

Other people's freedom

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Ever since the U.S. Department of Health and Human Services [decided](#) to require that health-insurance plans cover contraception, many Catholics and evangelicals have [protested](#) that the mandate violates their religious freedom: it forces them to pay for procedures that go against their beliefs.

Conflicts between laws and religious beliefs come up regularly. In October the Supreme Court [heard arguments](#) on whether religious organizations are subject to antidiscrimination laws when they hire and fire ministers. State legislatures recognizing same-sex marriage have debated protections for adoption agencies and wedding photographers.

Where should religious progressives stand on such questions? I'd argue that they should support significant accommodations for religious beliefs--even those with which they disagree. Let me offer three reasons.

1. The faith commitments of people and organizations are important, and societal interests don't automatically trump them. Progressives may be friendlier than conservatives toward government, but government doesn't always promote the common good. Often the forces driving it reflect pathologies of self-centeredness and fear.

Such pathologies are on full display in Alabama's draconian statute forbidding anyone to "transport," "harbor" or rent to an undocumented immigrant. Catholic, Episcopal and Methodist bishops from the state have [brought a suit](#) alleging that the law would expose their ministries and employees to criminal punishment for providing services without first verifying people's immigration status. In Minnesota, churches [successfully challenged](#) a state law that would have

forced them to allow people to carry concealed weapons on their property.

When progressive Christians' commitments conflict with the law, they need a tradition of accommodation to appeal to.

2. Arguments against religious-freedom protections often rely on troubling premises. For example, one way to shrink an exemption is to narrow the category it applies to. In the contraception dispute, HHS defined exempt religious employers [very narrowly](#): only those that exist primarily for the "inculcation of religious values" to their own members.

But for progressive Christians, acts of mercy and justice, serving all people, are at the heart of the gospel, even if these acts witness implicitly rather than explicitly. Catholic social services and health-care institutions reflect that model, as do many evangelical agencies. Thus many Catholic progressives have joined in protesting that HHS's rule would categorically deny protection to these organizations. The pro-choice group Emily's List responded by calling such ministries "[so-called 'religious employers'](#)." That's a disturbing dismissal, whatever your views on contraception.

3. Without significant exemptions, it can be hard to enact or preserve social legislation. In 2010, the Catholic bishops withdrew their long-held support for health-care reform in part because they feared the very conflicts that have materialized in the HHS rule. The Catholic Health Association, which clashed with the bishops by supporting reform, now finds itself compelled to [oppose the contraception mandate](#). Health-care reform is vulnerable to repeal. Is it necessary to alienate a group of Catholics who put themselves on the line to support it?

Or take same-sex marriage, opponents of which have raised some unreasonable fears but also at least one reasonable one: recognizing same-sex marriage could cement the idea that religious organizations opposed to it deserve no accommodation. Gay-marriage proponents could defuse a key objection if they accepted provisions allowing religious adoption agencies to decline to place children with same-sex couples (when other providers are available), or allowing religious colleges to decline to open married-student

housing to same-sex couples. Indeed, same-sex-marriage passed in [New York](#) and [elsewhere](#) only when the legislatures strengthened religious accommodations.

Of course, not every claim that appeals to religious freedom should be granted. Religious beliefs cannot excuse direct harm to others' person or property. Government funding should not preclude religious-freedom claims altogether, but it does complicate matters, because government enjoys some extra discretion over how it spends its money. And our laws give virtually no accommodation to religiously based racial discrimination.

In the contraception dispute, however, a broader exemption from the HHS mandate would fall within our tradition of accommodating religious organizations. This would not harm the person or property of employees of Catholic organizations; nor would it take away anything they currently have. HHS's rule is a flat mandate: organizations cannot escape it by refusing government funds. And since many employers are exempt--because they employ few people, have been "grandfathered in" or have received a waiver from HHS--the constitutionally recognized interest in religious freedom deserves at least as much weight.

The mandate's negative effects may be far-reaching. The belief systems conflicting with the law are the same ones that motivate Catholics and evangelicals to do their work of mercy and justice. Several Catholic Charities branches have stopped facilitating adoptions because of conflicts with laws against sexual-orientation discrimination. If a Catholic college avoids the HHS mandate by dropping health insurance altogether, or if a social-service provider simply ceases operations, the bad results will affect many.

There is some momentum right now to dramatically constrict the scope of religious freedom. Religious progressives should not stand by and watch this happen--even if it's conservatives who are in the vise.