HHS Mandate Still Undermines Religious Freedom
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The Obama administration has announced and adopted a rule that will require most religious institutions — including hospitals, schools, colleges, and social-services agencies — to pay for health insurance that covers abortion-causing drugs, sterilization procedures, and contraceptives. This requirement is bad policy, and it imposes a serious and unnecessary burden on these institutions' religious commitments, witness, and mission. And the "compromise" that the president announced last Friday did not and will not cure these defects.

According to the president, the administration plans — at some point, later on — to modify slightly the form, but not the substance, of the mandate. Under the promised new version, it is supposedly the insurance companies, instead of employers with religious objections, that will pay for employees' abortion-causing drugs and contraceptives. But, of course, even the president cannot make these items free. Someone will foot the bill and, in the end, it is not going to be the insurance company.

The announced-but-deferred changes to the mandate do not, unfortunately, represent a true "Road to Damascus" moment for the administration on the importance of religious liberty or the valuable role that distinctively faith-based institutions play in our society. Instead, the administration's promise of future accommodations for some religious objectors is best understood as a crafty — and, it must be said, cynical — election-year political move. The "compromise" is vague, incomplete, and undelivered; even those who welcome it admit that it leaves many important questions unanswered. Still, it turns down the heat on a boiling debate in which even some of the president's more prominent Catholic supporters were questioning both his judgment and his dedication to religious freedom. At the same time, it keeps in place a benefit that many in the president's political base value highly. Telling voters that someone else is going to be made to pay for something they want generally goes over well.

The burdens on religious freedom and diversity imposed by the mandate have been obscured by several widespread mistakes and misconceptions. First, it is said by some that those who resist the mandate — the Catholic bishops make particularly appealing villains in this account — are trying to "impose their morality" on employees, or to "deny access" to items and services to which most people — indeed, many Catholics — have no objection. This charge is false. Religious institutions are not trying to control what their employees buy, use, or do in private; they are trying to avoid being conscripted by the government into paying for what they teach are immoral acts. It is the administration, and not the Catholic Church, that is imposing its values on the vulnerable and unpopular.
Next, some insist that the mandate, like the host of other regulations to which religious institutions are subject, is just part of the price these institutions must pay for participating in public life and engaging in "secular" activities. When you enter the state's arena, they say, you have to play by the state’s rules. But since when are educating the young, clothing the naked, caring for the sick, feeding the hungry, and comforting the lonely "secular" activities? Rather than acting as though the government is doing religious institutions a favor by allowing them to care for others and transform the world, we should acknowledge that religious institutions were ministering to the needy well before the government got into the act, and that religiously inspired love-of-neighbor long pre-dates the welfare state. Indeed, instead of imposing a heavy-handed, conscience-burdening mandate on religious schools, hospitals, and agencies, perhaps the nation should consider a thank-you card and a reimbursement check.

It is true that not all those who object in good faith to the community's laws can or should be accommodated. It is also true that, in a pluralistic society, everyone sees his or her tax dollars used by governments for some programs and purposes they oppose. At the same time, a free society like ours will regard it as often both wise and just to accommodate religious believers and institutions by exempting them from requirements that would require them to compromise their integrity. This is such a case.

A crucial thing to remember, both about the mandate and the promised adjustments-to-come, is that it is deeply un-American in its hostility to diversity and pluralism in civil society. The mandate's religious-employer exemption is limited only to inward-looking entities that hire and engage only their own. It embodies the view that religious institutions may be distinctive only insofar as they stay in their place — in the pews, in the pulpit, at the altar. It reflects a troubling tendency to impose ideological sameness and conformity in the public sphere, to insist that all groups and associations act like the government, in the service of the government's goals.

The mandate prompted an impressively united reaction by those who cherish America's tradition of religious freedom and accommodation. On the left and on the right, among Republicans and Democrats, there was an appreciation for the fact that this was an overreach. It was, and still is.

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