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### June 21, 2012: The Misuse of Religious Exemptions

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Title: The Misuse of Religious Exemptions

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6/21/2012—I write as someone, I hope, who favors religious exemptions and generally is sympathetic to religious believers who face crises of conscience. So I object to the misuse of religious exemptions and believe that they greatly harm religion in America.

The history of religious exemption begins really with Quaker exemptions from conscription, which gradually broadened to include all religious believers, and even some nonbelievers, who opposed all war. In many instances, conscientious objectors paid a high personal price for their principle opposition. These objectors created an admirable tradition.

In the case of abortion, it is clear as well that principled objection, deeply felt, motivated calls for religious exemption. Many Catholic, and other, hospitals would not perform abortions even if the State demanded it.

But by the time we get to the Bishops objecting to contraception coverage in Obamacare, changes have occurred that weaken the case for religious exemption. For example, there is some kind of example—true I guess but maybe apocryphal—of a Muslim cab driver refusing to carry passengers with alcohol. And there are pharmacists who refuse to fill some prescriptions, notably emergency contraception. The problem is that these are roles that have required an all carrier policy in the past. Cab drivers by law have to pick up anyone and such laws are important to minorities and others who need such transportation and are the most likely to face subtle forms of discrimination. And anyway, I don't want the religious owner of a national hotel chain requiring a marriage license before he will rent me a room.

But now the problem is getting worse as religious institutions descend to pure self-interest. So we have the case of Duquesne University suddenly getting religion and objecting to a unionization drive by adjunct professors on the ground that Duquesne—my university by the way—is a Catholic institution. Of course that is true, but Duquesne raises no religious objection to unions (the Catholic Church supports unions and always has). It is obvious to everyone that Duquesne is just another employer who would prefer that employees not unionize and is dressing this self-interest up in the robes of the separation of church and state.

Now, religious schools are pressing State legislators in Pennsylvania to transfer regulation from the Department of Public Safety to the Department of Education ostensibly to protect the schools and day care from government discrimination against their religious messages—except that the hearings showed there has not been any such discrimination (see below).

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HARRISBURG, Pa. (AP)—A bill that would relax the qualifications for employees at religiously affiliated child-care centers in Pennsylvania won the approval Tuesday of the state Senate Education Committee as lawmakers waded into a dispute between the state government and the Roman Catholic Church.

The bill passed 9-2, and the committee chairman, Sen. Jeffrey Piccola, R-Dauphin, called it an effort to firmly and clearly send a message to the Department of Public Welfare that it must back off regulatory language that church lobbyists worry could be used to encroach on religious freedom.

Aside from easing education and training requirements for the facility staff—anyone from a director to a 16-year-old employee—the bill also would transfer oversight of religiously affiliated child care facilities to the Department of Education.

A lobbyist representing the Pennsylvania Catholic Conference told committee members that the aim of the bill is to limit the authority of the Department of Public Welfare to impose rules that do not concern health and safety.

The lobbyist, Philip Murren, acknowledged that the department has not encroached on religious liberties. But he said cease-and-desist orders from the welfare department are pending against 14 religiously affiliated child care facilities because they refuse to submit to a licensing process that they believe involves rules outside of health and safety concerns.

A Department of Public Welfare spokeswoman said Tuesday that the administration of Gov. Tom Corbett supports religious freedom in school and child care curriculum.

"But the governor believes it is also important to ensure the health and safety of our children," spokeswoman Carey Miller wrote in an email. "This is why we have health and safety regulations in place for the protection of our children in child care settings."

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All that is really happening here is a kind of opposition to government regulation, no different from opposition in Utah to the requirements of a license to braid hair. Such opposition may be good policy, but it has nothing to do with religion.

So what? What difference does it make that religious institutions are using religion for more general policy disagreements? What difference does it make that opposition to the contraception mandate is closely connected to opposition to Obamacare for policy and political reasons?

Just this. Religion is supposed to be special. And as it ceases to be special and becomes just another, usually conservative, interest group, religion loses all authority and power to change individuals and society. This misuse of religious exemptions is part of the general decline of religion in America.

Or, to put it another way, some religious believers object to conscience clauses because they treat religion as just another form of conscience. Stephen Carter called it making religion into stamp collecting. But now we see that it is religious believers who are becoming stamp collectors by making religion into a political interest group.