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Do business corporations have free exercise rights? This question has become critically important in recent challenges to the Affordable Care Act's so-called "contraception mandate." A host of businesses selling ordinary goods and services claim that they cannot be compelled to provide employees with insurance that covers contraception. Courts have divided over whether corporations can assert rights of conscience, and existing theoretical accounts fail to provide guidance on this question.

This Article offers a new normative framework for evaluating corporate claims of conscience. Drawing on theories of conscience and collective rights, it develops a "social theory" of conscience that explains how individual moral identity is formed within associations and, consequently, how the social structure of those associations can support institutional claims for legal exemptions.

The social theory of conscience has direct implications for free exercise doctrine. For an institution to assert a valid claim, it must be a constitutive community, such that individual members regard the collective as intimately tied to their sense of self. Some institutions, like churches and other religious organizations, fit comfortably in this category. But the legal, social, and economic norms that govern modern business practice pervasively undermine the formation of tight personal connections to for-profit corporations and thereby erode the normative basis for institutional legal exemptions. Free exercise doctrine should therefore resist corporate claims to exemptions from the law.