



Disability and Barriers to Accessing Faith in the US

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Disability and Barriers to Accessing Faith in the US

Karina Anne Bonds

A Thesis in the Field of International Relations
for the Degree of Master of Liberal Arts in Extension Studies

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Abstract

In America there are many barriers a person with disabilities may face in the effort to practice their religion. Chief among these is the fact that places of worship and other religious institutions like private schools are almost entirely exempt from disability law in the US. They are generally not beholden to the accessibility standards set by the Americans with Disabilities Act (ADA), or the Individuals with Disabilities Education Act. This exemption is largely due to lobbying by Christian churches during the debate accompanying the passage of the ADA, and its ratification in 1990. The Christian community at the time was concerned with the cost of implementing the ADA, as well as the separation of church and state. However, the primary focus was on the fact that people with HIV were protected by the law, and conservative churches worried these protections would make it impossible to discriminate against LGBTQ+ people. Hence, the Christian community lobbied for, and won, a blanket exemption from the law.

Other impediments to accessing faith include social and theological barriers perpetuated by historical legal and religious discrimination against people with disabilities. Work by progressive disabled authors like Alice Wong, and revolutionary theologians like Nancy Eiesland and Lisa D. Powell, strive to erase the stigma against people with disabilities in American society while promoting a liberatory theology of disability within the Christian faith.

Author's Biographical Sketch

Karina Bonds is a disability advocate and loving spouse to a disabled Navy veteran. She received her Bachelor's degree in Government and Public Policy from the University of Baltimore in 2019.

The subjects she has focused on most in her studies include constitutional law, disability, the politics of religion, and the Middle East. She has experience in a variety of fields, but is most proud of her time as a professional musician with the Baltimore Ravens marching band, as well as her time as an *au pair* in France where she cared for three wonderful children.

She is originally from Highlands Ranch, Colorado, but has enjoyed living in Maryland, France, Florida, Texas, and Illinois, and is excited to see where life takes her next.

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Chapter I

Introduction

People with disabilities face many barriers to accessing the various parts of life, both public and private. But there are few areas where there are more barriers to access than religion. Throughout the twentieth and twenty-first centuries, a complex system of laws and programs have been enacted in the United States to ensure accessibility and protect the rights of disabled Americans.

However, there is one major gap in legal protections: religious institutions are largely exempt from complying with disability law.¹ This presents a significant barrier to people with disabilities, in many cases preventing them from accessing their First Amendment right to free exercise of religion to which every citizen is entitled under the US Constitution.

This thesis explores various barriers to accessing faith in the US, which I have split into three major categories: legal, social, and theological. The thesis also explores the complex system of laws, institutions, and organizations that impact the lives of disabled people of faith. Finally, I propose an amendment to the Americans with Disabilities Act (ADA) which would remove the exemptions for religious institutions.

The legal barriers to access of religious spaces in the US are largely determined by the ADA, a landmark piece of legislation signed into law in 1990, which aimed to

¹ Americans with Disabilities Act Title III Regulations, ADA.gov, March 8, 2012. <https://www.ada.gov/law-and-regs/title-iii-regulations/#part-36-nondiscrimination-on-the-basis-of-disability-in-public-accommodations-and-commercial-facilities-as-amended-by-the-final-rules-published-on-august-11-2016-and-december-2-2016>.

protect the rights of disabled Americans and ensure access to all areas of public life.²

However, according to Title III of the ADA which ensures access to “public accommodations” including private businesses, religious spaces (and private clubs) are excluded. This means they are not considered part of the “public sphere” of life and, due to separation of church and state laws, these places are exempt from disability law. This includes places of worship as well as places controlled by religious organizations, such as schools, hospitals, thrift shops, shelters, etc. This exemption affects the ability of disabled people to access the religious sphere of life, or their access to more secular services provided by religious institutions, such as social clubs, healthcare, and education. It allows physical barriers to access, such as lack of wheelchair accessible infrastructure, braille materials and signage, and ASL interpreters. Disabled students may also be barred from attending private schools, or not provided special education services at those schools—yet another barrier to accessing religious education for disabled students.³ On one hand, the “Free Exercise” clause of the First Amendment may inhibit the ability of the government to enforce disability protections. On the other hand, exemptions in Title III of the ADA may prevent disabled people from accessing their constitutional right of free exercise of religion.

The Americans with Disabilities Act of 1990 faced pushback mostly from the political far right, although it passed the US House and Senate with much higher levels of bipartisan support than many bills in recent history, especially those pertaining to civil

² ADA.gov., “Introduction to the Americans with Disabilities Act,” September 29, 2023. <https://www.ada.gov/topics/intro-to-ada/>.

³ US Department of Education, “Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools,” IDEA Fact Page, revised Feb 2022. <https://sites.ed.gov/idea/idea-files/questions-and-answers-on-serving-children-with-disabilities-placed-by-their-parents-in-private-schools/>.

rights.⁴ Several groups opposed the ADA, including certain business interests such as the Greyhound Bus Company and the National Federation of Independent Business, both of which were mostly concerned with the monetary cost of implementing accessibility changes or dealing with litigation from disabled people suing because of lack of ADA compliance.⁵

The other major groups that opposed the ADA passage (with the support of the White House) were conservative Christian organizations concerned with the cost of implementing accessibility changes, fear of government overreach and/or separation of church and state, and anticipated controversy over protections for people with HIV included in the law.⁶ These Christian groups feared that including protections for people with HIV would force the groups to hire or include homosexual people in their churches.⁷ There were controversial proposed amendments focused on protecting the public from the “public health issue” of disability protections extending to people with HIV, although the proposed amendments were rooted in medical misinformation.⁸ This thesis investigates the validity of three issues that led to the religious exemptions in the ADA: cost, separation of church and state, and controversy regarding HIV/LGBT inclusion.

⁴ US Department of Justice, “Justice Department Commemorates the 33rd Anniversary of the Americans with Disabilities Act Highlighting Efforts to Address the Criminalization of People with Disabilities,” USDOJ Archives. <https://www.justice.gov/archives/opa/pr/justice-department-commemorates-33rd-anniversary-americans-disabilities-act-highlighting#:~:text=Passed%20into%20law%20in%201990,inclu%20law%20enforcement%20and%20corrections>.

⁵ Ian Milden, “Examining the Opposition to the Americans with Disabilities Act of 1990: ‘Nothing More Than Bad Quality Hogwash,’” *Journal of Policy History* 34, no. 4 (2022): 510. <https://doi.org/10.1017/S0898030622000185>

⁶ Steven A. Holmes, “When the Disabled Face Rejection From Churches That Nurtured Them,” *New York Times*, September 30, 1991, Section A: 10. <https://timesmachine.nytimes.com/timesmachine/1991/09/30/974391.html?pageNumber=10&login=smartlock&auth=login-smartlock>

⁷ Holmes, “When the Disabled Face Rejection,” 10.

⁸ Milden, “Examining the Opposition,” 519.

Social barriers to accessibility often comes in the form of social stigma and historical exclusion in religious spaces. Historical stigma against disabled people is found throughout U.S. history in both secular and religious spaces: blaming a “mother’s sin” for “monstrous births” in the colonial period; “ugly laws” in the late nineteenth and early twentieth centuries; eugenics, forced sterilization, and institutionalization in the twentieth century. Disabled people have long been systematically shamed and isolated from society.⁹

While historically there have been some services and programs for disabled people in the US, prior to the twentieth century they were mostly limited to disabled veterans. Pensions for disabled veterans who served in the Revolutionary war were among the earliest examples.¹⁰ Although disabled veterans throughout US history have dealt with stigma and discrimination, they have generally been better provided for by the government than have civilians with disabilities. Disabled veterans are also governed by different laws and programs than civilians. Given the social, cultural, economic, and religious complexities associated with military service and disability, the topic is deserving of its own research and will not be the primary focus of my thesis. That being said, a legacy of ableism is deeply rooted in many people across the entire spectrum of American culture, which can lead disabled people, regardless of origin, to feel unwelcome in both public and religious spaces.¹¹

⁹ Kim E. Nielsen, *A Disability History of the United States* (Beacon Press, 2012), chapters 1-4.

¹⁰ National Park Service, “Revolutionary War Veteran and Widow Pensions.”
<https://www.nps.gov/articles/000/revolutionary-war-veteran-and-widow-pensions.htm>

¹¹ Carli Friedman, “Mapping Ableism: A Two-Dimensional Model of Explicit and Implicit Disability Attitudes,” *Canadian Journal of Disability Studies*, 8 (3): 95-120.
<https://cjds.uwaterloo.ca/index.php/cjds/article/view/509>

Finally, the theology of religions themselves may increase stigma or exclusion for people with disabilities in the United States. In the Bible, Jesus commonly demonstrated his divine power by his ability to heal the sick and disabled. Throughout history many Christians have believed that disability is a punishment for sin; especially common was the historical belief that sick or deformed babies were punishment for the sin of the mother.¹² In religions that have bodies of religious law, such as Jewish *halakha*, Catholic Canon law, or Islamic *Sharia*, there are specific discussions about which disabilities may preclude one from certain religious duties, and which special dispensations can be made for activities such as ritual cleansing or fasting for people with certain disabilities. Religious teachings that equate disability and illness to sin, and proclaim a divine ability inherent in priests and prophets to heal, may impact the ability of disabled people to participate in religious spaces. For example, if a person prays for healing that does not come, that may reflect badly on them or their congregation and make them uncomfortable or doubt their faith, presenting a theological barrier to accessing their faith if these questions are not addressed.

In this thesis, I examine barriers to accessing faith, and propose potential solutions to the three major categories of barriers. In the area of physical barriers, I analyze the Americans with Disabilities Act, and propose an amendment to the law that would remove the exemption for religious organizations from Title III, thus ensuring that all churches and other religious buildings are required to comply with the same building accessibility standards as other places in the public sphere. I also explore the historical rationale for religious exemptions, and detail why the reasoning used for the exemption in

¹² Nielsen, *A Disability History of the United States*, 27.

1990 would not be relevant today, thus opening the door for amendments to the law to correct the issue of religious exemptions to the ADA. In addition, I look at the exemptions in disability law for private religious schools, and explore how recent efforts to overturn Section 504 of the Rehabilitation Act, as well as the increase in school voucher programs and the “school choice” movement beloved by many conservatives, will impact the Individuals with Disabilities Education Act and hinder access to religious schools for disabled students.

Finally, in the categories of social and theological barriers, this thesis examines some of the largest organizations that exist to promote accessibility in various religious organizations, analyzes their efforts to reduce stigma and promote disability-inclusive religious spaces, and proposes additional solutions that could be implemented to fill any remaining gaps in accessibility for disabled people in religious spaces. Existing organizations, such as the Collaborative on Faith & Disabilities, utilize conferences and outreach to pressure churches and other religious organizations to voluntarily adopt accessibility policies. However, voluntary compliance with ADA will never be enough to ensure accessibility for all. Therefore, I propose that disability advocacy organizations should use their influence to pressure the government to remove the religious exemptions from the Americans with Disabilities Act.

Research Methodology

The research methods I employed during the course of this project were primarily qualitative research that included: (1) interpretation of quantitative data from the Pew Religious Landscape survey; (2) the Faith Communities Today 2020 questionnaire, which surveyed 15,278 religious congregations across the US and collected a variety of

data points on them; and (3) statistics from the National Center for Education Statistics to compare enrollment of students with disabilities in private religious versus public schools.

The research included a variety of sources: books, academic journals, newspaper archives, and websites of relevant government agencies and related organizations. I compiled research on disability history, law, education, and theology to form my analysis and conclusions about barriers to accessing faith in the US.

Research Limitations

There were limitations to this approach, including limited sources of data, and relatively small sample sizes in that data. There is no large-scale database that focuses on disability and religion specifically, so I drew conclusions by synthesizing information from a variety of sources. Due to the fact that the intersection of disability and religion is not heavily researched, I found only a limited number of sources on which I could draw for my research.

Future Research

Future research would benefit from more data on accessibility in churches. It is difficult to make reliable conclusions about the barriers to access without more data that focuses on the voluntary adoption of accessibility in religious spaces.

Chapter II

Background

The field of Disability Studies is a relatively young and evolving area of academic research. Although disabled people have existed throughout all of history, studies of “disability rights” or “disability justice” are a fairly modern topic. The intersection of disability and religion in the US is a niche subject, however, so form the basis of my research on the subject, I synthesized a variety of sources on disability history, disability law, the legal and political history of religion in the US, and the intersection of disability and religious theology.

The most basic definition of the word *disability* includes two parts: the prefix “dis,” meaning “not,” or “opposite or absence of,”¹³ and the word “abled” meaning “capable of unimpaired function.”¹⁴ The definition of a person with a disability under the ADA is: “A person who has a physical or mental impairment that substantially limits one or more major life activity.”¹⁵ The 2006 UN Convention on the Rights of Persons with Disabilities defines a person with disabilities as including “those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with

¹³ Merriam-Webster Dictionary, s.v. “dis.” <https://www.merriam-webster.com/dictionary/dis>.

¹⁴ Merriam-Webster Dictionary, s.v. “abled.” <https://www.merriam-webster.com/dictionary/abled>

¹⁵ ADA National Network, “What is the definition of disability under the ADA?” Top ADA Frequently Asked Questions. <https://adata.org/faq/what-definition-disability-under-ada>

others.”¹⁶ In order to understand disability, one must first grapple with what it means to be “abled” in a society, which differs across history and cultures.

In *A Disability History of the United States*, Kim E. Nielson wrote that in the Colonial period, “the determination of ‘able-bodied’ depended largely on the perception that one conformed to communal expectations regarding class, gender, race, and religion.”¹⁷ Nielson provided the example of early contact between European colonizers/explorers and indigenous peoples of the Americas, wherein each group reported finding the other disabled or deformed in comparison to the values and norms of their own race and culture.¹⁸

The concept of disability is also relative to class and expectations of labor. For example, a feudal farmer in medieval times may find any small physical or mental impairment hugely disabling in terms of their ability to do continuing manual labor, whereas a king or noble suffering from the same impairment might not find it disabling at all due to the nature of expectations for their work and class. Disabled veterans have often struggled with stigma and shame around disability due to the perception that their work as a soldier is inherently tied to physical fitness and ability. As a result, most programs for disabled veterans have a strong focus on vocational training and rehabilitation—historically putting more emphasis on finding purpose through labor than on coping with trauma.

A more modern example of the complicated nature of defining “disability” comes from the deaf/Deaf community. The Deaf (‘big-D’) community sees its deafness not as an

¹⁶ United Nations, “Convention on the Rights of Persons with Disabilities Optional Protocol,” 2006. <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

¹⁷ Nielsen, *Disability History*, 12.

¹⁸ Nielsen, *Disability History*, 13.

impairment or disability but as a rich culture and community with shared language that exists separately from the hearing community. On the other hand, “small-d” deaf people define themselves in relation to the hearing community and see deafness as a medical issue or disability which can be “overcome” through technology, with a focus on integration into the hearing community.¹⁹

The contemporary legal system of disability rights laws in the United States is comprised of at least nine major statutes. These include: National Voter Registration Act (1993), Americans with Disabilities Act (1990), Individuals with Disabilities Education Act of 1990 (formerly the Education for All Handicapped Children Act from 1975-1990), Fair Housing Act (1988), Air Carrier Access Act (1986), Voting Accessibility for the Elderly and Handicapped Act (1984), Civil Rights of Institutionalized Persons Act (1980), Rehabilitation Act (1973), and Telecommunications Act (1934).²⁰

The complexity of this scheme of laws means that some areas, such as transportation or voting rights, may have redundancies in legal protections; at the same time, some rights may be more easily eroded as each individual law could be more easily overturned or undermined by the Supreme Court.

Even though there are several laws that deal with the rights and protections afforded to people with disabilities, there is little basis in Constitutional law for disability rights. Although many other civil rights are laid out in amendments to the Constitution,

¹⁹ Amelia Segroves, “Deaf community, Cochlear implants, and Language Access” (Western Michigan University, ScholarWorks, 2025).

²⁰ ADA.gov. “Guide to Disability Rights Laws,” February 28, 2020.
<https://www.ada.gov/resources/disability-rights-guide/#top>

there are no explicit protections for disabled Americans, nor is there any large-scale effort to advocate for constitutional reform within the disability-rights community.²¹

While the rights of disabled people are not enshrined in the Constitution, the right to practice religion is arguably the most highly prioritized civil liberty in the United States. The free exercise of religion as a civil right is established by the First Amendment of the Constitution, and it protects citizens' "right to practice their religion as they please, so long as the practice does not run afoul of a 'public morals' or a 'compelling' governmental interest."²² Despite the fact that all citizens, including disabled people, are entitled to practice the religion of their choosing, disability law does not ensure that religious institutions and religious private schools are legally obligated to meet the same accessibility standards as public accommodations.

Title III of the ADA extends only into the public, but not the private, sphere of American life. Included in the definition of "public accommodations" are hotels, non-religious schools, banks, museums, and shopping centers, to name a few.²³ However, private clubs, religious institutions, and religious private schools are exempt from the provisions of the ADA. Private religious schools are also exempt from the Individuals With Disabilities Education Act (IDEA), which applies only to public schools, or to private schools in circumstances where the public school was unable to fulfill the IDEA's main purpose, which is to ensure that all children have access to a "free and appropriate

²¹ Michael E. Waterstone, "Disability Constitutional Law," *Emory Law Journal* 63, 3 (2014): 529. <https://scholarlycommons.law.emory.edu/cgi/viewcontent.cgi?article=1209&context=elj>

²² United States Courts, "First Amendment and Religion," About Federal Courts. <https://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/first-amendment-and-religion>

²³ ADA National Network, "Religious Entities," 2018.

public education” (FAPE).²⁴ This means that under federal law, a religious private school is not required to fulfill the basic accessibility requirements of the ADA, such as wheelchair ramps or braille signage, and they are also not required to provide special education services or other reasonable accommodations to disabled students as required in public schools by IDEA and Section 504 of the Rehabilitation Act.

The history of stigma and discrimination toward disabled people in the United States, and the failings of our current legal system, present major barriers to disabled people being able to access their faith communities. One survey in 2020 from the Faith Communities Today organization reports that many religious organizations do voluntarily comply with certain accessibility standards. However, there are still major gaps in the ability to access free exercise of religion for disabled Americans.²⁵

In addition to the legal, social, and physical barriers to accessing faith in the United States, disabled people face challenges from the theology, beliefs, and practices of the religions themselves. Every religion and denomination is of course unique in its beliefs and practices, but it is a common theme that many disabled people throughout history report feeling isolated, excluded and “othered” by their own faith communities.

Disability in modern US history has not been a particularly partisan issue, although one could argue that this has been changing in recent years. Prior to the 2016 US election, disabled people mirrored the general population relative to voting habits,

²⁴ US Department of Education, “Questions and Answers on Serving Children with Disabilities.”

²⁵ Faith Communities Today, “Fact 2020 Common Questionnaire,” 2021.

political affiliation, and political engagement.²⁶ Additionally, the ADA was passed via a bipartisan effort in Congress, and signed by George H. W. Bush, a Republican president.

However, disability justice also has been closely linked with LGBTQ+ causes and other social justice issues in recent history, and LGBTQ+ politics tend to be much more highly polarized.²⁷ Although the ADA was ostensibly a ‘bipartisan’ cause, the majority of opposition to disability justice comes from the political Right. Religious exemptions in the ADA come via lobbying by anti-LGBTQ+ and far-right Christian groups that also perpetuate dangerous misinformation about HIV.²⁸

One group that has attempted to advocate for overturning religious exemptions to disability law is the Freedom from Religion Foundation, an organization dedicated to advocating for secularism and separation of church and state in the United States. Their advocacy usually comes in the form of attempting to influence constitutional law to promote secularism. In 2020, they filed an *amicus* brief at the Supreme Court in the case of *Our Lady of Guadalupe v. Morrissey-Berru*, which advocated that disabled people should not be allowed to be fired by religious organizations because of their disability.²⁹ As one of the only major legal advocacy groups in the US that has attempted to overturn the religious exemptions in disability law, the Freedom from Religion Foundation is an important but polarizing group. Its members see the attacks on bodily autonomy by the religious far-right (i.e., attacks on LGBTQIA+ people, and the right to abortion) as an

²⁶ Ruth Igielnik, “A Political Profile of Disabled Americans,” Pew Research Center, September 22, 2016. <https://www.pewresearch.org/short-reads/2016/09/22/a-political-profile-of-disabled-americans/>

²⁷ Public Religion Research Institute, “More Acceptance but Growing Polarization on LGBTQ Rights: Findings from the 2022 American Values Atlas,” March 23, 2023. <https://prri.org/press-release/more-acceptance-but-growing-polarization-on-lgbtq-rights-findings-from-the-2022-american-values-atlas/>

²⁸ Mildén, “Examining the Opposition,” 516.

²⁹ Freedom From Religion Foundation, “Disability Rights are a State/Church Issue,” 2024. <https://ffrf.org/legal/ffrf-issues/disability-rights-are-a-state-church-issue/>

issue of separation of Church and State. They also equate oppression of disabled and other marginalized people with the far-right, Christian Nationalism, and Christian belief generally, stating, “Outdated and patronizing religious views continue to harm disabled Americans.”³⁰ Although one could certainly argue that the view is correct (especially in the context of many anti-disability policies and beliefs promoted by President Trump and his administration), a blanket statement that equates disability justice with anti-Christian causes runs the risk of losing the support of the many Christian and other religious disabled people and their families. Perhaps this polarizing stance is why the Freedom from Religion Foundation has not been successful in its advocacy for promoting disability justice as a “separation of church and state” issue.

The contemporary state of disability justice is exemplified by the anti-disability and pro-eugenics rhetoric and policy coming out of right-wing American politics. Eugenics is the theory that “humans can be improved through selective breeding of populations,” according to the NIH.³¹ Stemming from racism and ableism, eugenics was a popular theory in the nineteenth and early twentieth century West which informed public policy in the US, and contributed to the cause of the Holocaust in Nazi Germany. At least 250,000 disabled people were murdered by the Nazis between 1939 and 1945.³²

Robert F. Kennedy Jr., as US Secretary of Health and Human Services, embraces a dangerous trend in disability justice that must be resisted by everyone on both sides of the political spectrum. He has repeatedly perpetuated dangerous myths about vaccines

³⁰ Freedom From Religion Foundation, “Disability rights.”

³¹ National Institutes of Health, “Eugenics and Scientific Racism,” National Human Genome Research Institute, May 18, 2022. <https://www.genome.gov/about-genomics/fact-sheets/Eugenics-and-Scientific-Racism>

³² United States Holocaust Memorial, “The Murder of People with Disabilities,” *Holocaust Encyclopedia*, September 24, 2025. <https://encyclopedia.ushmm.org/content/en/article/the-murder-of-people-with-disabilities>

and about people with disabilities, all with the support of the Trump administration. These eugenic views, cloaked in anti-vaccine policies, put disabled people at risk of contracting preventable deadly diseases that were once eradicated in this country.³³

Anti-disability rhetoric from the highest levels of government significantly sets back disability rights in the US. In April 2025, Secretary Kennedy said autism is a “preventable disease,” that “destroys families.”³⁴ This kind of rhetoric leads to the erosion of civil rights, especially those of disabled people, and can eventually lead to death. The *New York Times* reported on January 26, 2026, that after decades of being regarded as a taboo slur, the word “retarded” is making a comeback in the American vernacular—something the newspaper traced back to Trump’s administration and the political far-Right.³⁵

The question lingers: why are disabled people today still denied access to their free exercise of religion? None of the sources I have analyzed attempt to answer this question, or explain why there is no large-scale movement to enshrine disability protections in the Constitution, or challenge religious exemptions to disability law. If religious freedom is indeed the top priority in our legal system, then why are disabled people being denied this most basic civil liberty?

I endeavor to answer this question through a careful examination of the ADA and the political climate surrounding its passage, as well as an investigation into

³³ Disability Rights Education and Defense Fund (DREDF), “DREDF Denounces RFK Jr.’s Comments on Autism as Hateful, Harmful and Uninformed,” April 17, 2025. <https://dredf.org/denouncing-rfk-comments-on-autism/>

³⁴ Donald Earl Collins, “From Fringe to Federal: The Rise of Eugenicist Thinking in US Policy,” *Al Jazeera*: Opinion, May 23, 2025. <https://www.aljazeera.com/opinions/2025/5/23/from-fringe-to-federal-the-rise-of-eugenicist-thinking-in-us-policy>

³⁵ Dan Barry and Sonia A. Rao, “The ‘R-Word’ Returns, Dismaying Those Who Fought to Oust It,” *New York Times*, January 26, 2026. <https://www.nytimes.com/2026/01/26/us/r-word-slur-disability.html>

constitutional law and the reasoning for excluding explicit protections for the equal treatment of disabled Americans. Then I dive into the theology of disability and religion, especially in Christianity, to craft a theory of disability rights and justice as a moral imperative for conservative religious people, rather than a social justice issue.

Chapter III

Literature Review

The starting point for my research was the book *A Disability History of the United States* by Kim E. Nielson.³⁶ Nielson's research on disability history has a strong focus on early American and pre-colonial disability history, as well as disability law and cultural history from the nineteenth and twentieth centuries. Nielson shared creation stories and mythologies from Native American tribes such as the Iroquois, to posit the idea that all individuals, regardless of ability, have important gifts to enrich their communities.³⁷ Nielson also highlighted the work of indigenous scholars Dorothy Lonewolf Miller and Jennie R. Joe, who explained that most indigenous communities have no word that correlates to our modern concept of "disability," instead defining "disability" as something that "occurred when someone lacked or had weak community relationships."³⁸ The key point in these examples is that all definitions of "disability" can exist only in the context of the culture and society around them; in other words, disability is a purely social construct, even as it carries tangible effects.

I believe there are two major flaws in Nielson's book. The first mistake was portraying the Deaf culture at Gallaudet University, and the "Deaf President Now" campaign led by Gallaudet students in the 1980s, as examples of the disability pride movement. While these movements may have been part of the larger disability-rights

³⁶ Nielsen, *A Disability History*.

³⁷ Nielsen, *A Disability History*, 2.

³⁸ Nielsen, *A Disability History*, 3.

movement at the time, Nielsen does not distinguish the “big-D Deaf” movement as being separate from other disability pride movements today, which I believe is incorrect. The Deaf community is a special case of a unique culture and community that, to a large extent, does not view itself as “disabled,” and it is important for disability scholars to call attention to this fact.

In contrast to Nielsen’s writing, Julia Watts Belser refers to “Deaf and disabled” people as two distinct groups that face similar challenges.³⁹ This is the more comprehensive and inclusive way to write about Deaf people in the context of disability studies.

The other flaw in Nielsen’s book is its abrupt ending. There is a stark lack of commentary on modern issues facing the disability movement, as well as an extremely small section on the ADA and Disability Pride. The entire modern legal and cultural history of disability in the US, from 1968 to the present, is lumped into one small chapter of twenty-six pages within the 200-page book.⁴⁰ While the work on early disability history in the United States that Nielsen researched is vitally important to study and document, I think the book lacks a more in-depth exploration of the complicated scheme of disability laws that govern us today, as well as a better explanation of the ADA and its shortcomings. Indeed, one could walk away from Nielsen’s book with the impression that the battle of disability rights in the US has largely been “won,” and is not, in fact, an ongoing struggle. Nielsen also does not point out the major failing of modern disability law—that it does not extend to religious spaces and private schools.

³⁹ Julia Watts Belser, “Judaism and Disability,” Chap. 5. In: Darla Y. Schumm, ed., *Disability and World Religions* (Baylor University Press, 2016), 2171. Kindle Edition.

⁴⁰ Nielsen, *A Disability History*, Chapter 8, 182-208.

Darla Schumm's book *Disability and World Religions* is an anthology comprised of chapters describing each of the major world religions in the context of theology and disability studies.⁴¹ It is a comprehensive text that compiles examples from history, religious law, and scripture to explain the place of disability and disabled people in each religion. Judaism, Islam, and Catholicism each have established bodies of religious law and practices which are codified and remain largely unchanged. Throughout much of history, certain disabilities were seen as more acceptable than others, and some may have been blamed on sin (specifically the sin of the mother being blamed for 'monstrous' births).⁴²

However, there have always been special dispensations made for faithful believers who cannot fulfill certain obligations of the faith due to their disability. In Alice Wong's anthology *Disability Visibility*, Maysoon Zayid wrote of her own experience as a disabled Muslim in a chapter titled, "If You Can't Fast, Give." She explained that, due to her cerebral palsy, she was exempt from fasting during Ramadan, although she usually fasted anyway as a way to feel close to her community and faith.⁴³ She shared that "Every Ramadan, without fail, my mother has given me the option to not fast," and went on to explain that those who cannot fast during Ramadan should donate money to feed the poor or complete other acts of charity.⁴⁴

Islam presents some historical contradictions around treatment of disabled people, as do all modern religions. Some verses of the Qur'an have been used to justify the belief

⁴¹ Darla Y. Schumm, ed., *Disability and World Religions* (Baylor University Press, 2016).

⁴² Nielsen, *A Disability History of the United States*, 27.

⁴³ Maysoon Zayid, "If You Can't Fast, Give," in Alice Wong, ed., *Disability Visibility* (Vintage Books, 2020), 36.

⁴⁴ Zayid, "If You Can't Fast, Give," 37.

that people with disabilities are morally deficient, such as 40:58, which states: “And the blind and the seeing are not alike, nor those who believe and do good and the evildoers.”⁴⁵ Likewise, in the Old Testament of the Holy Bible, a key part of Christian and Jewish faith, a passage in Leviticus (21:16-23) states:

The Lord said to Moses, “Say to Aaron: ‘For the generations to come none of your descendants who has a defect may come near to offer the food of his God. No man who has any defect may come near: no man who is blind or lame, disfigured or deformed . . . because of his defect, he must not go near the curtain or approach the altar, and so desecrate my sanctuary.’”⁴⁶

These passages seem to indicate negative attitudes toward disabled people in ancient times and in early religious scriptures.

However, there are also some contradictory examples of acceptance and inclusion of disabled people in the scriptures. It states in the Qur’an 24:61: “There is no restriction on the blind, or the disabled, or the sick.”⁴⁷ Vardit Rispler-Chaim, in her book *Disability in Islamic Law*, interprets this passage as permission for people to dine with disabled and sick people.⁴⁸ Mustafa Khattab explains in the footnote of his Qur’an translation that this passage means: “There is no blame on any of the three if they do not march forth in Allah’s cause.”⁴⁹ In either case, this is an example of scriptural permission to include disabled people in certain parts of public and private life, or excuse them from tasks that may be a burden. In the Old Testament of the Holy Bible, Leviticus 19:14 states: “Do not curse the deaf or put a stumbling block in front of the blind, but fear your God. I am the

⁴⁵ Kristina L. Richardson, *Difference and Disability in the Medieval Islamic World: Blighted Bodies* (Edinburgh University Press, 2012), 28.

⁴⁶ Holy Bible, Leviticus 21:16-23 (New International Version®, NIV® Copyright ©1973, 1978, 1984, 2011 by [Biblica, Inc.](http://www.biblegateway.com/passage/?search=Leviticus%2021%3A16-23&version=NIV)). <https://www.biblegateway.com/passage/?search=Leviticus%2021%3A16-23&version=NIV>

⁴⁷ Mustafa Khattab, *The Clear Quran: A Thematic English Translation*, 24:61, 2015.

⁴⁸ Vardit Rispler-Chaim, *Disability in Islamic Law* (Springer, 2007), 159. Kindle Edition.

⁴⁹ Khattab, *Clear Quran*, 24:61.

Lord.”⁵⁰ This verse plainly instructs followers of Christianity and Judaism not to harm disabled people, and indicates some level of tolerance toward the deaf and blind in biblical times.

A theological justification for inclusion of disabled people in Judaism and Christianity comes from the Biblical idea that humans are made in God’s image. In the Hebrew Bible, Genesis 1:27, it states that God created all humanity “in the Divine image.”⁵¹ This principle is commonly cited among Jews and Christians for proof that all people are worthy of dignity and should be respected and accepted as part of the religious community, regardless of disability.

The area of disability theology is fairly well studied, and books such as Nancy L. Eiesland’s *The Disabled God* make bold claims for a “liberatory theology of disability” in which Jesus himself is disabled, and by accepting the broken and resurrected body of Christ, disabled people can find liberation through their Christian faith.⁵² Eiesland, in her book, strives to “offer a vision of a God who is for us and a church that is for that God and persons with disabilities as the people of God.”⁵³ There is a variety of organizations that promote disability inclusion in religious spaces, such as the Collaborative on Faith & Disabilities.⁵⁴

⁵⁰ Holy Bible, Leviticus 19:14.

⁵¹ Belser, “Judaism and Disability.”

⁵² Nancy L. Eiesland, *The Disabled God: Toward a Liberatory Theology of Disability* (Abingdon Press, 1994.)

⁵³ Eiesland, *Disabled God*, 100.

⁵⁴ Collaborative on Faith & Disabilities. <https://faithanddisability.org/>

Chapter IV

Legal Analysis

In this chapter I analyze the laws, legal precedent, and Supreme Court decisions that comprise the complex system of disability law in the United States. I also investigate how each major disability law, as well as Constitutional law, interacts with the concept of separation of church and state, as well as historical context, to create religious exemptions from disability law.

Americans with Disabilities Act

The sources that paint the most accurate picture of the political and social climate at the time of the passing of the Americans with Disabilities Act are news archives from the 1980s and 1990s. Through C-SPAN recordings of interviews and Congressional debates, reports, and newspaper archives (mainly from the *New York Times*), I have pieced together some of the main opposition to the ADA during the years from 1989 to 1991.

There were three major points of opposition to the ADA and the resulting religious exemptions in the ADA, all from the Republican Party.⁵⁵ Those three points were (1) cost, (2) opposition to LGBTQ+ people, and (3) passionate views regarding the concept of separation of church and state.

⁵⁵ Milden, "Examining the Opposition," 510.

The cost issue revolved around concerns regarding the cost to private businesses as well as the cost to the government as it related to construction costs to make new buildings accessible. There were also threats of retribution for lack of accessibility, and/or lawsuits by disabled people against businesses. Concerns about the potential for inclusion of LGBTQ+ people arose from the inclusion of protections for people with HIV in the ADA. Some people thought such inclusion presented a risk to public health if people with HIV were allowed to work in food service jobs or interface with the public. It also was a major source of religious exemptions in the ADA due to homophobia. Finally, the issue of separation of church and state was put forth by constitutional originalists who believed that a government mandate of accessibility in religious spaces was unconstitutional.

Cost Issues

The issue of cost of the ADA originated with advocates for small businesses as well as representatives lobbying on behalf of private industry. The Greyhound Bus Company, for example, staunchly opposed the ADA because the company was certain that a mandate to make their busses and stations wheelchair accessible would cause an undue burden on the company and result in such major costs that the company might not survive.⁵⁶

Lobbying from business interests resulted in several compromises to the ADA, which allowed the pro-business wing of the Republican party to eventually concede their support of the bill. One of the business compromises was to allow phased and delayed

⁵⁶ Milden, "Examining the Opposition," 510.

compliance with the new accessibility standards. Greyhound, for example, would only be required to make ten percent of their busses accessible each year.⁵⁷ Generally, businesses had to make “reasonable accommodations” to people with disabilities, without placing an “undue burden” on the business.⁵⁸

One of the major concerns of many churches that were considering adopting the ADA was the cost to operations. Since many churches and religious groups operate as non-profits, they were concerned about the cost to implement accessibility changes. Consequently, they shared many of the same oppositions to the ADA as did private industry.

Throughout the past 100 years, the Republican party has defined itself as being largely pro-business, against government intervention, and comprised of many conservative evangelical Christians.⁵⁹ Although the ADA was passed with a large bipartisan majority and signed by Republican President George H. W. Bush, many people believe this was an outlier in otherwise modern partisan politics. Indeed, today the Republican Party has become increasingly anti-disability and anti-civil rights, with President Trump reportedly telling his own nephew that people like his son with developmental disabilities “should just die.”⁶⁰

There are a variety of reported reasons why Bush was a major supporter of a disability civil rights law. One explanation is that his advisors saw it as a way to win

⁵⁷ Mildren, “Examining the Opposition,” 515.

⁵⁸ ADA.gov, “ADA Update: A Primer for Small Businesses,” US Department of Justice, Civil Rights Division. <https://www.ada.gov/resources/title-iii-primer/>

⁵⁹ *Encyclopedia Britannica*, “Republican Party.” <https://www.britannica.com/topic/Republican-Party>

⁶⁰ Michelle Diamant, “Trump Suggested Some With Disabilities ‘Should Just Die,’ Nephew Says,” *Disability Scoop*, July 25, 2024. <https://www.disabilityscoop.com/2024/07/25/trump-suggested-some-with-disabilities-should-just-die-nephew-says/30983/>

votes from disabled people and their families.⁶¹ Some also believe that Bush and members of his administration were motivated to pass a disability rights bill because they had family members with disabilities whom they wanted to protect, such as Bush's son Neil, who has dyslexia.⁶²

Despite support from the Republican president and many Republican members of Congress with ties to the disability community, many pro-business Republicans were concerned about the economic costs of the ADA. One of the organizations opposed to the ADA was the National Federation of Independent Business, which was concerned about the cost of implementing accessibility changes to small businesses that might not be able to afford it.⁶³ One proposed solution to the cost issue for small businesses was tax credits, as proposed by Texas Republican Tom DeLay.⁶⁴ However, Milden said it was "nothing more than bad quality hogwash," as he argued that these proposed tax credits to small businesses in order to implement accommodations would have been strongly opposed by Republicans due to increased costs being passed off to the federal government. Milden believed that the tax credit proposal, which never made it into the bill, may have been proposed by Republican DeLay as a sneaky political move to try to kill the bill in its early stages.⁶⁵ Another cost-related concern, and a major issue to pro-business Republicans, was the cost of litigation that might be brought by disabled people against non-accessible businesses.⁶⁶

⁶¹ Milden, "Examining the Opposition," 507.

⁶² Milden, "Examining the Opposition," 508.

⁶³ Milden, "Examining the Opposition," 510.

⁶⁴ Milden, "Examining the Opposition," 510.

⁶⁵ Milden, "Examining the Opposition," 510.

⁶⁶ Milden, "Examining the Opposition," 511.

The cost issue was addressed by the White House and disability advocates such as Judith Heumann who argued that in the long run, civil rights for disabled people would actually benefit the economy. Heumann contended that the ADA would allow disabled people to freely participate in the economy and patronize small businesses—something many people were denied the ability to do before the ADA.⁶⁷ Additionally, Republicans promoted the idea that the ADA would make disabled people more independent and able to work and contribute to the economy. By being able to work and support themselves, disabled people could stop relying on welfare and government assistance to help them get by—an idea that appealed to many Republicans.⁶⁸

While one might assume that the issue of cost could be the reason for churches being exempted from the ADA, I think this argument is undermined by the fact that business interests in Congress eventually conceded that the benefits outweighed the costs, and they accepted the ADA. The issue of cost was eventually resolved through compromise and the debunking of misinformation.

The one major opponent of the ADA, Greyhound Bus Company, made wild claims about the cost of making busses and stations wheelchair accessible, which were debunked by journalists at the *St. Louis Post-Dispatch*.⁶⁹ By demonstrating that the actual cost would be less than expected, and by compromises that allowed for phased-in and delayed compliance with the ADA, the bill eventually received support from the business-minded wing of the Republican Party.

⁶⁷ Milden, “Examining the Opposition,” 513.

⁶⁸ Milden, “Examining the Opposition,” 513.

⁶⁹ Milden, “Examining the Opposition,” 513.

Any argument about the undue burdens to churches that might be required to implement accessibility standards could also be applied to small businesses or other non-profit charities such as small community museums or thrift stores. In the thirty-five years since the passing of the ADA, small businesses continue to exist and make a profit, even when they have to make changes to implement accessibility. Historic structures also still exist—and many buildings on the National Register of Historic Places are able to make themselves accessible without compromising the integrity of their historical architecture.

For all these reasons, I do not believe cost is the primary reason for religious buildings being exempt from the ADA. A separate argument could be made that cost is an issue in religious schools, but most religious schools in the US charge significant tuition that could certainly be applied toward the goal of hiring special education teachers or making physical spaces accessible.

HIV and Homophobia

Public health concerns, pushed by Senator Helms and Congressmen Douglas and Chapman, with regard to people with HIV being protected by the ADA were rooted in a toxic mixture of homophobia and medical misinformation brewed by conservative Republicans in the 1980s and 1990s. As part of their faith, conservative evangelical Christians on the political right have long held strong convictions opposing the rights of LGBTQ+ people. Some religious groups that oppose the ADA argued at the time that “the inclusion of protections for individuals with HIV made the ADA a ‘gay rights’ bill.”⁷⁰

⁷⁰ Milden, “Examining the Opposition,” 517.

The HIV epidemic in the United States was a tragedy made worse by misinformation and homophobia. In the 1980s and 1990s, some Christians believed that the epidemic, which killed more than 700,000 Americans between 1981 and 2017,⁷¹ was a punishment from God for the “sin” of homosexuality. According to Pew Research, in 1987 forty-three percent of the American public agreed with this statement: “AIDS might be God’s punishment for immoral sexual behavior.”⁷² Pew also found that 60% of white evangelical Christians believed that AIDS was a punishment from God for immoral sexual behavior.⁷³ By the 1990s, this sentiment from Christians was still popular, with the popular televangelist Billy Graham saying in 1993, “Is AIDS a judgment of God? I could not say for sure, but I think so.”⁷⁴ He later apologized for that statement, but it is clear that many Christians at the time of the ADA’s passage associated HIV and AIDS with homosexuality and sin. This gives important context for understanding why Christian churches were so opposed to protections for people with HIV in the ADA that they lobbied for blanket exemptions from the law.

Some of the opposition to the ADA was from fear-mongering about the “public health” risk of protecting people with HIV under the umbrella of “disability.” The Chapman amendment to the ADA, which was passed by Congress, barred people with “communicable diseases” like AIDS from working in food handling jobs. This

⁷¹ Maureen M. Goodenow, “Letters from the Director: A New Plan to End the HIV Epidemic in the United States.” National Institutes of Health, Office of AIDS Research, April 2019.

<https://www.oar.nih.gov/about/directors-corner/letters-director-new-plan-end-hiv-epidemic-united-states#:~:text=More%20than%20700%2C000%20people%20in,and%20San%20Juan%2C%20Puerto%20Rico>

⁷² Russell Heimlich, “See AIDS as God’s Punishment for Immorality,” Pew Research Center, Research Topics, May 7, 2007, <https://www.pewresearch.org/short-reads/2007/05/07/see-aids-as-gods-punishment-for-immorality/>

⁷³ Heimlich, “See AIDS as God’s Punishment.”

⁷⁴ Rich Barlow, “How the AIDS Crisis Became a Moral Debate,” *BU Today* (Boston University, December 3, 2015). <https://www.bu.edu/today/articles/2015/anthony-petro-after-the-wrath-of-god/>

amendment was meant to appease conservative Christians who were concerned about perceptions by voters if they did not vocally oppose protections for people with HIV and AIDS.⁷⁵

During debates about the ADA, many religious people thought that if churches were subject to the ADA, that meant they must accommodate, include, and hire people with AIDS, which they conflated with homosexuals, and which they opposed on the grounds of their religious beliefs. I found evidence of this in the *New York Times* newspaper archives. On September 30, 1991, Steven Holmes wrote an article titled, “When the Disabled Face Rejection from Churches That Nurtured Them.”⁷⁶ This article, written just over a year after the signing of the ADA, featured the story of an associate minister named Sharon Yunker-Deatz, in a Presbyterian Church in New Jersey. Ms. Yunker-Deatz developed a disability that required her to use a wheelchair. She struggled with the inaccessibility she encountered in her church which was also her employer.

Embedded in this 1990 article is a piece of information essential to understanding the reason why religious organizations are still today exempt from the ADA and other disability law. Holmes wrote:

As the Americans with Disabilities Act made its way through Congress, a coalition of churches, backed by the White House, lobbied for a blanket exclusion on the ground that to include religious institutions would violate the doctrine of the separation of church and state. Further, some denominations worried about the law’s costs, and some fundamentalists were concerned that because the law covers people infected with the virus that causes AIDS, they might be forced to hire homosexuals.

⁷⁵ Milden, “Examining the Opposition,” 519.

⁷⁶ Steven A. Holmes, “When the Disabled Face Rejection From Churches That Nurtured Them,” *New York Times*, September 30, 1991: 10. <https://timesmachine.nytimes.com/timesmachine/1991/09/30/974391.html?pageNumber=10&login=smartlock&auth=login-smartlock>

Holmes explained that the religious lobbyists involved in shaping the ADA came to a compromise: churches would have to obey federal anti-discrimination law regarding the hiring of employees—except if those employees were religious clergy. Holmes wrote in the article: “Church officials say that despite the exemption, they have a moral duty to comply with the spirit of the law, but that such compliance should be voluntary.”

During the ADA debate, a Republican Congressman from California, William Dannemeyer, exposed some of the rampant homophobia that was rooted in the Conservative evangelical right wing of the Republican Party. I viewed a recording of the Congressional debate on the ADA from May 17, 1990 which is available on the C-Span website. Congressman Dannemeyer brought several concerns to the ADA debate, beginning with his concern for public health stemming from the inclusion of protections for people with “communicable diseases” in the ADA.⁷⁷ Dannemeyer claimed that he was concerned that the ADA would make it impossible for employers to discriminate against people with communicable diseases, thus putting the public at risk. The diseases he listed as of concern to him include tuberculosis and meningitis, but it is clear that his real concern is HIV (AIDS).⁷⁸

Congressman Dannemeyer stated in the debate:

Every HIV carrier in the country, immediately comes within the definition of a “disabled person” because why? Because they have a communicable disease; they are a carrier of a fatal virus that causes death! Is that sound public policy? And, since 70% of those people in this country who are HIV carriers are male homosexuals, we are going to witness . . . that when

⁷⁷ C-SPAN, “Americans With Disabilities Act Debate,” Video, May 17, 1990, @ timestamp 41:00. <https://www.c-span.org/program/house-highlight/americans-with-disabilities-act-debate/8493>.

⁷⁸ C-SPAN, “Americans With Disabilities,” @ timestamp 41:53.

this bill is passed, it will be identified by the homosexual community as their bill of rights.⁷⁹

Dannemeyer went on to present what he believes is a shocking hypothetical situation that would occur if the ADA were to pass: if a homosexual person with HIV were to apply for a job in a school district, and be denied that job on the basis of their sexuality, they would then be able to sue the employer for discrimination on the basis of their disability.⁸⁰ This is obviously a straw-man argument and a false equivalency. But Dannemeyer's point is clear—can you imagine such a terrible world in which you cannot discriminate against LGBTQ+ disabled people in America?

The Congressman from California went on to say: “Similarly, a person applies to be a supervisor in a youth group; if he's an HIV carrier, he can't be discriminated against!”⁸¹ He seemed somewhat vague in his argument and went back to the issue anti-LGBT people frequently fell back on during the late twentieth century—that it was not about discrimination on the basis of homosexuality, but rather a simple concern about the spread of HIV/AIDS and a concern over public health. Dannemeyer went on to be one of the twenty Congressmen who voted “no” on the ADA.⁸²

As his argument eventually made its way to youth groups that are most commonly associated with Christian church groups, Dannemeyer made his point clear: if people with AIDS are protected by the ADA, then they will not be able to discriminate against homosexual people, and they must be allowed into churches, schools, and communities—

⁷⁹ C-SPAN, “Americans With Disabilities,” @ timestamp 42:00.

⁸⁰ C-SPAN, “Americans With Disabilities,” @ timestamp 43:00.

⁸¹ C-SPAN, “Americans With Disabilities,” @ timestamp 43:25.

⁸² US House of Representatives, “Roll Call 123; Bill Number: H.R. 2273,” May 22, 1990.
<https://clerk.house.gov/Votes/1990123>

and this must not be allowed to happen in our Christian nation. To me, this is the clearest reason why churches and religious schools are exempt from disability law.

Although today we do not jump to the conclusion that the ADA is tied up with LGBTQ+ issues, it clearly was a controversial topic in the 1990s, which led to the exclusion of religious organizations from the ADA. By equating HIV/AIDS with homosexuals, and protecting those people under the ADA, it was then an imperative, as it would be still today, for churches to retain the right to discriminate against queer people and therefore be exempt from disability law.

The Supreme Court and the Ministerial Exception

Exemptions in federal employment law for clergy recently came into conflict with the ADA in the 2020 Supreme Court decision *Our Lady of Guadalupe School v. Morrissey-Berru*, 591 U.S. (2020). This case was the result of a long history of Constitutional law regarding the First Amendment and what is known as the “ministerial exemption.” To understand the argument that religious exemptions in disability law are based in Constitutional law and the separation of church and state, we must dive into the Supreme Court decisions and precedents that are relevant to this discussion.

The First Amendment of the Constitution states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.⁸³

⁸³ Constitution Annotated, “Amdt 1,2,3,4 Church Leadership and the Ministerial Exception.” https://constitution.congress.gov/browse/essay/amdt1-2-3-4/ALDE_00013117/#ALDE_00019114.

The premise that Congress shall not establish a state religion, or prohibit the free exercise of religion, is often interpreted as the concept known as “separation of church and state.” The relevant Constitutional law concept regarding religious exemptions to many federal laws including the ADA, and IDEA is the “ministerial exception.”

The first Supreme Court case regarding the ministerial exception came in 1952 in the case *Kedroff et al. v. Saint Nicholas Cathedral of the Russian Orthodox Church in North America*.⁸⁴ The case was the culmination of a legal battle that lasted many years, between the US government and the Russian Orthodox Church, which maintained geopolitical connections to Moscow during the height of the Cold War. According to an analysis of the case by the Northwestern University Teaching Law and Religion Case Study Archive, the case determined that the Moscow-based Russian Orthodox Church had authority over Saint Nicholas Cathedral (rather than the State of New York). It established that “religious institutions held constitutional rights to select clergy and operate free of state interference.”⁸⁵

Although there were many preceding cases that dealt with the issue of the First Amendment and freedom of religion in the US, *Kedroff* was one of the earliest cases to establish the modern court precedent of the ministerial exception. In the *Kedroff* “Opinion of the Court” penned by Justice Stanley Forman Reed, a moderate Conservative appointed by President Franklin D. Roosevelt,⁸⁶ Reed wrote this statement which established the ministerial exemption precedent:

⁸⁴ *Kedroff v. Saint Nicholas Cathedral*, 344 U.S. 94 (1952). <https://tile.loc.gov/storage-services/service/ll/usrep/usrep344/usrep344094/usrep344094.pdf>

⁸⁵ “Whose Cathedral? Russian Orthodoxy in the Supreme Court,” Northwestern University, Teaching Law & Religion Case Study Archive. <https://sites.northwestern.edu/lawreligion/project/whose-cathedral/>

⁸⁶ Oyez, “Stanley Reed.” https://www.oyez.org/justices/stanley_reed

Freedom to select the clergy, where no improper methods of choice are proven, we think, must now be said to have federal constitutional protection as a part of the free exercise of religion against state interference.⁸⁷

Other Supreme Court cases such as *Serbian Eastern Orthodox Diocese v. Milivojevich* (1976) also added to the modern doctrine of the “ministerial exception” which was formally adopted by the court in the 2012 case *Hosanna-Tabor Evangelical Lutheran Church & School v. EEOC*.

The *Hosanna-Tabor v. EEOC* case centered around the Hosanna-Tabor Evangelical Lutheran Church and School, which was a K-8 private Christian school in Michigan. The school made a distinction between two classes of teachers: “lay” teachers, who were assumed to be secular, regular teachers contracted by the school to teach; and “called” teachers, who were religious Christian teachers said to be “called” by God to teach.⁸⁸ The “called” teachers at Hosanna-Tabor School had received training in theology and practiced the Lutheran faith. These teachers were given preference in hiring and received the formal title, “Minister of Religion, Commissioned.”⁸⁹

The case centered on a “called” teacher named Cheryl Perich who taught both secular and religious classes at the school and was designated a “Minister.”⁹⁰ Perich developed a disability in 2004 which necessitated a disability leave of several months from her job as a teacher. When she attempted to return to work in 2005, “the school at that point urged her to resign and, when she refused, fired her.”⁹¹ Perich believed she was fired due to her disability, which in the case of secular employment, would be a violation

⁸⁷ *Kedroff v. Saint Nicholas Cathedral*.

⁸⁸ *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 565 U.S. 171 (2012) <https://supreme.justia.com/cases/federal/us/565/171/>

⁸⁹ *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*.

⁹⁰ *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*

⁹¹ *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*.

of the ADA. Perich filed an ADA complaint with the Equal Employment Opportunity Commission (EEOC), which agreed that she had been pressured to resign and eventually terminated from her job due to her disability, in violation of the ADA.⁹² The EEOC filed a lawsuit against the Hosanna-Tabor Lutheran school, but representatives of the school argued that they were legally justified in firing Ms. Perich due to her status as a “Minister” of the faith and a “called” teacher.⁹³ The case made its way to the US Supreme Court in 2012, where the Court decided unanimously in favor of the school.

The Supreme Court decision in *Hosanna-Tabor* was written by Chief Justice John Roberts, and addressed the question of whether an employee of a religious organization is considered a “minister” and therefore their employment is subject to the whims of the church rather than the regulations of state and federal government. In this case, the “ministerial exception” was evoked, and it was determined that due to Perich’s role as a “called” teacher and minister of the faith, it was not a violation of the ADA for her to be fired due to her disability. The opinion stated that the suit brought by the EEOC under the ADA was, in essence, the government compelling a church to “accept a minister it did not want,” which would be a violation of the First Amendment’s Free Exercise and Establishment clause.⁹⁴

Constitutional Law and Civil Rights

The *Hosanna-Tabor* case became an important precedent in future cases, and was one of the most clear-cut examples of the court affirming that, in the US, religious rights

⁹² *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*.

⁹³ *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*.

⁹⁴ *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*.

take precedence over other rights, especially disability rights. The 2020 Supreme Court decision in *Our Lady of Guadalupe School v. Morrissey-Berru* was in many ways similar to *Hosanna-Tabor*. The case revolved around two teachers at religious schools, one of whom was arguing that the non-renewal of her contract was a violation of the Age Discrimination in Employment Act, and the other who was fired while receiving treatment for breast cancer who brought suit with the EEOC for violating disability law.⁹⁵ Although both teachers taught secular subjects and were not practicing Christians, the Supreme Court decided that any employee of a religious school could be determined to be a “minister” and therefore exempt from anti-discrimination employment laws.⁹⁶

The Freedom From Religion Foundation filed an *amicus* brief in opposition to the application of the ministerial exception in this case, arguing that the court’s ability to deem any employee of a religious organization a “minister” could have devastating effects on the civil rights of millions of Americans who are employed in religious institutions, schools, and hospitals.⁹⁷

This decision pointed to a dangerous trend in the American legal system regarding religious organizations. In Justice Sonia Sotomayor’s dissenting opinion, she stated that the majority decision “has no basis in law and strips thousands of schoolteachers of their legal protections.”⁹⁸ To apply the ministerial exception to any and all employees of religious organizations is to make millions of Americans not protected by the ADA and other anti-discrimination laws. Churches should not be allowed to be above the law

⁹⁵ Freedom From Religion Foundation. <https://ffrf.org/news/releases/ffrf-urges-supreme-court-to-protect-employees-civil-rights-from-religious-exemption/>

⁹⁶ *Our Lady of Guadalupe School v. Morrissey-Berru*, Oyez. <https://www.oyez.org/cases/2019/19-267>

⁹⁷ Freedom From Religion Foundation. <https://ffrf.org/news/releases/ffrf-urges-supreme-court-to-protect-employees-civil-rights-from-religious-exemption/>

⁹⁸ *Our Lady of Guadalupe School v. Morrissey-Berru*, Oyez. <https://www.oyez.org/cases/2019/19-267>

whenever it suits them, and this case illustrates the importance and urgency in having Churches brought under the umbrella of the ADA.

Although the Bill of Rights in the Constitution is not a list in order of priority, I would argue that the First Amendment, which protects freedom of religion and free speech and assembly, would be at the very top if one were to establish a hierarchy of human rights. Indeed, one can certainly argue that due to the fact that many of the original European settlers in America came here to escape religious prosecution, that it was the top priority when establishing the laws and Constitution of the new nation along with John Locke's ideals of "life, liberty, and property."⁹⁹

While many deeply held religious beliefs are not inherently discriminatory, the long history of laws and Supreme Court decisions throughout 250 years of US history have demonstrated time and time again that religious rights are given higher priority than other rights, including disability rights. Although many of these cases do not specifically state that disability rights are of lower priority than freedom of religion or expression, the mask comes off when it comes to LGBTQ+ discrimination. Churches reserve the right to discriminate against queer people simply because they want to. The explanation for this cannot be boiled down to "separation of Church and State." Other developed countries do not allow churches *carte blanche* to discriminate at will as long as they can arbitrarily claim the ministerial exception.

⁹⁹ John Locke, *Two Treatises of Government*, ed. Thomas Hollis (London: A. Millar, et al., 2019 [1764]).

Education Law

Discrimination against disabled people by churches is not limited to employment law like in the cases of *Hosanna-Tabor* and *Morrissey-Berru*. Religious schools are also exempt from federal disability education law. The Individuals With Disabilities Education Act, as well as Section 504 of the Rehabilitation Act, protect and ensure the rights of disabled students. In the United States, only children who attend public schools, or schools that receive funding from the federal government (e.g., many charter schools), are entitled to a “free appropriate public education” in the “least restrictive environment.”¹⁰⁰

The IDEA, ADA, and Section 504 of the Rehabilitation Act are each a piece of the puzzle that ensures different aspects of disability protections in the education setting. The ADA ensures things like fair employment for teachers, wheelchair accessibility, braille signs, and other protections for all public spaces. The IDEA and Section 504 ensure fair treatment of students with learning disabilities and other disabilities, including special plans for their education and growth (IEPs), access to specialized teachers who are experts in educating students with learning disabilities, and both ensure that the majority of disabled students are in a classroom with non-disabled peers for the most time possible (i.e., a least-restrictive environment.)

However, none of these laws apply to private religious schools, with few exceptions. Just as some churches may voluntarily accept certain accessibility standards, some private religious schools may offer special education services. There are also

¹⁰⁰ National Center for Learning Disabilities, “Individuals with Disabilities Education Act: Overview,” <https://ncld.org/understand-the-issues/learn-the-law/individuals-with-disabilities-education-act/>

certain schools that receive federal funding, and thus may be required to follow these laws.

There are also certain special cases like the student Endrew F., whose case went to the Supreme Court in 2017. Endrew was a disabled student whose parents believed he was not making adequate progress in the public-school setting, so they placed him in a private school for children with autism, and requested that the public school reimburse the family for the private-school tuition on the grounds that the school was in violation of the IDEA by not providing him enough educational benefit.¹⁰¹ The 2017 Supreme Court decision *Endrew F. v. Douglas County School District*, addressed the question of how much educational benefit a public school district is obligated to provide under the IDEA principle of “free appropriate public education.”¹⁰² The court decided that the IDEA requires a more than *de minimis* standard of progress, meaning the general requirement for educational progress should be a standard higher than the bare minimum—but that each case is highly unique and individual, and deference should be given to the expertise and judgment of the experts in the public schools and districts.¹⁰³ The unanimous court decision, authored by Justice John Roberts, concluded that an IEP (a special education plan mandated by law and uniquely created for each disabled student) must be “reasonably calculated to enable the child to make progress appropriate in light of his circumstances.”¹⁰⁴

¹⁰¹ *Endrew F. v. Douglas County School District*. <https://www.oyez.org/cases/2016/15-827>.

¹⁰² *Endrew F. v. Douglas County School District*, <https://www.oyez.org/cases/2016/15-827>.

¹⁰³ *Endrew F. v. Douglas County School District RE-1*, 580 U.S. ____ (2017).
<https://supreme.justia.com/cases/federal/us/580/15-827/#tab-opinion-3706581>

¹⁰⁴ *Endrew F. v. Douglas County School District RE-1*. <https://supreme.justia.com/cases/federal/us/580/15-827/#tab-opinion-3706581>

Endrew’s case raised the *de minimis* standard for expected progress for disabled students with IEP plans, but it did not ensure the right of families to have specialized private school tuition paid for by the public school district (as his family hoped). The right that disabled students are entitled to is a “free appropriate public education,” not \$70,000 per year to pay for specialized, private education (as his family preferred). If Endrew’s parents’ petition had been successful, we might today be living in a world where disability law (and the federal funding that goes along with it) reaches into the sphere of private education. That is not the case, however. Disabled students are still not legally entitled to a private (religious) education.

According to the National Center for Education Statistics, in 2022-2023 there were 7.5 million disabled students receiving services under the IDEA.¹⁰⁵ Of those 7.5 million school-age students, 95% were enrolled in regular public schools, 2% were in specialized public or private schools for students with disabilities, 2% were placed by their parents in regular private schools, and the final 1% were in other settings, such as hospitals, correctional facilities, or homebound.¹⁰⁶

The National Center for Education Statistics reported that in 2021, 4.7 million K-12 students were enrolled in private schools in the US, meaning that around 9% of American students were enrolled in private schools.¹⁰⁷ Of those students, around 79% were enrolled in religious private schools.¹⁰⁸

¹⁰⁵ National Center for Education Statistics, “Students with Disabilities,” Condition of Education, 2024. <https://nces.ed.gov/programs/coe/indicator/cgg/students-with-disabilities> .

¹⁰⁶ National Center for Education Statistics, “Students with Disabilities,” 2024.

¹⁰⁷ National Center for Education Statistics, “Private School Enrollment,” Condition of Education, May 2024. <https://nces.ed.gov/programs/coe/indicator/cgc/private-school-enrollment> .

¹⁰⁸ National Center for Education Statistics, “Private School Enrollment,” 2024.

There are two issues to consider when it comes to the education of students with disabilities in religious schools in the US. First, it be looked at as a civil rights issue. It is a problem that private schools that do not receive federal funding are allowed to discriminate against students based on their disability. In a developed country where people with disabilities are afforded equal rights and equal protection under the law, there should not be settings, especially in schools, where it is legal to discriminate against students with disabilities.

Second, I see this issue as a First Amendment problem. If the ability to access a religious education is protected by the First Amendment of the Constitution, then disabled students should also have the right to access a religious education protected by the Constitution.

Ultimately, I believe that the Fourteenth Amendment “Equal Protection” clause should also apply by affirming the right of disabled people to have equal protection under the law, here applying the fact that all people have equal right to practice their religion. Legal scholars Susan Gellman and Susan Looper-Friedman argued that the Fourteenth Amendment can and should be applied to religious freedom cases in the future in their article, “Thou Shalt Use the Equal Protection Clause for Religion Cases (Not Just the Establishment Clause.)”¹⁰⁹ Although the First Amendment does not on its own necessarily guarantee equal access to freedom of religion for everyone, the application of the principle of equal protection under the Fourteenth Amendment does guarantee that

¹⁰⁹ Susan Gellman, and Susan Looper-Friedman, “Thou Shalt Use the Equal Protection Clause for Religion Cases (Not Just the Establishment Clause),” 10 *U. Pennsylvania Journal of Constitutional Law* 665 (2008). <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1215&context=jcl>

everyone should have equal protection of freedom of religion, including people with disabilities.

Separation of Church and State

If we accept the premise that in the United States there is a hierarchy of civil rights, and that at the very top of that hierarchy is the First Amendment right of free exercise of religion, then why are disabled people not able to access that right? In essence, disability law and religion have run into the conflict between the two aspects of freedom of religion protected by the First Amendment: the freedom to practice religion, and the freedom for religious groups to be separate from the government and protected from government interference.

If the most important aspect of civil rights is the separation of church and state, then that may explain why churches have gained the right to freely discriminate against disabled and LGBTQ+ people, evade taxes, and operate as sovereign entities largely protected from government interference. However, if the most important right is the freedom to practice religion, then why are the rights of disabled people to practice their religion not protected?

I believe the argument—that religious organizations must be exempt from disability law and other anti-discrimination laws as a matter of separation of church and state—is flawed. It is clear that many conservative evangelical Christians—the same people who argue for ministerial exceptions in employment law and exemption from the ADA—only value the principle of separation of church and state when it suits them. In other instances, the same people will insist that the US is a Christian nation where Christians have the ability to bring God into the public sphere whenever they want, and

the separation of church and state is a useful argument for enabling that. In cases such as *Morrissey-Berru* and *Hosanna-Tabor*, the Supreme Court held that due in part to the principle of “separation of church and state,” “ministers of the faith” (which could be any employee of a religious organization) are exempt from federal disability and employment laws. Churches also lobbied for exemptions from the ADA, partially in the name of separation of church and state.

However, it has been demonstrated in many other instances that the Supreme Court and conservative religious groups do not actually value or want separation of church and state. In *Mahmoud v. Taylor*, 606 U.S. ____ (2025), the Supreme Court decided that a Maryland public school that used LGBTQ+-inclusive children’s books in the curriculum was a violation of religious parents’ free exercise. The decision essentially granted parents of school children the right to impose their religious beliefs on the public school curriculum.¹¹⁰

In *Kennedy v. Bremerton School District*, 597 U.S. (2022), the Supreme Court held that a public school football coach was allowed to pray on the field with the students on his team after school-sponsored football games.¹¹¹ *Kennedy v. Bremerton* essentially overturned the Lemon test. The Lemon test, established by the Supreme Court in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), was a three-part test for determining whether a law violates the First Amendment “Establishment” clause. According to an Oyez summary of the decision, the Lemon test determined: “The statute must have a secular legislative purpose, its principal or primary effect must be one that neither promotes nor inhibits

¹¹⁰ Oyez, “Mahmoud v. Taylor,” <https://www.oyez.org/cases/2024/24-297>

¹¹¹ Oyez, “Kennedy v. Bremerton School District,” <https://www.oyez.org/cases/2021/21-418>

religion, and it must not foster ‘excessive government entanglement with religion’.”¹¹²

This test was court precedent for fifty years, and was important in ensuring separation of church and state. The current conservative majority on the Supreme Court overturned this precedent and, in the process, discarded the legal basis for arguing separation of church and state.

Texas, Louisiana, and Arkansas have all passed state laws requiring public schools to display the Ten Commandments (a religious text) in their classrooms. In light of the overturn of the Lemon test, the Supreme Court seems set to allow this to happen, overturning even more historical precedent for secularism in the US.¹¹³ Cases like these, that allow the steady creep of religion into the public sphere and government buildings illustrate a clear disregard for separation of church and state. The conservative religious majority on the Supreme Court argues simultaneously that federal disability and employment law does not apply to churches because of separation of church and state, while at the same time deciding that the Lemon test should be overturned, allowing for religion and prayer to enter the school curriculum. These two facts are contradictory, something that Justice Ketanji Brown Jackson might call “Calvinball Jurisprudence,” referring to the “Calvin and Hobbs” game that has no set rules except that the rules are never the same.¹¹⁴

A modern state that truly values secularism as part of its legal system would never allow things like prayer in schools or for churches to be exempt from federal law. In

¹¹² Oyez, “Lemon v. Kurtzman.” <https://www.oyez.org/cases/1970/89>

¹¹³ Kelsey Dallas, “The Ten Commandments return to classrooms: What will the Supreme Court do?,” July 15, 2025. <https://www.scotusblog.com/2025/07/the-ten-commandments-return-to-classrooms-what-will-the-supreme-court-do/>.

¹¹⁴ Debra C. Weiss, “Justice Jackson accuses Supreme Court majority of playing Calvinball,” August 25, 2025. <https://www.abajournal.com/news/article/justice-jackson-accuses-supreme-court-majority-of-playing-calvinball>

France, the principle of separation of church and state, or *laïcité*, is so strict that even wearing a religious garment like the hijab or the Christian cross on jewelry is forbidden in public schools.¹¹⁵ In France, with its much stricter secularism than the US, however, churches are required by law to follow disability accessibility standards, which apply to all facilities, goods, and services in the country.¹¹⁶

The hypocrisy and contradiction of the legal application of separation of church and state by religious conservatives shows how flimsy is the argument that churches should be exempt from disability law. Churches are not exempt from laws like criminal laws or building codes,¹¹⁷ although they are exempt from most tax law. It is clear that in most cases the conservative political movement is not concerned with separation of church and state unless it benefits them to be. However, in a civil society with rule of law, churches should not be allowed to pick and choose which laws they wish to follow and which they should be exempt from.

It is interesting to note that the legal justification for the discrimination against disabled people by churches is closely tied to discrimination against LGBT people, as demonstrated by my research into the role anti-AIDS sentiment influenced the religious exemptions in the ADA. LGBT and disability issues have long been intertwined, and many people argue that intersectional queer and disability activism is the key to the collective liberation of both groups.

¹¹⁵ Ece Goksedef, “France to Ban Female Students From Wearing Abayas in State Schools” (BBC News, 27 August 2023). <https://www.bbc.com/news/world-europe-66634890>

¹¹⁶ United Nations Economic Commission for Europe (UNECE), Law of 2005 on the Rights of Persons With Disabilities, Ageing Policies Database, 2005. <https://ageing-policies.unece.org/browse-policy/2604>
<https://ageing-policies.unece.org/browse-policy/2604>

¹¹⁷ Church Law & Tax, “Pastor, Church & Law,” Building Codes #7.08.
<https://www.churchlawandtax.com/pastor-church-law/church-property/building-codes/>

However, while many religious groups argue a religious justification for discrimination against queer people, there is no such argument in favor of discrimination against disabled people. Indeed, one could in fact argue the opposite for LGBTQ+ issues, too. Instead, there is a wealth of theological justification for the idea that disabled people should be protected and supported by the religious community.

Chapter V

Disability and Theology

Disability has been part of the human experience throughout history. Each of the major world religions discusses disability in their holy texts, as well as in their religious law and teachings. In this chapter, I provide an overview of disability as it appears in the theology of the three most common religions in the United States: Christianity, Judaism, and Islam.

Christianity and Disability

One of the earliest and arguably most influential books in the area of disability justice and Christian theology is Nancy Eiesland's *The Disabled God: Toward a Liberatory Theology of Disability*, written in 1994. Eiesland, a professor of theology at Emory University,¹¹⁸ had disabilities that shaped her entire life, worldview, and relationship with God, and eventually led her to form her theory of the “disabled God.”

Other disability scholars recognize the importance of Eiesland's work in disability studies and theology. Deborah Beth Creamer who wrote in her book: “The most powerful discussion of God to arise from within disability studies comes from Nancy Eiesland's proposal of the Disabled God.”¹¹⁹

¹¹⁸ Eiesland, *Disabled God*; Douglas Martin, “Nancy Eiesland is Dead at 44; Wrote of a Disabled God,” *New York Times*, March 21, 2009. <https://www.nytimes.com/2009/03/22/us/22eiesland.html>.

¹¹⁹ Deborah Beth Creamer, *Disability and Christian Theology: Embodied Limits and Constructive Possibilities* (Oxford University Press, 2009), 85. <https://hdl.handle.net/2027/heb30706.0001.001>.

In her book, Eiesland noted that historically, the relationship between the Christian church and the Disabled community is, at best, “ambiguous.”¹²⁰ She stated: “For many disabled persons the church has been a ‘city on a hill’—physically inaccessible and socially inhospitable.”¹²¹ She pointed to the fact that by 1994 there had been little effort made on the part of the Christian community to ensure that its culture and physical spaces were welcoming to people with disabilities. I would argue that even more than twenty years later, very little has yet to be done to make churches more accessible. However, the field of disability studies and the theory of “the disabled god” have advanced during that time.

Eiesland’s theory of a Christian philosophy that is inclusive to disability people is based in a religion that, historically, has not been progressive or inclusive in terms of disability justice. She acknowledged in her book that many Christian theologies “continue to reinforce negative stereotypes, support social and environmental segregation, and mask the lived realities of people with disabilities.”¹²² Eiesland also laid out what she believed were the three major barriers to people with disabilities being able to find inclusion and justice in the Christian church: “sin and disability conflation, virtuous suffering, and segregationist charity.”¹²³

¹²⁰ Eiesland, *Disabled God*, 18.

¹²¹ Eiesland, *Disabled God*, 18.

¹²² Eiesland, *Disabled God*, 82.

¹²³ Eiesland, *Disabled God*, 82.

Conflating Sin and Disability

The idea of conflating disability or illness with sin comes from historical record as well as scripture. The Book of Leviticus, part of the Jewish Torah and the Christian Old Testament of the Bible, is often cited as having examples of the negative attitudes in ancient times toward disabled people. Leviticus 21:18-21 in the New International Version states:

“No man who has any defect may come near: no man who is blind or lame, disfigured or deformed; no man with a crippled foot or hand, or who is a hunchback or dwarf, or who has any eye defect, or who has festering or running sores or damaged testicles. No descendent of Aaron the priest who has any defect is to come near to present the food offerings to the Lord. . . . Yet because of his defect, he must not go near the curtain or approach the altar, and so desecrate my sanctuary.”¹²⁴ This verse in the Hebrew Bible has been used to justify centuries of discrimination against disabled people. The scripture serves to equate disability with impurity and moral failing, as well as to justify excluding disabled people from certain practices and positions of authority within the religions of Christianity and Judaism.¹²⁵

Eiesland, in her book, went on to highlight multiple additional examples of linking sin and disability in the New Testament of the Bible as well, including John 9:1-2 which states the following in the New International Version: “As he went along, he saw a man blind from birth. His disciples asked him, ‘Rabbi, who sinned, this man or his

¹²⁴ Leviticus 21:17-23, Holy Bible, New International Version®, NIV® Copyright ©1973, 1978, 1984, 2011 by Biblica, Inc. <https://www.biblegateway.com/passage/?search=Leviticus%2021%3A17-23&version=NIV>

¹²⁵ Eiesland, *Disabled God*, 78.

parents, that he was born blind?”¹²⁶ The first part of this verse, where Jesus’ disciples ask whose sin resulted in the blindness of the man, highlights the prevailing attitude historically and in the religious scripture that disability is the result of sin. Jesus answers in John 9:3: “Neither this man nor his parents sinned, but this happened so that the works of God might be displayed in him.”¹²⁷ Following this interaction, Jesus heals the man of his blindness. Jesus’ action contradicted the idea that the man’s disability was a product of sin; but the disability is still presented as a negative thing, something to be cured and a person to be made whole through the works of God.

The case of Jesus healing the blind is at once an example in Christianity of the divinity of Christ and the real, tangible effect of God’s miracles at work through Him. But it also shows the way in which the scripture is at odds with the lived experience of modern people with disabilities. How is a blind person today supposed to reconcile the fact of their disability with this story from the Bible? While many Christians use Jesus’ healing of the blind as an example of his divinity, even singing “I once was lost, but now I’m found/ Was blind but now I see.” But a blind Christian might struggle to accept the notion that their disability is something that must be healed in order for them to become spiritually or literally “whole” or “healed.” Indeed, the very notion that disabilities are simply medical ailments that should be cured, is known as the “medical model” of disability, an outdated view of disability focused primarily on healing a broken body in order to make the person normal or whole. In disability studies, the medical model is

¹²⁶ John 9:1-5, Holy Bible, New International Version®, NIV® Copyright ©1973, 1978, 1984, 2011 by Biblica, Inc. <https://www.biblegateway.com/passage/?search=John%209&version=NIV>

¹²⁷ John 9:1-5, Holy Bible, New International Version.

usually contrasted with the more widely accepted “social model” of disability, which is more focused on identity and inclusion in society through accommodations.¹²⁸

Virtuous Suffering

Virtuous suffering, in Eiesland’s writing, is the Christian idea that disability is a “temporary affliction that must be endured to gain heavenly rewards.”¹²⁹ She cites the stories of Job and Lazarus as examples. Eiesland remarked that virtuous suffering—seeing disability as a test from God or a punishment for sin, which can only be overcome through suffering (depression) and piety—serves to cement the “second class” status of disabled people in the church. Eiesland theorizes that to accept suffering and social barriers is a sign of obedience to God, and this acceptance keeps disabled people in their place rather than striving for something more (e.g., a higher calling in the church, or more authority and acceptance in a congregation).

Charitable Giving

The final concept in Eiesland’s theory, which keeps disabled people oppressed in the Christian church, is the theme of charitable giving.¹³⁰ While the imperative for Christians to be kind and charitable to the poor is certainly not a negative thing and is a beneficial part of many Christian communities, it also establishes a dichotomy of *us versus them*, or *normal people versus disabled people*.

¹²⁸ Rhonda Olkin, “Conceptualizing disability: Three models of disability,” American Psychological Association, March 29, 2022. <https://www.apa.org/ed/precollege/psychology-teacher-network/introductory-psychology/disability-models>

¹²⁹ Eiesland, *Disabled God*, 80.

¹³⁰ Eiesland, *The Disabled God*, 82.

Charity is an important and helpful part of an individualistic society, and the Christian emphasis on charity has done a lot of good in the world. However, something that can be identified both in the Christian church and in Republican politics is an over-emphasis on charity and charitable giving. It places the emphasis much more on individuals helping others, and not enough on the system that keeps marginalized people oppressed. A system that encourages certain people to lift themselves up socially and spiritually through charitable giving necessitates that there be some marginalized class in order to give to, therefore perpetuating a system of oppression. This is true not only for Disabled people, but also for other marginalized groups. Many of Eiesland's theories could be applied equally to women, people of color, or queer people in the Christian church.

The core thesis of Eiesland's argument is that Jesus Christ himself is disabled, and therefore the Christian God is a Disabled God. Eiesland cited one passage in the Bible as being her main piece of evidence of the Disabled God: Luke 24:36-39, when the resurrected Jesus appears to the disciples and says: "Why are you troubled, and why do doubts rise in your minds? Look at my hands and my feet. It is I myself!"¹³¹ Jesus shows them the marks left by the wounds of the crucifixion in order to prove to his followers that he was indeed a resurrected person and not a ghost. The wounds of his death, still bearing a mark on his person, shows that disability is central to the personhood of Jesus, and according to Eiesland: "In presenting his impaired hands and feet to his startled friends, the resurrected Jesus is revealed as the disabled God."¹³² By the holiest figure in

¹³¹ Luke 24:36-39, Holy Bible, New International Version®, NIV® Copyright ©1973, 1978, 1984, 2011 by Biblica, Inc. <https://www.biblegateway.com/passage/?search=Luke%2024&version=NIV>

¹³² Eiesland, *Disabled God*, 112.

Christianity being resurrected, free of sin and burden, but still physically disabled, the figure of Jesus becomes the “disabled God;” a representation that disability can be part of the *imago dei*, and be one aspect of complete spiritual wholeness—not an obstacle to be overcome, but an essential part of humanity.¹³³ Jesus returns to God the Father as a disabled person, in Eiesland’s understanding.

In *The Disabled God Revisited* by Lisa D. Powell, a professor of theology, she addresses some criticisms of Eiesland’s work. One popular critique is that Eiesland focuses predominantly on physical disability, and her theory would not hold up if other disabilities, like mental illness or intellectual disabilities, were inserted into the theory in place of physical disabilities. Powell dismisses this critique as not a failure of Eiesland’s work, but rather a reflection of the time in which it was written.

Another criticism of the idea of Jesus as disabled is that some do not believe that the scars of the crucifixion were severe or long-lasting enough to become true “disability.” However, Powell points out that this ignores the last part of Eiesland’s book, which focuses on disability representation in the ritual of the Eucharist.¹³⁴ Powell wrote: “Jesus declares that his body is broken until he returns, and tradition declares it perpetually broken in the ongoing memory and life of the church at least until the final resurrection.”¹³⁵

Eiesland concludes her book with an alternative approach to the Eucharist which churches could adopt in order to incorporate her theory of the Disabled god into regular religious practice, but also to make that practice itself more accessible and more centered

¹³³ Eiesland, *Disabled God*, 113.

¹³⁴ Lisa D. Powell, *The Disabled God Revisited: Trinity, Christology and Liberation* (Bloomsbury Academic, May 18. 2023), 26.

¹³⁵ Powell, *Disabled God Revisited*, 26.

around inclusion. Although Powell disagrees with some aspects of Eiesland's work, she does agree that a conception of God as disabled is important for Christians to consider. She wrote that the Disabled God is a God that shares the human experience of suffering and trauma, which challenges popular notions of God as perfect or all powerful. Powell wrote: "The disabled God challenges human notions of 'normal,' 'power,' 'strength,' and 'beauty,' and this is so true that God embraces weakness into God's divine life, without ceasing to be God."¹³⁶

Despite pushback from many over the years about the "radical" theory of the Disabled God, Powell questions if Eiesland's argument goes far enough. The idea that the eschaton would include people with disabilities—that is, that disabilities are retained into the afterlife and resurrection—is difficult for many to consider. After all, many disabilities bring with them pain, suffering, and a sense of "otherness." However, Powell encourages Christians to be even more radical in their imagining of the eschatological promise: that it is not simply, as many believe, a place where all souls become perfectly able-bodied, beautiful, and good; rather, a place where people are defined not by those superficial traits but by their connections to each other and to God.¹³⁷

In my opinion, and the opinion of scholars like Powell, the defensibility of Eiesland's argument, theologically, is less important than the "why" of her work, and the influence it had on Christian disability theology. Eiesland wrote that her theory explored, "a liberatory theology of disability that incorporates both political action and reconception of symbols."¹³⁸ This statement highlights that her argument was not solely

¹³⁶ Powell, *Disabled God Revisited*, 32.

¹³⁷ Powell, *Disabled God Revisited*, 137.

¹³⁸ Eiesland, *Disabled God*, 100.

about theology and personal belief, but rather a reframing of the story of Jesus Christ as a way to empower disabled people to feel like their religion was *for them* and encourage a positive change in the Christian community to become more inclusive.

Near the end of her book, Eiesland wrote:

The presence of the disabled God makes it possible to bear a nonconventional body. This God enables both a struggle for justice among people with disabilities and an end to estrangement from our own bodies.¹³⁹

Eiesland's theology can be a bit difficult to grasp, and as Powell agrees, is not necessarily a "fully developed" academic proposal. However, Eiesland and many others have found the idea of the Disabled God to be very moving and affirming of their experience as disabled Christians.

Ultimately, new Christian ways of thinking, like Nancy Eiesland's *The Disabled God*, are both useful and empowering. Prior to publishing her book, Eiesland pointed out that one of the major failings of the American Christian community was the way that religious groups lobbied for exemptions from the Americans with Disabilities Act.¹⁴⁰ She acknowledged the fact that churches winning the right to be exempt from federal disability law is just one of many barriers to disabled people being able to access their faith.

Eiesland saw her work on *The Disabled God* as not merely a theological project, but as a social and political project to advance the cause of disability inclusion and justice in the Christian community. Religious spaces and communities have long been acknowledged as one of the most important parts of American cultural life, and to

¹³⁹ Eiesland, *Disabled God*, 118.

¹⁴⁰ Eiesland, *Disabled God*, 75.

exclude disabled people from those spaces is both a detriment to disabled people and the religious communities. As Eiesland wrote, disabled people are just as much an essential part of the religious community as able-bodied people.

Although Eiesland passed away in 2009, and we cannot know how she would wish for her work to live on, I see the logical continuation of her work being to spread her word of inclusion of disabled people in the Christian faith, and leveraging the same Christian communities that in 1990 lobbied for exemption from the ADA to rally together to lobby to end religious exemptions.

Eiesland's book highlights the importance of addressing each of my three areas of barriers to accessing faith: social, theological, and legal. Only by addressing all three of these areas can disabled people truly find liberation and full access to the religious sphere of American society. The only way to ensure that disabled people have equal access to their First Amendment right to practice the religion of their choosing is to propose an amendment to the ADA to remove the religious exemptions. As we have seen through the evidence I have presented throughout this thesis, voluntary adoption of accessibility is not and will never be enough to ensure that disabled people have the same constitutional rights under the law as non-disabled people.

A new way of looking at disability and theology is not simply an academic exercise for Christian scholars, nor is it a thought experiment meant only to be pondered by priests and pastors. It is a tool to advance the cause of disability liberation and disability rights. The misguided idea that disability is tied to sin is not exclusive to Christianity and Judaism. Indeed, one could argue that every world religion has aspects that do not mesh well with modern ideas of disability justice.

Judaism and Disability

Darla Schumm's book *Disability and World Religions* addresses the relationships between each major world religion and disability in an anthology book with a chapter on each religion.¹⁴¹ The chapter titled "Judaism and Disability," written by Julia Watts Belser, says that Jewish authorities have long debated whether people with disabilities can participate in all aspects of Jewish life.¹⁴² Belser noted that what is considered a "disability" depends on the culture and time period. She used the example that in modern American Deaf culture, the birth of a deaf child is often celebrated because they will have the opportunity to become part of a unique shared culture and language. In contrast, in ancient Jewish culture, female infertility (something not typically viewed as a disability today) was considered to be a major disability or physical impairment.¹⁴³

The Jewish tradition generally believes that humanity is created by God "in the divine image," and affirms the humanity of people with disabilities.¹⁴⁴ However, historically there have been Jewish philosophers, like Moses Maimonides and Nachmanides (rabbis from the Middle Ages) who argued that human cognition, intellect, and the capacity for speech are traits that set humans apart from other creatures, and reflect "godliness" in humanity.¹⁴⁵ This philosophy, along with the Jewish emphasis on study and recitation of sacred texts as a part of religious practice has, throughout history, ostracized people with intellectual, developmental, and learning disabilities.¹⁴⁶

¹⁴¹ Schumm, *Disability*, 2016. Kindle edition.

¹⁴² Belser, "Judaism and Disability," in Schumm, *Disability*, Kindle location 2171.

¹⁴³ Belser, "Judaism and Disability," in Schumm, *Disability*, Kindle location 2297.

¹⁴⁴ Belser, "Judaism and Disability," in Schumm, *Disability*, Kindle location 2321.

¹⁴⁵ Belser, "Judaism and Disability," in Schumm, *Disability*, Kindle location 2330.

¹⁴⁶ Belser, "Judaism and Disability," in Schumm, *Disability*, Kindle location 2339.

Belser wrote that although many modern Jewish communities take steps to improve inclusion for their members with disabilities, there are still social, institutional, and architectural barriers that prevent disabled Jewish people from being able to fully participate in their religion. Disabled people have often been precluded from rising to leadership positions within the faith, while architectural barriers prevent people from being able to participate in certain rituals, such as accessing the raised platform where the Torah is read (*bimah*), or accessing the ritual bath (*mikvah*) which some orthodox women use to cleanse their bodies.¹⁴⁷

There are some interesting cases in Jewish law when it comes to accommodating certain disabilities. Jewish law (*halakha*) has historically precluded deaf and mute people (*heresh*) and people with intellectual or mental health disabilities (*shoteh*) from participating in certain Jewish rituals.¹⁴⁸ The exemption from participating in certain rituals (*mitzvot*) has historically placed considerable stigma on people with disabilities in the Jewish community.¹⁴⁹

However, despite the stigma and inability to participate in regular Jewish practices, many people believe that the family and larger community have a responsibility to care for and provide for the person with disabilities. The Deaf Jewish community has made great strides in modern times in terms of erasing stigma. The rabbinic category *heresh* refers specifically to people who cannot hear or speak, something historically equated to a person who completely lacked the ability to

¹⁴⁷ Belser, "Judaism and Disability," in Schumm, *Disability*, Kindle location 2493.

¹⁴⁸ Belser, "Judaism and Disability," in Schumm, *Disability*, Kindle location 2500.

¹⁴⁹ Belser, "Judaism and Disability," in Schumm, *Disability*, Kindle location 2508.

communicate with and understand others.¹⁵⁰ However, that is not true of the modern Deaf community, which is generally well educated and has its own language and culture as well as the ability to communicate with outsiders through adaptive technology.

Therefore, the relationships of Deaf people to Jewish law and practice has changed greatly in the last century, with Deaf Jewish people adapting practices and even forming their own congregations.¹⁵¹ This is a hopeful sign that even in an ancient religion with strict and seldom-changing laws and practices, steps can be more inclusive of the disability community.

Islam and Disability

Islam also has a set of religious laws which dictate daily practices, called *sharia*. As I stated in the literature review, there are some contradictory sentiments in the Qur'an regarding disabled people, similarly to those seen in the Old Testament and the Hebrew Bible—some verses can be seen as excluding disabled people, while some can be interpreted as promoting tolerance or charity toward people with disabilities.

In the daily practice of Islam, one of the pillars of the faith is that observant Muslims are expected to pray several times a day, and this prayer is combined with standing, kneeling, and prostrating one's body.¹⁵² This presents an obvious issue for people who do not have the ability to manipulate their body in such a way, or people who cannot maintain a state of ritual purity due to conditions like incontinence or having an open wound.

¹⁵⁰ Belser, "Judaism and Disability," in Schumm, *Disability*, Kindle location 2524.

¹⁵¹ Belser, "Judaism and Disability," in Schumm, *Disability*, Kindle location 2588.

¹⁵² Vardit Rispler-Chaim, "Islam and Disability," in Darla Y. Schumm, ed., *Disability and World Religions* (Baylor University Press, 2016), Chapter 8.

Despite the fact that many people with disabilities are not able to participate in certain pillars of the Islamic faith, such as fasting or pilgrimage, Vardit Rispler-Chaim wrote: “The prevailing mood in the law regarding people with disability is that they are an integral part of society, never social outcasts.”¹⁵³ She went on to say that, in Islamic law, the distinction between typical people and people with disabilities is a distinction made in order to make necessary accommodations for people with disabilities so they do not struggle or suffer in the practice of their faith.¹⁵⁴ The prevailing belief in Islam is that God wishes ease, not hardship, on his followers, so the practice of the faith should not place an undue burden on people with disabilities.¹⁵⁵ Like other religions examined here, while the historical treatment of people with disabilities was not always favorable in Islamic history, generally the religion favors charity and tolerance for others.

Modern Muslim nations have varying levels of accessibility and disability inclusion, mostly as a reflection of how wealthy or developed the state is. Islam places considerable emphasis on public health and the belief that the Prophet Muhammad said there is a cure for every disease found on Earth.¹⁵⁶ This means that modern Muslim nations tend to place a higher emphasis on the “medical model” of disability, which is centered around the belief that disabilities are a medical problem which can be cured or alleviated through scientific and medical intervention. This contrasts with the “social model” of disability which is more popular among Western disability justice advocates, placing more emphasis on addressing societal barriers to access.

¹⁵³ Rispler-Chaim, “Islam and Disability,” in Schumm, *Disability*, Kindle location 3922.

¹⁵⁴ Rispler-Chaim, “Islam and Disability,” in Schumm, *Disability*, Kindle location 3930.

¹⁵⁵ Rispler-Chaim, “Islam and Disability,” in Schumm, *Disability*, Kindle location 3930.

¹⁵⁶ Rispler-Chaim, “Islam and Disability,” in Schumm, *Disability*, Kindle location 4102.

However, I did not investigate any of these theologies as deeply as the Christian theology. I believe that a liberatory theology of disability could be applied to any religion, and that religious communities in the United States should be taking efforts to make their religion and spaces accessible to members of the disability community. However, according to the Pew Religious Landscape Study data from 2023-2024, 62% of Americans identify as Christians and only 7% identify with other faiths. Therefore, I believe the majority of the time spent analyzing a new approach to disability-inclusive theology should be dedicated to the Christian faith.¹⁵⁷ I would also argue that since American Christian churches are the ones that lobby for exemptions to the ADA, it is the Christian community that needs to be most convinced of their moral and legal responsibility to adopt the ADA and become accessible to people with disabilities.

Accessibility in Religious Spaces

Since churches lobbied for and received exemptions from the ADA and other federal disability laws, disability accessibility in churches and other religious spaces is completely voluntary. Because of this, there is not a large amount of information about how many religious buildings in the US voluntarily comply with the ADA.

The organization Faith Communities Today is multi-faith group that works in partnership with Hartford International University to produce surveys about the American religious community. Since 2000, the group has been compiling data about the religious

¹⁵⁷ Pew Research Center, “2023-24 US Religious Landscape Study Interactive Database,” 2025. https://www.pewresearch.org/religious-landscape-study/?gad_source=1&gad_campaignid=22378837192&gbraid=0AAAAA-ddO9Gvds6rp4h8GxuexEhc7YSDO&gclid=Cj0KCQiA1czLBhDhARIsAIEc7uiJ4W-IsUa5lvkbMoka39TcPcudirK5LPV5fpKFmsPxHMjtCU-NbIcaAitLEALw_wcB.

community in the US, with 2020 as their latest study. That study received responses from 15,278 different religious congregations across eighty denominations.¹⁵⁸ The Faith Communities Today 2020 report had an overall estimated response rate of 35%, and an estimated sampling error of +/- 4%, and a confidence level of 95%.¹⁵⁹ According to the 2020 US Religion Census, there are an estimated 356,739 individual religious congregations across America.¹⁶⁰ The Hartford Institute for Religion Research put that estimate even higher, at roughly 370,000 religious congregations in the US.¹⁶¹ Considering this, it is difficult to extrapolate the data from Faith Communities Today to represent the total population of the US religious community, but it was the best data on disability accessibility in religious spaces that I was able to find in my research.

The Faith Communities Today 2020 questionnaire asked respondents: “Does your congregation provide any of the following accommodations?”¹⁶² Seventy-six percent of congregations reported that they offer wheelchair access throughout their buildings. This is an impressive result of voluntary compliance. I would suggest that so many churches offer wheelchair access because of the disproportionate amount of elderly people who regularly attend religious services. This figure also does not take into account whether only the public-facing areas of the building, or the entire church, are wheelchair accessible. Many of the pieces I read from disabled religious people drew attention to the fact that although disabled people may be able to attend the service in their wheelchair,

¹⁵⁸ Faith Communities Today, “About”. <https://faithcommunitiestoday.org/about/>

¹⁵⁹ Faith Communities Today, “Fact 2020 Survey Results,” 2021. <https://faithcommunitiestoday.org/fact-2020-survey/>

¹⁶⁰ US Religion Census, “Press Release,” 2020. <https://www.usreligioncensus.org/node/1641>

¹⁶¹ Hartford Institute for Religion Research, “Fast Facts on American Religion,” 2026. <https://hirr.hartfordinternational.edu/fast-facts-on-american-religion/>

¹⁶² Faith Communities Today, “Fact 2020 Common Questionnaire,” 2021. <https://faithcommunitiestoday.org/wp-content/uploads/2021/10/FACT-2020-Common-Questionnaire-Frequencies.pdf>

areas such as the altar, pulpit, or stage remained inaccessible—illustrating a conscious or unconscious bias against the ability of disabled people to rise to the ranks of clergy or leadership within the church.

The rest of the survey results for the question “Does your congregation provide any of the following accommodations?” are as follows:

- 5% of congregations have sign language interpreters
- 30% offer large-print worship materials
- 30% have hearing assistive devices
- 10% offer other accommodations not listed in the survey
- 8% of congregations have “none of the above,” meaning they offer no disability accommodations at all.

While it is good that many congregations voluntarily offer these accommodations, all of the accommodations listed in the survey (except “sign language interpreters”) are accommodations commonly made to older people, which make up the largest proportion of church attendance; according to Pew, 32% of adults who attend religious services at least once a week are age 65+).¹⁶³ Further, disability is most common in older people; one CDC report shows that as many as 43.9% of people over the age of 65 are disabled—the highest rate of disability among any age group.¹⁶⁴

Eight percent of congregations offering no accommodations may seem like a relatively small number. But in the survey sample of 15,278 congregations, 8% would be about 1,222 congregations. That is a large number of churches and other congregations

¹⁶³ Pew Research Center, “2023-24 U.S. Religious Landscape Study Interactive Database,” 2025.

¹⁶⁴ CDC Newsroom, “CDC Data Shows Over 70 Million U.S. Adults Reported Having a Disability,” July 16, 2024. <https://www.cdc.gov/media/releases/2024/s0716-Adult-disability.html>

that do not offer any kind of accessibility services. If I extrapolate that data to the estimated total number of individual religious congregations in the US, 8% of 370,000 congregations is 29,600 congregations that are not accessible. Although I cannot say with certainty that this is an accurate representation of the data (due to the nature of the relatively small sample size and it being a voluntary survey), I can still safely assume that at the very least there are tens of thousands of religious congregations in the US that are not accessible to people with disabilities.

Chapter VI

Conclusion

Throughout 250 years of American history, the First Amendment right of free exercise of religion has arguably been the most important and legally protected right in our society, a right that has been denied to people with disabilities for too long. As many as one in four Americans live with at least one disability, whether physical, mental, psychological, sensory or other disabilities. If freedom of religion is a right to which every American is entitled, then churches should not be exempt from disability law. In order to ensure that barriers to accessing faith are broken down, it will take a combined effort from disability rights advocates and the religious community to advocate for change.

Regarding the social barriers to accessing faith, we must not allow our society to slip backward in our treatment of people with disabilities. The rise of eugenics-related movements from the far right threatens to push disability rights back to a pre-ADA era. It also indicates a social barrier for people with disabilities, making it more difficult to access public life. The stakes are high when it comes to combatting societal stigma against people with disabilities.

The ability to access the free exercise of religion is just one of the many areas of public life that becomes inaccessible to disabled people when dangerous anti-disability rhetoric rises. The health and safety of disabled people rely on the community around them—from mutual aid, to voting for policies like Medicare and Medicaid, to promoting vaccines that keep vulnerable people safe from deadly diseases.

An end to religious exemptions in the ADA would mean that religious institutions have to follow the same standards of accessibility as other public accommodations and private businesses. Phased adoption, which accounts for the burden of cost for renovations and protects the historic nature of certain buildings, are each accounted for in the ADA, and it has demonstrated over the past 30 years of the ADA that it is possible for businesses large and small to make themselves accessible. The same will be true for churches.

The 1990 issue regarding the inclusion of people with HIV in the ADA is no longer a concern today, since we know that AIDS is preventable and treatable, and does not present the major public health concern that some were worried about in the twentieth century. Additionally, the fear that churches would have to hire and include LGBTQ+ people with AIDS because of the ADA has been shown to be unfounded because of the many Supreme Court decisions in the last twenty years, which have ensured that churches retain the right to discriminate against LGBTQ+ people.

Adoption of the ADA also does not constitute a violation of separation of church and state because churches have to follow other laws: they cannot, in a civilized society, be exempt from any law they choose. All the original issues that the Christian church presented as reasons why it could not be subject to the ADA at the time of its passing have been debunked or resolved in the past three decades. There is no longer any reason why they should not now be subject to the ADA. Likewise, religious schools should be legally obligated to be accessible and offer special education services to disabled students because disabled people have the same right to obtain a private religious education as non-disabled students.

I believe the work to mitigate barriers to accessing faith communities in the US falls to the religious community, specifically the Christian community. It was the Christian community that preached a theology that was not inclusive for thousands of years; it also was the Christian community in 1990 that lobbied for exemption from the ADA. Therefore, I believe it is the responsibility of the Christian community to resolve this issue and lobby to end the religious exemptions from disability law.

Disabled Christian theologians like Eiesland and Powell have done the difficult work of forming a theory of Christianity which is inclusive and affirming of people with disabilities. The larger Christian community should acknowledge that they have a moral imperative to care for people with disabilities and promote their inclusion within the church. Each congregation has the responsibility to voluntarily adopt accessibility standards and preach a message of love and tolerance toward disabled people. They also have a responsibility to promote people with disabilities to positions of leadership and clergy so that future generations of people with disabilities can feel represented and included within their religious communities.

The first step to ensuring that people with disabilities can access their faith communities is to ensure that disability rights and social attitudes do not slide backward. That means not using slurs like “retarded” or voting for policies that harm the health and well-being of people with disabilities. It is the responsibility of every American to advance the cause of disability justice by supporting the disabled people in their families and communities, and not vote for those who support eugenics.

The Christian church in the US holds major power over the legislative process, and it is their responsibility to lobby the government to end exemptions in disability law.

Disabled people have a constitutional right to go to church or attend a religious private school, and that right must be protected by law.

I propose an amendment to the ADA, to be voted on by Congress, to remove the religious exemptions in Title 3 of the ADA, so that religious organizations are required to follow federal disability law. Until that happens, I call on churches to do the right thing and voluntarily adopt some level of accessibility. Disabled people are subject to the same Constitution, and entitled to equal protection under the law, and therefore should be able to access the religion of their choosing.

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