

Reasonable exception

From the Editors in the [February 22, 2012](#) issue



U.S. Secretary of Health and Human Services Kathleen Sebelius. [Attribution Some rights reserved](#) by [US Mission Geneva](#).

The U.S. Catholic bishops have been assailing the Obama administration for a new rule—starting in 2013—that will require Catholic hospitals and universities to pay for contraceptives as part of their employees' and students' health insurance plans. The Catholic leaders, who are morally opposed to the use of contraceptives, say that the rule infringes on their religious liberty. The bishops have a good point.

In guidelines announced last summer, the Department of Health and Human Services acknowledged the objections of Catholics (and some other religious groups) and exempted religious institutions from the rule requiring health insurers to include contraceptives. The exception included churches, but it did not extend to Catholic-run institutions such as hospitals and universities, which serve a religiously diverse public and employ many non-Catholics. Catholic leaders pressed for an expanded exemption; last month HHS denied the request.

Offering a broader religious exemption is the wiser course. The nation has a long history of carving out religious exemptions to allow religious believers to live out their faith. During times of a military draft, those who have religious objections to serving in the military are generally exempted. Exemptions are also made in the workplace to accommodate religious dress codes. The underlying rationale for such accommodations, as constitutional scholar Douglas Laycock notes, is that religious liberty, to be meaningful, must allow people "to practice their faith, not just believe

it."

We disagree with the Catholic bishops' stance on birth control—as do a great many American Catholics—and we think that the common good is enhanced by providing wide access to contraception. Nevertheless, we think the common good is also enhanced when religious believers—and religious institutions—are free to act in the public square without sacrificing their religious identity.

The right to play by one's own religious rules is hardly absolute. The Catholic bishops are mistaken, for example, in charging the HHS with being anti-Catholic because it decided to end funding for a Catholic program helping victims of sexual trafficking. The Catholic program did not provide access to abortion and contraception, and HHS declared that it wanted victims to have "access to information and referrals for the full range of health care services." Given the government's goals, it was both reasonable and legal for HHS to drop the Catholic program. Religious groups have no First Amendment right to receive every government grant they seek.

The claims of religious conscience are not a trump card that wins every argument in American public policy. Nevertheless, the genius of American society has been its ability to protect rather than suppress believers' ability to exercise their religion. In the case of contraception and health insurance, there is room for compromise.