

**An Unusual Perspective in the Clash of Rights**  
**Thomas Berg's**  
**“Progressive Arguments for Religious Organizational Freedom: Reflections**  
**on the HHS Mandate”**

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Thomas Berg has written an interesting article suggesting that progressives should improve their commitment to religious liberty for traditionalists. *Available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2268824](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2268824)*. Progressives understand, for instance, that the recent HHS contraceptive mandate impinges on religious liberty. But, as they will tell you, they just don't care when the issue is one that is important to them, such as access to reproductive choice or gay rights.

Berg argues that progressivism is committed to supporting equal freedom for disadvantaged groups. Progressives tend to see traditional religious teachings about same-sex relationships as bigotry, and pro-life teachings as “war on women.” They encourage the government to promote freedoms for some groups by regulating private organizations and forcing them to comply with the desired “freedoms.” The HHS mandate is a classic example.

But progressives should support the freedom of the church. “First, religious organizations serve as counterweights to government power.” (p. 15) Next, freedom of the church “defines a sphere into which the state simply may not intrude.” (p. 16)

Why should progressives oppose constricting religious freedom, the way the HHS mandate's very narrow interpretation of religious organizations does? First, because the organizations most pressured are those committed to helping others and improving the community. Under the HHS mandate, churches are exempt, but spiritual social organizations are not. Berg suggests that organizations should not be disqualified from free exercise protection when they provide service to others. He points out that “progressives who call faith-based social services ‘nonreligious’ sound much like old-line Protestant fundamentalists who claimed that the only purpose of the Christian church was the save souls.” (p. 29) These organizations provide massive contributions to society, and it would be a shame if they were forced to exit such work because of conflicts of conscience. Likely, they would not be replaced.

Progressives have historically supported freedom in many ways. For instance, same-sex couples and religious dissenters both need freedom to live out their identity; both need protection against those who condemn them as gravely evil. America has a long tradition of accepting dissenters for the sake of religious freedom, and Berg challenges progressives to continue that tradition, even for traditionalists they sharply disagree with.

While many will disagree with Berg's arguments from one side or the other, they are a thought-provoking contribution to the current cultural debate.