THE *HOBBY LOBBY* AMICUS EFFORT*

BRIGITTE AMIRI**

Brigitte Amiri: Thank you so much for having me. I didn't realize that getting up early any day was an accomplishment, but thank you so much for coming and thanks for having me.

I'm going to talk a little bit about the cases pending before the Supreme Court that will be heard on March 25.[1] These are two cases brought by for-profit corporations that are

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1 This article reflects the state of the law at the time of the Symposium. In the months following the Symposium and preceding publication of this issue, the landscape surrounding the Affordable Care Act's contraceptive mandate has changed significantly. Despite the outcomes of the case, and subsequent decisions, Ms. Amiri's discussion of strategic amicus coordination and advocacy efforts in advance of oral arguments remains important and enlightening. For clarity, we offer the below summary of recent relevant judicial dispositions.

On June 30, 2014, the Supreme Court issued its ruling in *Burwell v. Hobby Lobby*. The Court held that the Affordable Care Act's contraceptive mandate violates the Religious Freedom Restoration Act because the regulations substantially burdened plaintiffs' religious beliefs and, though the Court assumed the government had a compelling interest, "the mandate plainly fails [the least restrictive means] test." 134 S. Ct. 2751, 2759 (2014). In determining that the regulations in question did not constitute the least restrictive means of serving the government's assumed compelling interest, the Court pointed toward the government exceptions created for religious non-profits, which Ms. Amiri nods to in her comments. *Id.* This already-available accommodation, the Court reasoned, served the government's interest without burdening religious beliefs and could sufficiently satisfy plaintiffs' complaints.

challenging part of the Affordable Care Act that requires employers to cover contraception as part of a comprehensive health package.[2] And so I'll start by talking a little bit about the background of how these cases came about. And I will focus on the amicus efforts in the Supreme Court and the different voices we wanted the Court to hear from, and what we anticipate the Court doing, although for that we can flip a coin and that could be that discussion. But we'll get there.

The contraception rule is part of the Affordable Care Act and it requires all health plans to have all FDA-approved contraception covered in the plan without a copay.[3] So no-cost contraception in the health plan for all employees that are covered by an employer who is covered by the Affordable Care Act.[4] So that's employers that have fifty or more employees, that don't have grandfather plans. There are some little exceptions around the edge, but the idea is that you will have coverage for contraception without a copay. And this is part of a larger package to make sure that women have the healthcare that they need, including domestic violence treatment and counseling, certain prenatal care, STI testing. The contraception piece of it was a piece of a much broader package of women's healthcare that was included in the Affordable Care Act regulations.

The regulation for contraception exempts houses of worship, so churches don't have to comply.[5] Religiously affiliated non-profits do not have to comply if they have a religious objection to providing contraception, and what they do have to do instead is fill out a form and send it to their insurance company and say that they have a religious objection, and then the insurance company covers the cost of the contraception and communicates with the employees about that benefit.[6] So we'll put the non-profits aside.

However, three days after delivering the Hobby Lobby decision, the Court issued a temporary injunction in *Wheaton College v. Burwell*, calling into question the legality of that same federal exemption process under RFRA. The case is now pending in the United States Federal District Court in the Northern District of Illinois. 134 S. Ct. 2806, 2807 (2014).

2 Conestoga Wood Specialties Corp. v. Sebelius *heard as* Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751 (2014); Sebelius v. Hobby Lobby Stores *heard as* Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751 (2014).

3 Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, § 2713(a), 124 Stat. 119, 131 (2010) (to be codified at 42 U.S.C. § 300gg-13).

4 *Id.*

5 Accommodations in Connection with Coverage of Preventive Health Services, 26 C.F.R. § 54.9815–2713A (2013).

6 *Id.*

The for-profit corporations—there's no exemption. They have to comply. However, there have been a number of for-profit companies that are owned by individuals that say, "We have a religious objection to including contraception in our health plan for our employees." And those corporations have brought many lawsuits against the contraception rule across the country. The main claim that they have raised is under the Religious Freedom Restoration Act.[7] The federal RFRA is not often litigated after a case called *Boerne v. Flores* held that RFRA only applies to the federal government.[8] So here we have the federal government imposing a rule that certain companies claim violates their religious liberty rights. And so the main claim is the RFRA claim.[9]

And the analysis under RFRA is first whether—well, the threshold issue in these cases is whether corporations have the ability to exercise RFRA rights.[10] Are companies "persons," under RFRA, and can they exercise religious liberty rights? These cases have been brought all over the country and they've bubbled up through various Courts of Appeals and there's been a large circuit split.[11] So the threshold question has been, do companies—can a company exercise religious rights? And some Courts of Appeals have said no, and that's the end of the analysis.[12]

But assuming corporations have the ability to exercise religious liberty rights, the next question is whether their religion is substantially burdened. And "substantially burdened" is the key phrase under RFRA.[13] The companies say, "Yes, our religion is substantially burdened. We have to provide a health benefit that we object to based on our religious beliefs. We believe that life begins at conception and contraception interferes with that." And arguments of that nature.

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7 Religious Freedom Restoration Act, 42 U.S.C. § 2000bb (1993).

8 City of Boerne v. Flores, 521 U.S. 507, 535–36 (1997)

9 *See* Brief for Petitioner at 26–27, Sebelius v. Hobby Lobby Stores, No. 13-354 (U.S. Jan. 10, 2014).

10 *See, e.g.*, Conestoga Wood Specialties Corp. v. Sec'y of the U.S. H.H.S., 724 F.3d 377, 381 (3d Cir.), *cert. granted sub nom.* Conestoga Wood Specialties Corp. v. Sebelius, 134 S. Ct. 678 (2013), and *rev'd and remanded sub nom.* Burwell v. Hobby Lobby Stores, Inc., 134 S. Ct. 2751 (2014)

11 *Compare id.* (holding that "for-profit, secular corporations cannot engage in religious exercise") *with* Korte v. Sebelius, 735 F.3d 654, 682 (7th Cir. 2013) (holding that corporations are "persons within the meaning of RFRA.")

12 *See, e.g.*, Conestoga Wood Specialties Corp. 724 F.3d at 381.

13 *See* Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1(a) (1993).

Assuming there's a substantial burden on religion, then the next question is whether there's a compelling government interest that's narrowly tailored.[14] And the compelling government interests that are raised in these cases is whether there is a compelling government interest in furthering women's health and furthering women's equality, given the importance of contraception in the ability of women to make decisions about the number and spacing of their children, which affects their ability to participate equally in society.[15] And then there's the narrow tailoring question about whether this is the least restrictive means that the government can further their interest.[16] We'll get to some of these issues more when I talk about the amicus responses but I just wanted to lay out the framework first.

So as I said, there's a split in the circuits; cases are bubbling up. Two cases reached the Supreme Court first. One is a case out of the Tenth Circuit brought by a company called Hobby Lobby.[17] They are an arts and crafts chain store primarily in the Midwest. They employ 13,000 employees and they argue that they have a religious objection to providing a couple of forms of contraception. Similarly, another case out of the Third Circuit is brought by a company called Conestoga and they are a wood manufacturing company.[18] And they have similarly argued that their religion is burdened by having to provide contraceptive coverage to their employees.

So the cases—both of these cases were accepted and they will be heard on March 25. We expect a decision before the end of the Court's term in June. Since the Court usually reserves some of the more controversial decisions until the end of the term, we expect no decision until towards the end of June.

But I want to talk about some of the amicus efforts on our side, supporting the government. The ACLU in coalition with the National Women's Law Center and many other reproductive rights organizations including the Center for Reproductive Rights and Planned Parenthood and Physicians for Reproductive Health and a bunch others—we convened a call and we tried to decide what messages, what points we wanted the Court to hear, and which messengers should make those points. So, what were the different voices we wanted

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14 *Id.* at § 2000bb-1(b).

15 *See* Hobby Lobby Stores v. Sebelius, 723 F.3d 1114, 1143 (10th Cir.) (en banc), *cert. granted* 134 U.S. 678 (2013), *aff'd sub nom.* Burwell v. Hobby Lobby Stores, Inc., 134 S. Ct. 2751 (2014).

16 *See id.* at 1144.

17 Sebelius v. Hobby Lobby Stores, Inc., No. 13-354 (U.S. argued Mar. 25, 2014).

18 Conestoga Wood Specialties Corp. v. Sebelius, No. 13-356 (U.S. argued Mar. 25, 2014).

out there? We wanted to make sure there wasn't a tremendous amount of duplication. We were trying to narrow the number of amicus briefs and trying to encourage people to work together to file a single brief rather than having multiple briefs because frankly, the Court's just not going to read a ton of briefs. We were trying to get very specific, very concentrated and focused briefs and limit the number.

So we also then formed subgroups based on topic. All of the groups that were writing on women's health issues were talking to each other to avoid overlap. All of the groups that were going to talk about whether corporations have the ability to exercise religious liberty rights were talking to each other. We ended up with twenty-three amicus briefs, most of which, the coordinators knew about. There were a couple surprises. We did not know that Professor Marci Hamilton was going to file a brief arguing that RFRA was unconstitutional completely.[19] So that was a surprise! But most of the briefs that we knew about and we were working very close in coordination—the National Women's Law Center and the ACLU—we read all of the drafts of the briefs that we knew about to try to make sure that this duplication was limited, and that we were consistent on our points.

The other side filed fifty-nine briefs.[20] In this case, can we all do the math this early in the morning? There are a total of eighty-one briefs—eighty-two? And interestingly our goal at trying to limit the number of briefs was somewhat validated. During the first press call I got after we filed our amicus briefs the reporter said to me, "Well, they filed fifty-nine briefs on the other side and you filed twenty-three," and she said before I could even answer the question, "but we know that the Supreme Court cares more about quality than they do about quantity. And I said, "Yes. That is right."

There were some points we wanted to make, and make sure that were included given that these cases are brought by the companies against the government. Women's voices are largely absent directly in these cases. There are not employees that have intervened in these cases, largely. There's one exception to that. But most women don't want to come out and talk about the denial of some sort of benefit from their employer for fear of retaliation and losing their job. So the amicus effort was—one of the main goals was to make sure that points about women's health and women's equality and women's voices were heard as amici. So that was one of the main goals.

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19 Brief for the Freedom from Religion Foundation et al. as Amici Curiae Supporting Petitioners, Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751 (2014).

20 Burwell v. Hobby Lobby Stores, Inc., SCOTUSBLOG, *available at* http://www.scotusblog.com/case-files/cases/sebelius-v-hobby-lobby-stores-inc/ [http://perma.cc/U798-YFS2] (last visited Jan. 20, 2015).

So we included detailed arguments about why contraception is important to women's equality and women's lives.[21] And we brought in—a number of briefs brought in various studies that demonstrate what meaningful access to contraception means to women's lives. At the outset, a lot of us talked about a study out of Washington University in St. Louis.[22] There is an amazing study going on right now, a longitudinal study of 10,000 women in St. Louis, who are getting free birth control.[23] Basically it's a simulation of what the Affordable Care Act would do for women because women have been getting free access to birth control through this program. And in large numbers those women are choosing long-acting and reversible contraceptive methods like the IUD and, as a result, the unintended pregnancy rate, and also therefore consequently the abortion rate, has plummeted.

And so when you give the women the ability to make decisions free from cost barriers about the contraception that they choose and what is right for them in their lives, they overwhelmingly choose a method that is going to be highly effective. And as a result, that means that they face fewer unintended pregnancies.[24] And then what that means, is that there are a bunch of other studies that talk about the advent of contraception and the direct connection between the availability of contraception and women's ability to go to school in larger numbers at all levels, including grad school, law school, medical school, dental school.[25] The ability of women to enter these professions and very specifically the wage gap that is reduced when you see contraception become available because women are able to enter the marketplace when they're able to control the number and spacing of their chil-

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21 *See e.g.* Brief for the Guttmacher Institute and Professor Sara Rosenbaum as Amici Curiae in Support of the Government at 7, Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751 (2014), 2014 WL 333890; Brief for the National Women's Law Center and Sixty Eight Other Organizations as Amici Curiae in Support of the Government at 17–18, Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751 (2014), 2014 WL 333895; Brief for the Ovarian Cancer National Alliance and Its Partner Members as Amici Curiae in Support of the Government at 7, Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751 (2014), 2014 WL 333894; Brief of the National Health Law Program et al. as Amici Curiae in Support of the Government at 4–6, Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751 (2014), 2014 WL 411288.

22 Brief for the Guttmacher Institute and Professor Sara Rosenbaum as Amici Curiae in Support of the Government at 20, Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751 (2014).

23 Jeffrey Piepert et al., *Preventing Unintended Pregnancies by Providing No-Cost Contraception*, 120 OBSTETRICS & GYNECOLOGY 1291 (2012).

24 *Id.*

25 *See generally* Brief for Julian Bond et al. as Amici Curiae Supporting Petitioners at 44-49, Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751 (2014).

dren.[26] And so we also focused on a number of those studies as well.[27]

We wanted a range of voices. So there are religious organizations talking about the substantial burden on religion question.[28] There are major medical organizations, members of Congress, LGBT groups, business professors, divisions of the Chamber of Commerce including the Women's Chamber of Congress and the LGBT Chamber of Congress. There's an international law perspective. Civil rights groups have weighed in. We wanted that full range of voices.

In some ways, the question is a little bit unique because as I mentioned before, RFRA only applies to the federal government, and so RFRA doesn't actually come up that often in our litigation. But the point about whether religion should trump reproductive rights is a question that we see throughout our cases. And it comes up in lots of various contexts. So the principle in addition to the jurisprudence is incredibly important for our issue.

We often see Catholic hospitals, for example, refusing to provide care to women who need to terminate their pregnancies, either because of a health condition or because they need to complete a miscarriage, because of the Catholic hospital's religious beliefs against abortion, and we know that women have suffered as a result of those policies.[29] We know that pharmacies have turned women away from the pharmacy counter because they refused to provide emergency contraception.[30] So this theme of religion trumping reproductive rights, and religion being used to discriminate against individuals and classes of people is a big theme in our work, and that's I think one of the main cross-connections between our work with the LGBT organizations.

So, the $64,000 question—I am so glad I only have one minute left—because where's that coin? What is the Supreme Court going to do with these cases? And you know, it's a

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26 Brief for National Women's Law Center and Sixty Eight Other Organizations as Amici Curiae in Support of the Government at 24–26, Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751 (2014), 2014 WL 333895

27 *Id.*

28 *See* Brief for Religious Organizations Supporting the Government as Amici Curiae Supporting Petitioners at 9–10, Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751 (2014).

29 *See, e.g.*, Julie Rovner, *ACLU Sues, Claiming Catholic Hospitals Put Women at Risk*, NPR (Dec. 2, 2013), http://www.npr.org/blogs/health/2013/12/02/248243411/aclu-sues-u-s-bishops-says-catholic-hospital-rules-put-women-at-risk [http://perma.cc/ED6H-YNKT].

30 *See, e.g.*, *Pharmacy Refusals 101*, NAT'L WOMEN'S LAW CTR. (Apr. 24, 2012), http://www.nwlc.org/resource/pharmacy-refusals-101 [http://perma.cc/QC7A-V63Y].

really, really hard question to answer. This isn't a typical abortion case where we can count the votes and know Kennedy is the deciding vote and everyone's talking to Kennedy, and which way is he going to go, it's going to be a five–four decision. And maybe that's the same analysis. But look, Justice Scalia wrote *Employment Division v. Smith*, which is the case that said that burdens with a respect to—under the First Amendment with respect to the Free Exercise clause should be treated at a much lower standard of review, and RFRA was enacted as a direct result of that decision to elevate the level of scrutiny for religious liberty claims.[31] And Scalia wrote that decision!

So you know, it's really, really hard to tell what's going to happen, but one of the things that we do want to mention is that the decision could be very limited and very narrow depending upon how the Court rules. And so while this court case is incredibly important and the loss certainly would be devastating, a lot of the Courts of Appeals—all of the Courts of Appeals—have limited their relief just to those companies in front of the court.[32] So we're not talking about a complete invalidation of the contraceptive rule. And there also may be pieces of the analysis that may limit the decision to just the very specific nature of the contraception rule. And I'm happy to answer more questions when we get to the question section. Thank you!

Question & Answer: Here, the panel discussed the different litigation strategies and outcomes in the marriage equality and reproductive justice movements.

Kendall Thomas: So, Bebe and Brigitte. Mary and James have set up very nicely what we'd like to do in the next portion of our discussion this morning. And that is to have a dialogue amongst you. And one of the questions that I'd like you to address is suggested by the fact that the four of you are up here. Namely, what you think some of the most salient crossover and points of connection are on the one hand, and what you think some of the differences and divergences are between the litigation challenges and strategies of the Freedom to Marry work and of the reproductive rights work.

And I'm going to take the liberty of putting a second question to you, which has emerged from the terms of the discussion this morning. And you can address it or not as you choose to. But I think James was leading us there. Where do you see some of the downsides or the limits of state and federal court litigation in your respective areas as a

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31 Employment Div. v. Smith, 494 U.S. 872 (1990).

32 *See, e.g.*, Korte v. Sebelius, 735 F.3d 654, 687 (7th Cir. 2013) (granting a preliminary injunction "barring enforcement of the contraception mandate against the plaintiffs").

tool for some of the cultural and social change that both Mary and James said they thought was so important, of which law reform is a crucial part but only a part. Or do you think that litigation can do some of that cultural and social movement work at the same time as it's protecting and trying to expand marriage equality and reproductive rights jurisprudence? So whoever wants to go first, jump in there, and I'm sure others will follow.

Brigitte Amiri: Can I start with the last question first? I think a perfect example of the limits of the courts but also how they can galvanize the public is the case that the ACLU and Planned Parenthood and the Center brought in Texas.[33] Absolutely we cannot solve all of the challenges to the constant assault on reproductive rights in the courts. It's just not possible and it's also not realistic.

So in Texas, as many of you know, Wendy Davis filibustered.[34] She's a state legislator in Texas. She filibustered a law in her pink shoes and has now gone on to run for governor in Texas. Governor Perry called a special session back and basically got the legislation she filibustered the first time around passed, and the three organizations challenged it in Texas. And it basically was a law requiring doctors to have admitting privileges which sounds like a reasonable law, but again its targeting abortion providers and treating them differently with the goal of shutting clinics down.[35] And that case went very quickly, and we lost very quickly, and we're in the Fifth Circuit now. But that law shut down about a third of the abortion providers in Texas. That case, however though, has galvanized people. Eighty percent of people in Texas opposed the law to begin with, and I think seeing the result of that law also galvanizes people.

But we're left with a state that has lost a tremendous amount of services. So I think we can't always rely on the courts to protect these rights and we need to stop bad things from happening in the first place. At the same time, I think the courts can play a role in galvanizing people.

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Bebe Anderson: Just a couple quick add-ons. It all circles around itself. Judges live in

33 Planned Parenthood of Greater Tex. V. Abbott, 748 F.3d 583 (5th Cir. 2014).

34 Manny Fernandez, *Filibuster in Texas Senate Tries to Halt Abortion Bill*, N.Y. TIMES (June 25, 2013), http://www.nytimes.com/2013/06/26/us/politics/senate-democrats-in-texas-try-blocking-abortion-bill-with-filibuster.html [http://perma.cc/6DZU-RMEC].

35 TEX. HEALTH & SAFETY CODE ANN. § 171.0031 (West 2013).

the real world. The culture affects the judges, and the court decisions can affect the culture, but certainly all movement lawyers, you've got to work in all the various areas. And the stories you tell in court—one nice thing too is—stories you tell in court, some of those legal principle stories, they don't even have to be the same stories you tell in public. You can often use your cases in the public the way you can't exactly argue them in court to just broaden your messages.

But in terms of the first question, I think you've heard a lot of the similarities because we're facing a lot of the same challenges. But I just want to note one of the cultural differences. All I need to say is—you've got *Modern Family*, and you've got Lady Edith in *Downton Abbey* fleeing the medical office when she goes for an abortion. So we've got a big problem in terms of public opinion and the perception out there, including in the media right now in the reproductive rights area.

Brigitte Amiri: I just started watching *Girls*. Like not even on *Girls*, she can get an abortion? Like really? They do everything else! Can't get an abortion.

Kendall Thomas: Let's—can we run with that a little more? I don't mean the culture piece, or that particular media piece, but in terms of connections and points of divergence. Maybe even with respect to litigation strategies specifically. Because Bebe, you began by remarking a difference, namely that there was a settled body of law with *Roe* and its progeny that you're working with that marriage equality/Freedom to Marry lawyers weren't working with. What's the difference that that difference makes? I'm asking specifically, but also to the rest of you.

Bebe Anderson: Well I think there's a couple things—for one, I think it's the add-on in terms of the future of marriage. The future includes the good Supreme Court decision and then you get to have the post-*Roe* moment for the next decades, anyway, let's hope not, but. I think there's a—for one thing, it makes us on the defensive so that I think one of the key things that I tried to bring out is that in the reproductive rights area, a lot—the majority of our resources go to trying to make sure women can still access abortion because there has been this nonstop onslaught to undo that right and so our work has necessarily been defensive. And as I mentioned, a lot of these laws are scheduled to go into effect very quickly. And even when it's not very quickly, it's going into effect soon.

So again, you can't spend years sort of feeding the public dialogue, finding the right plaintiffs, figuring what the right plaintiffs are. I mean unfortunately you're sort of in this situation where this state is about to pass this law, you've got to figure out how's it really

going to affect people, is there a good basis to challenge it, is it a good case to bring, you know, let's get some plaintiffs quickly and get in there and get this stopped, if you decide that's what you need to do. And you know, simultaneously figuring out your framing and your public messaging and all of those things. So I think that's one of the ways in which having this settled law that was so—that really invigorated the opposition in such a tremendous way—has been a huge impact on our litigation strategies.

Brigitte Amiri: Framing and naming things right is just so huge in all of our movements and the terms marriage equality, partial-birth abortion, you know, everything. If you get to name it, you get to claim it. We in the reproductive rights movement are constantly behind the ball on naming it and our opponents are one step ahead of us and it makes such a huge difference.

Bebe Anderson: One of the other ways that we're working in various fronts is with the Women's Health Protection Act. We are reclaiming health protection and it's a federal bill that would really lead to a lot of the state restrictions no longer being valid under federal law. We were able to have it—it was introduced in the fall. We know that the current Congress is a Congress that is unlikely to pass that law, but we do have a lot of support both in the Senate and in the House at its time of its introduction and since, and it's been increasing. It also is again, another platform to use our messages as opposed to our opponents', so that's one of the purposes as well, is it gives you an opportunity.

And we're seeing also some more proactive measures in some of the states in the country on reproductive rights issues. And again, all of those things give another platform to get your messages out instead of the other side's messages or to get your messages out first.

But you know one of the challenges that we face in the reproductive rights movement—I'm reminded of Mary's comments about the bad things that happen—is that some of what we hear from when there's message testing or whatever, is that if you—a message about putting yourself in the shoes of another person and putting yourself in the woman's shoes and realizing you can't really judge that person's situation and you shouldn't be judging her right to exercise her decision in terms of a reproductive choice, that message is alright. But once you get specific about her shoes, then you lose people, because then they think, "Well, I don't think that's the right choice, or I wouldn't do that, I wouldn't want my daughter to do it for that reason," and you end up with this—there's just again, the stigmatization I think is huge.

Obviously in as many ways as possible we are trying to work on that and we need to

keep working on that and work on it more effectively. The other side has been so effective at stigmatizing exercise of the abortion right that it has made it really hard not only to get individual women as plaintiffs, but even to get people to talk about, and even for people to stop judging other people in a very negative way.

Kendall Thomas: I'm struck in that regard by the example Mary gave about the grandfather and his granddaughter because on the one hand, I think it's absolutely crucial to frame reproductive rights in a way that centers women's experience and these questions of women's health and women's equality. At the same time, it is also true that the decisions women make about reproductive rights are made in a context, in a relational context, which is very complex and dispersed. And the success that the Right has had in many ways, is in representing that relational question as an adversarial one—between women and their partners for example. So I think there's some interesting lessons on the messaging and framing front that might be of value across the two movements.

I'm going to exercise the moderator's prerogative and take two, maybe three, very brief questions together and then give the speakers two minutes to respond to those.

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Audience Question Two: You've all mentioned talk about religious liberties and how they're implicated and you specifically mentioned that there were some religious groups who actually filed on behalf of the government and could you talk about any support from religious communities and how that impacts things?

Audience Question Three: My question is about the overlap between your work and especially given that Arizona—there was a repeal yesterday and there's an abortion restriction bill in front of the governor today. And I was really struck by that because I was noticing you talked about values and what are the shared values versus strategy? And especially values around patriarchy, which have been used against both groups? I was very struck by the example where it was the firefighters and the grandfather that legitimized gay marriage. So how do we—and that seems to reinforce some of the values that we might not believe in? So I hope you could talk about that and your overlap, rather than just your differences.

Brigitte Amiri: I'll just take the question about the religious community supporting us very quickly and say that it's an incredibly important part, and that in the Supreme Court—in the challenges against the contraception rule, there is a brief on behalf of thirty religious organizations that includes everyone from the American Hindus to the National Coalition

of American Nuns to traditional Jewish group to Unitarians.[36] So we have a broad array of voices, and so the religious voices are incredibly important and we are so happy that they are telling the court why this isn't a substantial burden on the companies' religious beliefs to offer contraception benefits to their employees.

Bebe Anderson: And I would just add that if we just have messages that work with our strong supporters, we're not going to get anywhere because we don't have enough of those. These laws are passing, these discriminatory actions are happening, etc. And we're not going to—the hardcore anti-choice people, we're not going to persuade them either. So we really have to go after the middle. You have to talk to people where they are and use messages and messengers that work but you carefully do that. You don't want to buy into and reinforce negative stereotypes, etc., as you do that.

But I think also I wanted to mention that in terms of shared values, I think our movements definitely share these values and I think actually that mushy middle also shares these values about human dignity, about personal decision-making, about fairness, and anti-discrimination. I think those are values that a very large number of people in this country share. And I think that when we can reframe and educate people so they understand that what we're really talking about a lot in the reproductive rights and the LGBT civil rights movements are those values and find ways and messengers to get those values across we are really going to move things forward.

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36 Brief for Religious Organizations Supporting the Government as Amici Curiae Supporting Petitioners at 9–10, Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751 (2014).