

# Little Sisters' Legal Counsel Explains Why the Supreme Court Should Let Them Serve

They have made a personal vow to God and to the elderly poor. With a joyful and humble spirit, the Little Sisters of the Poor are nuns who have dedicated their lives to ensure the frail elderly are treated with dignity and respect until they take their last breath.

The Little Sisters have a rich history of service that spans 175 years and 31 countries, serving more than 13,000 elderly poor. Yet today, these nuns find themselves petitioning the highest court of the land for justice in a case that reads like a modern-day David vs. Goliath match.

The Little Sisters are undoubtedly David, driven by their mission to serve, while the U.S. Department of Health and Human Services (HHS) is the giant demanding the Sisters compromise their Catholic faith to comply with an imposed health care mandate that goes against their religious beliefs.

To sort out these complex issues of law, liberty and health care policy, we turned to attorney Adèle Keim, who serves with public interest legal firm The Becket Fund—representing the Little Sisters of the Poor in this legal battle. She gives insights on why this case matters for every American, particularly those who hold convictions on the pro-life and religious liberty causes.

**Bound4LIFE:** Could you briefly describe the Little Sisters of the Poor case—who are the parties and what do they want decided?

**Adèle Keim:** Right now, the Little Sisters of the Poor find themselves in a situation where the government is forcing them

to provide services in their health plan like the week-after pill—which violates their religious beliefs. They are just one of many different religious groups before the Supreme Court on this issue.

Actually hundreds of evangelical religious groups represented by GuideStone, a major Southern Baptist health plan that serves only religious nonprofits and churches, have come into court hand-in-hand with the Little Sisters. They too do not want to have their religious health plans deliver the week-after pill to people working for religious nonprofits that aren't exempted.

**Bound4LIFE:** What are your thoughts on oral arguments last week, as the eight Supreme Court Justices finally heard the Little Sisters case?

**Adèle Keim:** It was a lively debate inside the court. It was striking to hear both Justice Anthony Kennedy and Chief Justice John Roberts repeatedly ask the Solicitor General to answer why the government was “hijacking” the Little Sisters’ health plan, to use their words.

It’s such an important point because the Little Sisters aren’t just objecting to paperwork; they object to their Catholic conscience-compliant health plan being used as a vehicle to deliver contraceptives. The Solicitor General even admitted to the sincerity of the Little Sisters’ religious beliefs, that participating in the government scheme would make them complicit in sin. It becomes very clear the government’s case is weak.

Outside the court was an atmosphere of joy. Over 200 nuns and members of various religious orders, students and dozens of young pro-life advocates from across the country came to support the Little Sisters. Photos indicate religious liberty advocates represented about 80 percent of those gathered.

**Bound4LIFE:** What impact would the HHS mandate penalty have on

the Little Sisters' charity work?

**Adèle Keim:** Overall, the penalties burdening the Little Sisters would amount to about 70 million dollars every year. It adds up to 100 dollars per day per employee, based on the current government mandate penalty. Such huge government penalties would be a crippling blow to this organization.

**Bound4LIFE:** President Obama promised often that, "If you like your health care plan, you can keep it—period." Yet while some pre-existing health plans were exempted, there seems to be an intentional effort to force these abortion-related services on faith-based nonprofits?

**Adèle Keim:** One in three Americans are not covered by the HHS mandate. That includes large corporations like ExxonMobil, Visa Inc. and PepsiCo, which were exempted from the mandate for reasons like cost or convenience. In fact, the government does not even require our own military to provide cost-free services through their family insurance plan TriCare. Big cities, like the City of New York, are also exempt from providing cost-free services.

However, the government's requirements are quite clear. In actuality, the government has narrowed in on groups like Little Sisters of the Poor like a laser beam. They've made concessions to other nonprofits that are not religious (like the City of New York), but they've narrowed in their focus on religious nonprofits.

**Bound4LIFE:** What do you think is the government's central goal with this mandate as it pertains to religious organizations?

**Adèle Keim:** The Obama administration has changed their rules for religious nonprofits eight times in the past five years, usually in response to court rulings where they lost in court and then had to make health care policy changes.

But the government has never abandoned their central goal,

which is to force groups like Little Sisters to convert the health plan they created—in order to serve and benefit their employees—into a vehicle for delivering services the Little Sisters object to.

**Bound4LIFE:** Does the Affordable Care Act actually mandate insurance plans cover abortion-inducing forms of contraception?

**Adèle Keim:** That's one of the saddest things about this situation. This mandate was not in the Affordable Care Act when it passed. All the statute required was that health care plans cover preventative services for women. Congress then delegated authority to a sub-agency of HHS to determine what should be on that list of women's health services.

This sub-agency then enlisted the help of the Institute of Medicine, which held hearings that included pro-abortion groups like Planned Parenthood. The Institute of Medicine provided recommendations on which preventative services to be covered without cost-sharing.

Despite pushback from pro-life organizations and religious groups, the final report recommended including contraceptives (including contraceptives like the week-after pill) with no cost-sharing; those recommendations were immediately adopted by HHS.

**Bound4LIFE:** Why should pro-life advocates be concerned that this case will affect abortion policy beyond simply contraception?

**Adèle Keim:** The federal government's position in litigation has been it's not abortion unless the embryo has already been implanted. So forms of contraception that act primarily on an embryo prior to implantation or prevent implantation are not considered an abortion, because there wasn't an established pregnancy.

But of course, there wasn't an established pregnancy because the uterine wall was made to be inhospitable by contraceptives. For Protestants and Catholics who believe that life begins at conception, that implantation line does not change the moral calculus: They do not want to be involved in covering these services.

The State of California just required that HMOs cover surgical abortions—even if the HMO plan is serving churches. Now there's a series of lawsuits against the state brought by churches. Planned Parenthood and the ACLU are two of the groups that lobbied California to adopt that rule ... the same groups that lobbied for the inclusion of the contraceptive mandate in federal law.

So the same group that opposes the Little Sisters in this case—Planned Parenthood—has argued in California that not even churches have the right to have abortion-free health plans. We can see where this is heading if we do not stand with the Little Sisters and defend religious conscience rights.

**Bound4LIFE:** How should we view religious liberty according to the U.S. Constitution?

**Adèle Keim:** Religious liberty is not a trump card, rather it is a balanced right in our system. But what we do know is that it is a right and it has to be balanced; that's something the government seems to be missing in this case.

If religious liberty means anything, it means that if the government is going to make exceptions to a rule for administrative convenience or cost—as it has with for-profit companies—then it has to be at least as respectful towards people who have a religious objection to the rule.

**Bound4LIFE:** As a person of faith, how does prayer guide your life and work?

**Adèle Keim:** I think prayer helps orient you toward things that

are lasting. It helps you set priorities in a world constantly trying to sway you one way or another. It helps you know, moment to moment, how to invest your time in things that are eternal—instead of on things that are going to fade.

I am inspired by how the Little Sisters emerged in the aftermath of the French Revolution. A servant woman named Jeanne Jugan grew weary of seeing elderly people abandoned and forced to beg on the streets. One day, she picked up an elderly woman, carried her home and said, “I will go out begging in your place.” Ever since that day in 1839, the Little Sisters of the Poor have had one goal in mind: to serve the elderly poor as though they were Christ Himself.

For these women, their whole lives are oriented around the times of prayer they have every day. Even in the midst of running these homes for the elderly poor—and many of them are professionally trained nurses—still they set aside time to pray and worship.

Prayer guides everything the Little Sisters of the Poor do, and we can see that in what they’ve accomplished.

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