means at least at the 90 percent level.<sup>31</sup>

In the other two issues, no frame produces distinguishable effects. The free speech gap in the creationism case is slightly lower than the religious freedom and morality scores, but it is somewhat higher in the case of a company's exemption from providing contraceptive coverage. And in both cases, the gap between partisans is already reasonably high. Thus, our findings suggest that  $H_2$  is partially confirmed, holding that frames invoking religion polarize partisans on selected issues.

Assuming that the effects of the morality and religious freedom treatments on the contraceptive mandate and the abortion protester issue are not methodological artifacts, there are good reasons to suspect why this pattern obtains broader support. In fact, many religious advocates shifted from free exercise to free speech claims in the past few decades, as free speech receives greater legal protection and popular support.<sup>32</sup> The controversial nature of religious freedom claims may make free expression frames seem more attractive strategically. Moreover, this move gains support from the sorting of the electorate, with more non-religious Americans composing the Democratic Party's base and more

31. Of course, the 90 percent confidence level is somewhat weaker than conventional levels of statistical significance. Given the limited size of the sample for each experimental treatment, we regard a significance level of .10 as highly suggestive and worthy of reporting. Readers can judge the strength of the results for themselves.

32. Stephen P. Brown, *Trumping Religion: The New Christian Right, the Free Speech Clause, and the Courts* (Tuscaloosa: University of Alabama Press, 2005).

highly religious Americans identifying themselves with the Republican Party over the last thirty years.<sup>33</sup> At this point, some argue persuasively that Republican and evangelical identities are fused.<sup>34</sup> That may be an exaggeration as our results suggest that on the margins some frames can undercut partisan differences. Arguments that cue religion drive the parties apart and are quite consistent with the idea that religious and partisan identities overlap, such that religious cues no longer bridge partisan divides.

Therefore, this finding might give some pause to religiously motivated activists who seek to invoke the Free Exercise Clause as a warrant for exemption from laws they might find objectionable. They do seem more appealing to the Republican base (and perhaps the Supreme Court) but do not appear to chart a course toward majoritarian support. This is one factor that contributes to why many Christian Right advocates have shifted their advocacy toward free speech.<sup>35</sup>

These results pose another question. Why should the question of businesses refusing to serve same-sex clients getting married stand out among the four issues considered here? Specifically, why should issue frames matter for partisans about business refusal and not for respondent positions on evolution or contraception exemptions? One possibility is that the business service refusal may be more cognitively demanding than the other three issues examined here. As noted above, Carmines and Stimson make a distinction between easy and hard issues.<sup>36</sup> One characteristic of easy issues is that such matters have been on the political agenda for a long time. The general controversies concerning evolution, abortion, and contraception might be considered “golden oldies” of politics in the United States. LGBTQ rights would

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33. Michael Hout and Claude S. Fischer, “Explaining Why More Americans Have No Religious Preference: Political Backlash and Generational Succession, 1987-2012,” *Sociological Science* 1 (2014): 423-47; Geoffrey C. Layman, *The Great Divide: Religious and Cultural Conflict in the United States*; Matthew S. Levendusky, *The Partisan Sort: How Liberals Became Democrats and Conservatives Became Republicans* (Chicago: University of Chicago Press, (2009); Stratos Patrikios, “American Republican Religion: Disentangling the Causal Link Between Religion and Politics in the US,” *Political Behavior* 30 (2008): 367-89; Robert D. Putnam and David E. Campbell, *American Grace: How Religion Divides and Unites Us* (New York: Simon and Schuster, 2010).

34. Stratos Patrikios, “Self-Stereotyping as ‘Evangelical Republican’: An Empirical Test,” *Politics and Religion* 6 (2013): 800-22.

35. Brown, *Trumping Religion*; Andrew R. Lewis, “Learning the Value of Rights: Abortion Politics and the Liberalization of Free Speech Advocacy,” *Politics and Religion* 9 (2016): 309-31.

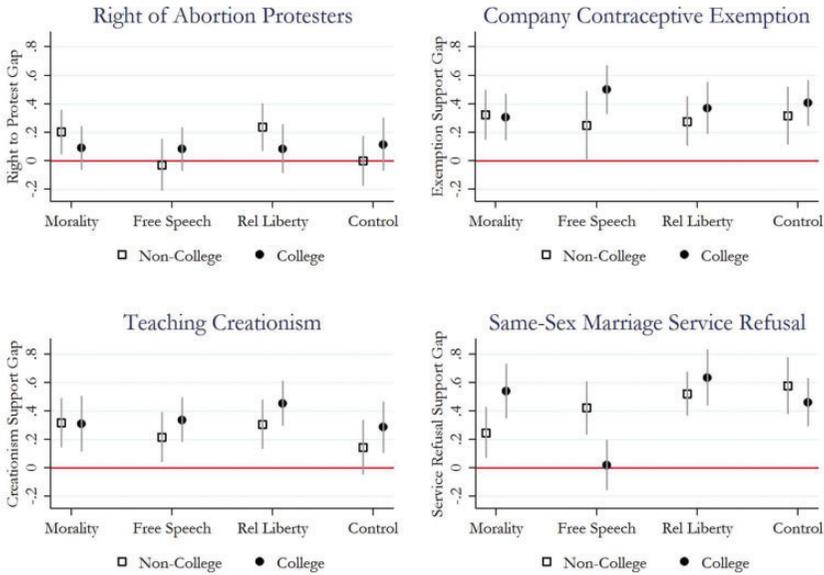
36. Carmines and Stimson, “The Two Faces of Issue Voting.”

typically fall under that umbrella as well, except that in this case there are compelling, competing rights claims that can be triggered, which is new. Easy issues are characterized by differences among desired ends of public policy (i.e., whether to allow abortion), rather than differences about the most favorable means to reach goals that are the subject of general agreement.

Thus, service refusal could be different from the *Hobby Lobby* case since many liberal Americans do not believe that corporations have rights, which removes the competing rights claims. Moreover, the businesses involved (at least in public discussion) in the contraceptive mandate are quite large, and the sole proprietors are not on display in these cases. Thus, among the four social issues examined in this study, the service refusal issue might be more cognitively demanding than the others, and respondent positions on it may be more sensitive to differential frames.

It is possible to construct an approximate test of this hypothesis. We can compare the effects of religious frames for respondents at different levels of political sophistication. However, our measure of sophistication is somewhat imprecise, as the MT survey does not contain many items that tap political sophistication directly. Here, we use level of formal education as a surrogate for belief sophistication, which is coded rather crudely. Approximately half of the MT samples are college graduates, so respondents with university degrees are considered high sophisticates, while respondents who have not completed college are coded as less sophisticated. [Figure 3](#) replicates the analyses in [figure 2](#), with the added complication of an interaction with a college-educated dummy variable (thus, it is a triple interaction). That is, the figure shows the gap between Republicans and Democrats by frame and education. Despite the obvious limitations of the sophistication measure, the contrasts are revealing. The gaps observed in [figure 2](#) in the abortion case are not limited to those without a college degree. In fact, there is no gap in support between partisans among the college educated. Only those Republicans lacking a college degree responded positively to the frames cueing religion.

The case of same-sex marriage service refusal (bottom right panel) presents the strongest case in how sophistication draws out different responses to these frames. Partisan gaps are almost uniformly high across frames and education levels, with one exception: there is no partisan gap in support for service refusal when the college-educated participants receive the free speech frame. With respect to the free speech frame, Democrats and Independents exhibit higher levels of support for service refusal, but



**Figure 3** Marginal Effects of a Republican Identification by Treatment and Education Level on Support for the Conservative Rights Claim (90% condence intervals)

Source: 2015 MT Sample.

Republican support for service refusal is drastically lower for this frame, which serves to equalize support. In the other frames, Republicans remain quite distant from other partisans in their support for service-refusing businesses. And, as in figure 2, the other two issues (creationism and contraception) show that partisan gaps are high and do not shift significantly by frame or education.

The results of this exercise, while admittedly indirect and imprecise, show some evidence consistent with the idea that sensitivity to variations in issue frames is greatest among the cognitively sophisticated on new, hard issues. Thus, these results provide limited support for H<sub>3</sub>, as our findings suggest that the effects of issue frames are strongest for sophisticated respondents who are making judgments about cognitively demanding issues. On established issues, like abortion protesting, sophisticates have more developed resources to withstand the variability induced by elite rhetorical devices such as framing and adhere to long-standing rights applications.

## Conclusion

This experimental study has yielded three general findings. First, despite the ubiquity of rights talk in US political discourse, especially as conservatives have integrated religious liberty and free speech rights into their arsenal, rights talk is not a panacea when it comes to affecting support for rights extensions among ordinary citizens. But there is some evidence that rights claims enhance mass support for their positions when they are framed in neutral rights values, such as free speech.

Second, though religious freedom rhetoric and advocacy strategies have grown of late, particularly in the aftermath of the legalization of same-sex marriage and with the rise of state-level Religious Freedom Restoration Acts (RFRAs), these arguments do not appear to be an effective means of changing public attitudes in favor of exemptions from otherwise valid laws. Religious freedom arguments increase the support of fellow partisans, but these appeals instigate some measure of backlash among opponents. Though religious freedom arguments may garner victories at the Supreme Court, their success may be quite limited in the court of public opinion.

It appears that some religious freedom advocates have anticipated this potential backlash. For the past few decades, several Christian Right organizations have shifted their attention from the Free Exercise Clause to the Free Speech Clause. This seems to have been prudent. More recently, traditional defenders of religious liberty, including the Baptist Joint Committee and University of Virginia professor Douglas Laycock, filed an *amicus curiae* brief before the US Supreme Court opposing the religious liberty claims of the Little Sisters of the Poor and others opposed to the federal government's accommodation on the contraceptive mandate. Their brief argued, "But religious liberty can be endangered by exaggerated claims and overreaching as well as by government intransigence and judicial under enforcement. Petitioners endanger religious liberty, both legally and politically."<sup>37</sup> Our findings corroborate that the stretching of religious liberty claims might damage the cause politically.

Finally, the public support of rights claims seems to be prone to variance in political sophistication. This may be especially true for new, complicated issues. Depending on the issue, advocates might do well to tie rights claims to other prominent issues (e.g., civil rights and abortion). For well-worn subjects, however, the public is able to see through a simple rights claim, instead

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37. Brief of the Baptist Joint Committee as Amicus Curiae in Support of Respondents *Zubik v. Burwell*, 136 S. Ct.1557 (2016): 6.

uncovering the partisan undercurrent or simply being unwilling to reevaluate.

Despite these cautions, we should expect to see an increase in rights talk from the left and the right, especially as our most pressing political and moral issues are decided in federal courts. Moreover, while rights claims may not directly alter public opinion, prior work suggests that they have secondary effects, including increasing societal tolerance and moderating opinions of candidates employing rights language.<sup>38</sup> If this is the case, rights talk may be an *entree* into productive, long-term political discussion. Such an outcome would be welcome in our highly polarized politics.

## Appendix A: Experimental Treatments

### Treatments

All treatments began with the instruction, “Please read the following passage from a recent news article; there will be questions about it afterwards.”

### Abortion Conditions

All conditions began with, “During the 2014 campaign for election to the US House of Representatives, a local candidate was asked at a town hall meeting about a recent Supreme Court case that addressed the constitutionality of restricting anti-abortion protests.”

*Morality*—The candidate responded by saying: “We need to protect the moral foundations of our society. It is morally wrong to take the life of the unborn. Therefore, I believe that the pro-life protesters should be permitted to express opposition to the immoral act of abortion.”

*Free Speech*—The candidate responded by saying: “We need to protect the right to free speech in this country. In this case, the protesters were merely expressing their constitutional right to free speech. Therefore, I believe that the pro-life protesters should be permitted to exercise their right to free speech by expressing their opposition to abortion.”

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38. Paul A. Djupe, Andrew R. Lewis, Ted G. Jelen, and Charles D. Dahan, “Rights Talk: The Opinion Dynamics of Rights Framing,” *Social Science Quarterly* 95 (2014): 652-69; Paul A. Djupe, Andrew R. Lewis, and Ted G. Jelen, “Rights, Reflection, and Reciprocity: How Rights Talk Affects the Political Process,” *Politics and Religion* 9 (2016): 630-48.

*Religious Liberty*—The candidate responded by saying: “We need to protect the right to religious freedom in this country. In this case, the protesters were faithful Christians merely expressing their religious opposition to abortion. Therefore, I believe that the pro-life protesters should be permitted to exercise their right to religious freedom by expressing their opposition to abortion.”

*Control*—The candidate responded by saying: “I believe that the pro-life protesters should be permitted to express their opposition to abortion.”

## **Contraception Mandate Conditions**

All conditions began with, “During the 2014 campaign for election to the US House of Representatives, a local candidate was asked at a town hall meeting about a recent Supreme Court case that addressed the constitutionality of the healthcare law requiring employers to provide free contraceptives to their employees.”

*Morality*—The candidate responded by saying: “We need to protect the moral foundations of our society. It is morally wrong to force employers to provide healthcare drugs that they object to providing. Therefore, I believe that the companies should be permitted to express their moral opposition to mandated contraceptive coverage.”

*Free Speech*—The candidate responded by saying: “We need to protect the right to free speech in this country. In this case, the companies were merely expressing their constitutional right to free speech. Forcing them to violate their views on contraception sties their speech. Therefore, I believe that the companies should be permitted to exercise their right to free speech to oppose this mandated contraceptive coverage.”

*Religious Liberty*—The candidate responded by saying: “We need to protect the right to religious freedom in this country. In this case, the employers were faithful Christians merely expressing their religious opposition to certain contraceptives that violated their religious consciences. Therefore, I believe that the companies should be permitted to exercise their right to religious freedom to oppose this mandated contraceptive coverage.”

*Control*—The candidate responded by saying: “I support the companies who challenged the contraceptive requirement.”

## Creationism Conditions

All conditions began with, “During the 2014 campaign for election to the US House of Representatives, a local candidate was asked at a town hall meeting about a Supreme Court case regarding the teaching of creationism alongside evolution in the public school curriculum.”

*Morality*—The candidate responded by saying: “We need to protect the moral foundations of our society. It is morally wrong to only teach our children that evolution is the foundation for our existence. Therefore, I believe that school districts should be permitted to express their morals and teach creationism in public schools.”

*Free Speech*—The candidate responded by saying: “We need to protect the right to free speech in this country. In this case, the teachers are expressing their constitutional right to free speech when they choose to teach creationism alongside evolution. Therefore, I believe that the teachers should be permitted to exercise their right to free speech to teach creationism in public school.”

*Religious Liberty*—The candidate responded by saying: “We need to protect the right to religious freedom in this country. In this case, the teachers were faithful Christians merely expressing their religious beliefs regarding the origin of life. Therefore, I believe that the teachers should be permitted to exercise their right to religious freedom to teach creationism in public school.”

*Control*—The candidate responded by saying: “I believe that the teachers should be permitted to teach creationism in public school.”

## Same-Sex Marriage Conditions

All conditions began with, “During the 2014 campaign for election to the US House of Representatives, a local candidate was asked at a town hall meeting about a case being considered by the Supreme Court that addresses whether photographers must provide their services for same-sex weddings.”

*Morality*—The candidate responded by saying: “We need to protect the moral foundations of our society. It is morally wrong to force businesses to provide services that go against their beliefs. Therefore, I believe that the businesses should be able to express their moral opposition to gay marriage by refusing service.”

*Free Speech*—The candidate responded by saying: “We need to protect the right to free speech in this country. In this case, the

business was merely expressing its constitutional right to free speech. Forcing the owners to violate their views on same-sex marriage sties their speech. Therefore, I believe that the businesses should be permitted to exercise their right to free speech to refuse to provide the photography services.”

*Religious Liberty*—The candidate responded by saying: “We need to protect the right to religious freedom in this country. In this case, the business owners were faithful Christians merely expressing their religious opposition to participating in activities that violated their religious consciences. Therefore, I believe that the companies should be permitted to exercise their right to religious freedom to refuse to provide the photography services.”

*Control*—The candidate responded by saying: “I support the companies in refusing to provide the photography services.”

**Appendix B: Multivariate Models**

**Table A.1 Treatment Effects at the Sample Level and Conditional on Partisanship, Right to Protest Abortion Issue**

	Sample Level	With Interactions
Morality	-0.03 (0.04)	-0.07 (0.05)
Free Speech	-0.00 (0.04)	-0.01 (0.05)
Religious Liberty	-0.04 (0.04)	-0.08* (0.05)
Republican		0.05 (0.08)
Morality*Republican		0.10 (0.10)
Free Speech*Republican		-0.01 (0.10)
Religious Liberty*Republican		0.11 (0.11)
White		-0.04 (0.04)
Female		-0.04 (0.03)
Age		0.01*** (0.00)
Education		-0.01 (0.01)
Constant	0.67*** (0.03)	0.55*** (0.08)
Observations	437	434
R <sup>2</sup>	0.00	0.08

Standard errors in parentheses

\*\*\*p < 0.01,

\*\*p < 0.05,

\*p < 0.1

Table A.2 Treatment Effects at the Sample Level and Conditional on Partisanship, Contraceptive Exemption Issue

	Sample Level	With Interactions
Morality	-0.15*** (0.05)	-0.14*** (0.05)
Free Speech	-0.06 (0.05)	-0.04 (0.05)
Religious Liberty	-0.15*** (0.05)	-0.14*** (0.05)
Republican		0.39*** (0.08)
Morality*Republican		-0.06 (0.10)
Free Speech*Republican		0.03 (0.11)
Religious Liberty*Republican		-0.06 (0.11)
White		-0.14*** (0.04)
Female		-0.02 (0.03)
Age		0.00 (0.00)
Education		-0.01 (0.01)
Constant	0.49*** (0.04)	0.53*** (0.08)
Observations	443	438
R <sup>2</sup>	0.03	0.20

Standard errors in parentheses

\*\*\*p &lt; 0.01,

\*\*p &lt; 0.05,

\*p &lt; 0.1

Table A.3 Treatment Effects at the Sample Level and Conditional on Partisanship, Right to Teach Creationism Issue

	Sample Level	With Interactions
Morality	0.01 (0.05)	-0.04 (0.05)
Free Speech	0.00 (0.05)	-0.04 (0.05)
Religious Liberty	0.00 (0.05)	-0.08 (0.05)
Republican		0.21*** (0.08)
Morality*Republican		0.12 (0.11)
Free Speech*Republican		0.06 (0.11)
Religious Liberty*Republican		0.17 (0.11)
White		-0.14*** (0.04)
Female		0.07** (0.03)
Age		0.00* (0.00)
Education		-0.05*** (0.01)
Constant	0.32*** (0.03)	0.47*** (0.08)
Observations	442	434
R <sup>2</sup>	0.00	0.20

Standard errors in parentheses

\*\*\*p &lt; 0.01,

\*\*p &lt; 0.05,

\*p &lt; 0.1

Table A.4 Treatment Effects at the Sample Level and Conditional on Partisanship, Same-Sex Marriage Service Refusal Issue

	Sample Level	With Interactions
Morality	0.02 (0.05)	0.05 (0.05)
Free Speech	0.02 (0.05)	0.10** (0.05)
Religious Liberty	0.01 (0.05)	-0.02 (0.05)
Republican		0.49*** (0.08)
Morality*Republican		-0.11 (0.11)
Free Speech*Republican		-0.28** (0.11)
Religious Liberty*Republican		0.06 (0.11)
White		-0.05 (0.04)
Female		-0.05 (0.03)
Age		0.01*** (0.00)
Education		-0.03* (0.01)
Constant	0.43*** (0.04)	0.26*** (0.08)
Observations	449	440
R <sup>2</sup>	0.00	0.28

Standard errors in parentheses

\*\*\*p &lt; 0.01,

\*\*p &lt; 0.05,

\*p &lt; 0.1

### Appendix C: Mechanical Turk Sample

In January 2015, we utilized Amazon Mechanical Turk's (MT) crowdsource platform to have 2,211 individuals complete our survey. MT is a crowdsource platform for work tasks that allows "requesters" (in our case, the researchers) to propose a task (taking a short survey) for workers who fit our qualifications (adults in the United States who have completed at least 100 tasks before this one) for a small amount of money (in our case, \$0.50, which amounted to a rate of about \$5.00 per hour). In one week, 2,211 workers completed this task. While one might suspect that paid survey takers would rampantly satisfice, previous research has found that MT workers pass screener tests at high rates.<sup>39</sup>

As previous researchers have found, MT samples do not look like national random samples of American citizens. They are typically too young, too educated, too irreligious, too white, and too male.<sup>40</sup> That is the case with this sample as well. The average age is 35 (the General Social Survey (GSS) estimates the mean age of adults in the United States at 48). Fifty-two percent have at least a college education (which is about 20 points higher than what the Census notes), 81 percent are white (compared to the Census estimate in 2013 that 63 percent are non-Hispanic whites), and 57 percent are male (compared to just under 50 percent of the adult population). Moreover, the sample is far more irreligious than other estimates of the US population, with 48 percent of our sample identifying as either "atheist, agnostic" (32 percent) or "none, nothing, secular" (16 percent). Other estimates of the percentage of religious "nones" have hovered around 20 percent, though most of those are not atheist/agnostic.<sup>41</sup> The sample is 13 percent evangelical Protestant, which is in line with previous MT samples,<sup>42</sup> but is just over half of the national population statistic (24 percent in the 2012 GSS). This means that univariate distributions of the sample are not representative of the US population, but that does not mean that relationships among variables of interest are necessarily unrepresentative.

That has been tested in several ways. For instance, Krupnikov and Levine found that results using MT workers sometimes diverge

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39. Adam J. Berinsky, Michele F. Margolis, and Michael W. Sances, "Separating the Shirkers from the Workers? Making Sure That Survey Respondents Pay Attention on Self-Administered Questionnaires," *American Journal of Political Science* 58 (2014): 739-53.

40. Berinsky, Huber, and Lenz, "Evaluating Online Labor Markets for Political Research."

41. Joanna Piacenza, "The Three Religious Traditions That Dominate the US," <http://www.prii.org/spotlight/stop-three-religions-in-each-state>" (2015).

42. Lewis, et al., "The (Non) Religion of Mechanical Turk Workers," 419-28.

from theoretical expectations.<sup>43</sup> Other work has found that relationships from MT worker data compare favorably to those found with data gathered using more traditional sampling methods, such as the GSS.<sup>44</sup> Notably, Lewis and his coauthors found this similarity in the context of the relationships of religion variables and political outcomes, so even highly skewed religious variables with highly skewed political opinions and identities may not pose a serious threat to finding relationships comparable to what is found using more traditional data sources.

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43. Yanna Krupnikov and Adam Seth Levine, "Cross-Sample Comparisons and External Validity," *Journal of Experimental Political Science* 1 (2014): 59-80.

44. Lewis, et. al., "The (Non) Religion of Mechanical Turk Workers."