

in dangerous practices such as handling poisonous snakes or illegal ones such as taking hallucinogenic drugs? Should the government prohibit religious activities that are dangerous or offensive to a majority of the community?

Historically, American lawmakers and judges have adhered to the so-called belief-action distinction, articulated by President Thomas Jefferson in an 1802 letter to the Danbury Baptist Association: "Religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or his worship; that the legislative powers of the Government reach actions only, and not opinion."¹⁴ Jefferson believed that free exercise of religion is not absolute; government may regulate religious actions. The Supreme Court has supported this position, upholding the constitutionality of laws affecting religious practices as long as the legislation serves the nonreligious goal of safeguarding the peace, order, and comfort of the community and is not directed at any particular religion.¹⁵ As a result, the Court has sustained laws prohibiting religiously sanctioned polygamy (the practice of taking multiple wives) and use of the drug peyote during religious services.¹⁶ By contrast, the Court invalidated a law that forced a Seventh-day Adventist to work on Saturday—her faith's Sabbath—in order to receive unemployment benefits.¹⁷ The Court also upheld the right of the Amish to withdraw their children from public school before the age of 16.¹⁸ The Amish believe the materialism, competition, and peer pressure that characterize secondary education would have a negative effect on their children's religious beliefs, Bible reading, and appreciation of a simple, spiritual life.

Congress and Religious Freedom

Congress does not always agree with the way the Court interprets the free exercise clause. In recent years, the legislative branch has shown greater support for freedom of religious expression than has its judicial counterpart. In 1986, for example, the Court ruled that an ordained rabbi, who was a captain in the U.S. Air Force, could not wear his yarmulke (skullcap) while in or out of uniform. Congress reacted by passing a 1987 law that allowed members of the armed forces to "wear an item of religious apparel while in uniform so long as the item is neat and conservative" and does not "interfere with the performance" of military duties.¹⁹

After the Court outlawed the use of peyote in religious ceremonies, Congress expressed renewed concern over the Court's reasoning in free exercise cases. Its Religious Freedom and Restoration Act (RFRA) urged the Court to use a more liberal judicial test in such cases but the Court ruled that part of the law unconstitutional, arguing that Congress had no power to tell the Court how to interpret the Constitution.²⁰ In 2014, however, a sharply divided Court ruled that the RFRA exempted closely held corporations, owned and controlled by members of a single family, from paying their employees' health care costs that related to methods of contraception such as the "morning after pill." In the joint cases of *Sebelius v. Hobby Lobby* and *Conestoga Wood v. Burwell*, the Court held that such companies cannot be forced to pay for medical methods that violated their religious beliefs even though such payments were mandated under the Affordable Care Act. The Court noted that the Obama administration had already made such exemptions for churches and accommodations for religious-based schools and hospitals.

In 2015, the Supreme Court continued its trend of supporting religious freedom claims by its interpretations of Congressional statutes. In *Equal Employment Opportunity Commission v. Abercrombie & Fitch*, an eight to one majority held that the trendy clothes store could not deny employment to a Muslim job applicant because her wearing of a headscarf violated their "Look Policy." Its reading of title VII of the 1964 Civil Rights Act was that an employer cannot make an otherwise qualified applicant's religious practice a factor in employment decisions. In the same session, a unanimous high Court ruled against an Arkansas prison policy banning prisoners from wearing beards that did not allow a religious exemption. The plaintiff in *Holt v. Hobbs* wanted to wear a half-inch beard in accordance with his religious beliefs. The justices held that their interpretation of the Religious Land Use and Institutionalized Persons Act allowed such a religious observance.