

## 2014 In the Balance: Religious Liberty and Individual Rights

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WRJ Board Statement, May 2014

In its over 100 years of social justice leadership, Women of Reform Judaism has steadfastly defended religious liberty, understanding the centrality of an individual's right to live according to the teachings of her or his own faith. As a religious minority, we understand the importance of religious freedom and the necessity of Constitutional protections for individual rights.

There are times, however, when the religious rights claimed by one person collide with the rights claimed by others. Such instances require a delicate balancing of these competing religious and civil rights, careful consideration of the legitimate arguments of both parties, and a deep commitment and respect for the Constitutional protections at stake.

In recent months, several cases that require just such balancing have reached the U.S. Supreme Court: *Sebelius v. Hobby Lobby Stores, Inc.* and *Conestoga Wood Specialties Corp v. Sebelius*. In both cases, the owners of a corporate entity object to the governmental mandate to provide certain health benefits to their employees as required under the Affordable Care Act, claiming that the requirement to pay for birth control would violate the tenets of their faith. On the other side are those who argue that religious rights do not extend to corporations and, even if they did, the health care requirement fulfills a secular purpose, provides employers that object with means to ensure employees receive coverage indirectly, and does not specifically target religion and therefore does not violate Constitutional standards.

At the center of this debate is the Religious Freedom Restoration Act (RFRA), which WRJ and others in the Reform Movement supported and fought hard to pass. RFRA specifically addresses cases in which a law may be neutral in appearance, but in effect substantially burdens religious exercise. In fact, we faced a similar balancing act when sectarian institutions, including religious hospitals and universities, offered similar objections to the health care law. Raising claims under RFRA, these entities were granted exemptions, and we applauded the compromise that would allow these sectarian institutions to remain true to their mission while still enabling their employees to receive the full range of health benefits they deserve.

However, we are deeply troubled by the idea of extending these same religious liberty claims to secular corporations, and our consideration of the proper balancing of competing rights in the Hobby Lobby and Conestoga cases leads us to a different conclusion in these cases. Corporations were established precisely to differentiate between owners and the corporate structure. We believe that the religious claims of secular corporate entities, or their owners, acting through the corporate structure, should not trump the legitimate rights of their employees to enjoy the full range of health care benefits promised under the Affordable Care Act. Religious organizations have the right to abide by their beliefs in accordance with their own faith tradition and no one is forced to use a health benefit to which they have religious objections. A corporation is simply not the same as an individual with religious beliefs, with a spiritual connection to a higher power, and with religious practices that require protection. As such, we believe that decisions about health care ought to be left to individuals and that corporations should not be able to impose the religious beliefs of their owners on their employees.

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We take note of the deeply held beliefs of the business owners in these cases and the dilemma of balancing their rights with the rights of their employees. Nonetheless, we do not accept the premise that having to provide a health insurance program that includes benefits to which they object constitutes a “substantial burden” on religious free exercise. Corporations can always opt not to provide health insurance and allow their employees to choose the best exchange or private plan that meets their needs. To go down the path argued by these companies clearly would allow owners to raise religious objections to every hard-won civil rights protection.

As we await the ruling of the Supreme Court, we take this opportunity to remind our members that the right to health care is not synonymous with access to health care. Regardless of the upcoming decision of the Court, far too many individuals in the U.S. lack access to affordable health care, proper health education, and the full range of reproductive health services to which they are entitled. Many of us thought the battles for access to birth control and abortion were won long ago, but now they are being fought anew from state to state, regulation by regulation. Health clinics and school nurses are on the front lines, and too often are abandoned by a complacent public. As we debate the nuances of constitutional law and religious liberty, let these cases also remind us to remain vigilant and to defend access to health care and reproductive rights, not only inside the courtroom but also in the streets of our cities and the hallways of our schools.