



Awake, O Sleeper

An Aroused Church Says “No” to HHS Mandate

By Mike Hoey

After the Rally for Religious Liberty on March 27, I was making my way through a sea of red on the second floor of the Missouri State Capitol when an angry man accosted me and bitterly denounced the bishops for caving in to Obama. I asked him if he had heard Archbishop Carlson’s speech. He said he had been too far back. That’s too bad, I said.

I don’t know how much stronger a person could be. The St. Louis Archbishop put the President on notice: “Mr. Obama, you should know that we are ready to suffer for our convictions. You can fine us and we won’t pay. You can put me in jail. I don’t care.” In mandating that religious employers pay for abortion drugs, contraceptives and sterilization procedures, the Obama Administration has awakened a sleeping giant, namely the Catholic Church.

St. Paul counseled the Ephesians: “Awake, O sleeper, and arise from the dead, and Christ will give you light” (Ephesians 5:14). On this day, rally day, the sleepers had arisen and come from all corners of the state. Thousands stood in the first floor rotunda and more circled the banisters on the second and third floors.

When Archbishop Carlson greeted the assembly with “Hello Church!” thunderous applause erupted. You had a sense that the Early Church had been reborn and that for one moment we were all one—Catholics, Baptists, Lutherans, Assemblies of God and many more people of faith.

President Obama’s Feb. 10 “accommodation” of religious employers had changed nothing, the Archbishop told the faithful to ringing applause. Our religious liberties are under attack. (For why this remains true and a legal analysis of the “accommodation,” read *The Accommodation That Isn’t* on the next page.)

The mandate tells the Catholic Church that it can keep running its Catholic schools and hospitals so long as it pays for contraceptives and abortion drugs in its health plans. Or, it can re-

fuse to do these things and scale back its ministries to Catholics only.

It seems as if the President has forgotten that church is about more than an hour of worship on Sunday. We can’t lock our religion away in a dark room. We have to spread the light of Christ and that includes those corporeal works of mercy we learned about as children. As Maggie Karner, the director of Life and Health Ministries for the Lutheran Church-Missouri Synod, put it at the rally: “Mercy is intrinsic to Christian life. It’s not what we do. It’s who we are.”

Much of the secular media has simply ignored this point. They want to make this controversy about women’s health, or more specifically contraceptives. One nominal Catholic recently told me the men in red caps should quit interfering in women’s health care. If this were the real issue, then churches that disagree with Catholic teaching on contraceptives would not be opposing the HHS mandate. Mrs. Karner said the issue wasn’t about birth control and, “Quite frankly, when I see it represented in the media that way, I instantly know the reporter hasn’t done his homework.”

Yet many continue to view the whole matter as a tempest in a teapot. No one is stopping priests from saying Mass, after all. The editors of the Jesuit magazine *America* are chastising the bishops for exceeding their pastoral role by getting into the “fine points of the public policy” while pressing their religious liberty claims too far. In a March 5 editorial, the magazine lectured the bishops that the American public is “uncomfortable with an overt exercise of political muscle by the hierarchy.” Then, the editors opined: “They [the public] hope bishops will accept honorable accommodation and when provoked, not stir up hostility.”

Imagine these folks counseling the American colonists. We might still be British possessions. The editors of *America* magazine simply don’t get it. There are principles at stake here and if you surrender in one instance you weaken your

right to object later. What *America* magazine calls “honorable accommodation” is nothing more than appeasement.

The editors of *America* think the bishops’ campaign “fails to acknowledge that in the present instance, claims of religious liberty collide with the right to health care . . .” Memo to the editors: what the Obama Administration is proposing is not “health care.” Pregnancy is not a disease, sterilization procedures for the sake of sterilizing are not medically necessary, and abortion drugs don’t promote health but kill an unborn child.

There is no compelling state interest behind the HHS mandate that would even remotely justify an abridgement of religious ministries offered by the Catholic Church. Yes, both Catholic teaching and the laws of our nation recognize there are limits to religious liberty. A person who invokes “religious liberty” to handle rattlesnakes in public places may end up in jail. But how is handing out free contraceptives a matter of public safety or public health?

The Obama Administration has overstepped a sacred boundary. In the process the administration has allowed the “reproductive freedom” ideology of Planned Parenthood and its minions to trump any concern for the poor, for what could be more detrimental to the poor than forcing out of business the many Catholic charities and hospitals that serve the needy of our country?

There are those who would like nothing better than to see the Church take its ball and go home, to exit the public square. But the Church is not going to run and hide. There is nothing wrong (and everything right) with the way the Church ministers to all Americans. We are here to stay and serve and do it in keeping with our religious values. The sleeper has awakened and, as Archbishop Carlson declared, “We are ready to march!”

Must Universal Access to Health Care Entail Access to Abortion?

In 1948, Britain's National Health Insurance (NHS) went into operation. It provided free and universal health care to all Britons. Today, Britain's per person spending on health care is one of the lowest among industrialized nations. Such a single-payer system is the Holy Grail of many American progressives, who are critical of the new Patient Protection and Affordable Care Act because of its reliance on a labyrinth of private health plans that might leave too many people without access to affordable health care.

But for pro-life advocates any national system comes with risks attached. In 1967, the British Parliament legalized abortion, making abortions available throughout the NHS system. If you have a national system with uniform benefits and services, then, if the culture becomes more pro-abortion, the likelihood increases that the system will begin to

pay for and provide abortions.

The solution offered by libertarians is a complete withdrawal of government from the health care arena, but this seems unlikely to happen. It would require repeal not only of the new Patient Protection and Affordable Health Care Act but also of Medicaid for the poor and Medicare for the retired. It is also difficult to imagine how offering tax credits to people who set up health savings accounts would be an adequate substitute. The working poor have too little discretionary income to save sufficient cash for a major health crisis; their earnings must put food on the table and keep the car running so they can get to work.

If government withdrawal from health care is unlikely and tax credits are not a feasible alternative, what options remain? For many

years pro-life advocates have sought to keep abortion out of federally funded health care programs, and their efforts have often been successful. Prior to 1976, the federal Medicaid program paid for about 300,000 abortions a year. However, after the Hyde Amendment went into effect for FY 1977, the funding levels dropped dramatically. In FY 1977, 182,000 abortions were funded. In FY 1986, the number was 232; in FY 2000, 109; in FY 2004, 159.

The Hyde Amendment must be attached to the various federal health care programs, such as Medicaid, every year. A more lasting way to keep abortion out of federal health care programs would be for Congress to enact a permanent Hyde Amendment that would apply to all federally funded health care programs.

The Accommodation That Isn't

By Tyler McClay

President Obama's so-called "accommodation" on the HHS contraceptive mandate changes nothing. Catholic-affiliated hospitals, charities, universities and schools are still going to be required to provide contraception, sterilization and potentially abortion-inducing emergency contraception in their health plans. Saying that the institution's insurance company will pay for the offending drugs and services changes nothing.

Insurance companies make their money by collecting premiums. If the premiums account for more than what is paid out in claims and overhead, the insurance company makes a profit. Does the Obama administration seriously think that health insurance companies are going to absorb the cost of providing free goods and services to health plan participants without passing the additional cost on to the employers who provide these health plans to their employees?

Have you ever had a car accident or sustained storm damage to your home and NOT seen your premiums increase? As Archbishop

Carlson stated in his address at the Rally for Religious Liberty in Jefferson City, "Mr. President, there's no such thing as a free lunch! Contraception, sterilization and abortion-inducing drugs aren't free. Someone has to pay for them. If the insurance company has to provide them, the cost is passed on to the consumer one way or another – that's how the economy works!"

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Apparently, the Obama Administration hasn't finished its continued review of this "accommodation." A willingness to significantly change course, however, isn't expected. On March 21, 2012, the Department of Health and Human Services, announced that it would accept comments until June 12, 2012, "on the potential means of accommodating [religious organizations] ... while ensuring contraceptive coverage for plan participants ... *without cost sharing*" (emphasis added).

Clearly, the HHS has no plans to rescind the mandate, or to settle for any compromise other than one that provides all women with free contraceptives and sterilization coverage, no

matter who they work for – unless their employer meets the strict definition of a "religious employer."

No longer can Catholic-affiliated hospitals, charity organizations, universities and schools claim to be Catholic and thereby exempt from the mandate. Because these organizations don't (1) primarily employ Catholics or (2) primarily serve Catholics, they don't qualify for the "religious employer" exemption. This refusal to truly accommodate Catholic institutions is at the heart of the bishop's objection to the mandate.

Preventing a Catholic institution from being able to define for itself what health benefits it will provide in accord with its teachings is a denial of religious freedom. Offering an accommodation that forces a Catholic institution to publicly mute its witness to those teachings, claiming that there is no infringement on religious liberty because someone else will pay for and provide the offending drugs and services is no accommodation at all.

The Germ of Tyranny

The 18th-century British statesman Edmund Burke once astutely observed: “The people never give up their liberties but under some delusion.” The delusion offered by the Obama Administration is that you can get something (in this case contraceptives) for free, with no cost to yourself. In fact, the cost is very high: we are asked to surrender our freedoms. Yes, only a little bit at a time, but the direction is clear and alarming. It is for this reason that so many allies have come to the defense of the Catholic Church as the government seeks to bully the Church into paying for abortion drugs, contraceptives and sterilization procedures in its health plans.

The high-handed actions of the Obama Administration represent an egregious example of government overreaching its proper boundaries. Catholic teaching recognizes an important role for government in upholding the common good, but “excessive intervention by the state can threaten personal freedom and initiative,” the *Catechism of the Catholic Church* observes.

The Catholic Church has dealt with strong governments for centuries and out of this experience it has developed various principles, such as the principle of subsidiarity, which declares that organizations of a higher order (read the federal government) should not usurp the proper functions of organizations of a lower order. Government’s role is to assist and coordinate the activities of more local communities not to run roughshod over their traditions and beliefs.

The Catholic Church is not alone in seeing a val-

ue in checking the over-centralizing and tyrannical tendencies of powerful governments. People such as James Madison understood the need to protect individual freedom from even the tyranny of a misguided majority. That is why the U.S. Constitution offers so many checks and balances among the three branches of government. Even a 19th-century French Catholic aristocrat such as Alexis de Tocqueville recognized the value of multiple levels of government in America:

The townships, municipal bodies, and counties form so many concealed breakwaters, which check or part the tide of popular determination. If an oppressive law were passed, liberty would still be protected by the mode of executing that law; the majority cannot descend to the details and what may be called the puerilities of administrative tyranny.

Tocqueville published the first volume of *Democracy in America* in 1835, and the nation has changed a bit since then. Now no one would dream that a county could resist the designs of the federal government. But while people recognize how even state rights can be used to justify unjust situations, such as the Jim Crow laws of the Old South, few Americans are comfortable with a federal government that reaches into every crevice of social life and even tries to tell churches and people of faith that they must act against their beliefs.

Some so-called liberals harbor a very illiberal idea; they seek, by their lights, a more rational society in which there is more uniformity and



Alexis de Tocqueville

everyone and every institution is made to act just as prescribed by government regulation no matter if such regulation furthers the common good. This is the “administrative tyranny” Tocqueville warns us against, or the “germ of tyranny,” as he puts it in another passage. We will let our French friend have the last word:

Unlimited power is in itself a bad and dangerous thing. Human beings are not competent to exercise it with discretion. God alone can be omnipotent, because his wisdom and his justice are always equal to his power.

Bishops Issue Statement on Religious Liberty

It’s not just about the HHS abortion-drug mandate. In a recent statement issued by the Ad Hoc Committee for Religious Liberty, the U.S. bishops describe an alarming trend in which government is increasingly harassing churches in their public ministry. Some of the examples cited include:

- Boston, San Francisco, the District of Columbia and the state of Illinois driving Catholic Charities out of adoption placement services because these agencies will not place children with same-sex couples;
- The University of California Hastings College of Law denying status to a student organization, the Christian Legal Society;
- Despite years of excellent performance, the federal government discontinuing a contract with the United States Conference of Catho-

lic Bishops’ Migration and Refugee Services because of contract specifications that victims of human trafficking be offered contraceptive and abortion services.

In the statement, the bishops observe that: “Religious liberty is not only about our ability to go to Mass on Sunday or pray the Rosary at home. It is about whether we can make our contribution to the common good of all Americans.”

In another passage, the bishops declare: “What is at stake is whether America will continue to have a free, creative, and robust civil society – or whether the state alone will determine who gets to contribute to the common good, and how they get to do it.”

Go to USCCB.org to read the entire statement.

“Even while the centralized power, in its despair, invokes the assistance of the citizens, it says to them: ‘You shall act just as I please, as much as I please, and in the direction which I please. You are to take charge of the details without aspiring to guide the system; you are to work in darkness; and afterwards you may judge my work by its results.’”

These are not the conditions on which the alliance of the human will is to be obtained; it must be free in its gait and responsible for its acts, or (such is the constitution of man) the citizen had rather remain a passive spectator than a dependent actor in schemes with which he is unacquainted.”

— Alexis de Tocqueville,
Democracy in America Vol. 1, 1835

Why Missouri Must Not Wait on Congress to Protect Religious Liberty

Despite gallant and repeated efforts by Missouri Sen. Roy Blunt, the U.S. Senate has refused to pass any legislation in 2012 to amend the federal health care law (the Patient Protection and Affordable Care Act) to protect religious liberty and rights of conscience. At this time, it appears unlikely that Congress will pass the Respect for Rights of Conscience legislation (S. 1467 or H.R. 1179) this year. Sen. Blunt has indicated he will wait until after the fall election; if there is a more favorable U.S. Senate at that time, then he will once again pursue his legislation.

Meanwhile, the so-called “accommodation” announced by President Obama on Feb. 10, 2012, does not respect the rights of conscience of religious employers or others. The grave flaws in the President’s “accommodation” and the rule issued by the Department of Health and Human Services (HHS) have been carefully analyzed by spokespersons for the United States Conference of Catholic Bishops (USCCB):

- Testimony, Feb. 28, House Judiciary, Bishop William Lori, Bishop of Bridgeport, CT

- Letter, March 2, Cardinal Timothy Dolan, President of the USCCB

- Legal memorandum, March 7, Anthony Picarello, Associate General Secretary and General Counsel of the USCCB.

(To download these documents, go to the MCC’s website.)

Faced with the current impasse, what can be done? In Missouri, the general assembly is pursuing passage of legislation that would place in state law a prohibition on government forcing employers or employees from paying for abortion drugs, contraceptives or sterilization procedures. The bills filed are: SB 749, sponsored by Sen. John Lamping (R-Clayton); and, HB 1730, sponsored by State Rep. Stanley Cox (R-Sedalia).

Some suggest it is futile to pass a state law because federal law supersedes state law. There are two responses to this objection, one related to legal considerations and the other to the value of educating citizens and calling them to action in defense of their religious liberties.

Federal law does supersede state law; however, federal courts may very well rule that this particular federal law is in violation of the U.S. Constitution. If this occurs, the new Missouri law will stand as good law and as an explicit affirmation of Missouri’s policy that religious liberty shall be protected.

Beyond the legal considerations, the process of seeking passage of a state law on religious liberty keeps this issue before Missouri citizens at a time when positive action by Congress seems unlikely. The state legislation serves as a focal point for organizing defense of religious liberty. If Gov. Nixon signs SB 749 (or HB 1730) into law, this will send a powerful message to Congress that the states are not waiting on Congress to act in defense of religious liberty. Ultimately, protection of religious liberty will require the active involvement of citizens, which must start on the local and state level. We cannot and must not wait on Congress to protect religious liberty.

c. The right to conscientious objection

399. Citizens are not obligated in conscience to follow the prescriptions of civil authorities if their precepts are contrary to the demands of the moral order, to the fundamental rights of persons or to the teachings of the Gospel. [820] Unjust laws pose dramatic problems of conscience for morally upright people: when they are called to cooperate in morally evil acts they must refuse. [821] Besides being a moral duty, such a refusal is also a basic human right which, precisely as such, civil law itself is obliged to recognize and protect. “Those who have recourse to conscientious objection must be protected not only from legal penalties but also from any negative effects on the legal, disciplinary, financial and professional plane”. [822]

It is a grave duty of conscience not to cooperate, not even formally, in practices which, although permitted by civil legislation, are contrary to the Law of God. Such cooperation in fact can never be justified, not by invoking respect for the freedom of others nor by appealing to the fact that it is foreseen and required by civil law. No one can escape the moral responsibility for actions taken, and all will be judged by God himself based on this responsibility (cf. Rom 2:6; 14:12).

—*Compendium of the Social Doctrine of the Church*

Did you miss the Rally for Religious Liberty?

If you weren’t able to attend the Rally for Religious Liberty at the Missouri Capitol on March 27, the Missouri Catholic Conference has videos, pictures and text of the speeches from the rally available on its website.

The Missouri Catholic Conference has a video of every speech from the rally on its website, MOcatholic.org, including the speech from Archbishop Carlson. Transcripts of every speech are also available to download from the MCC’s website. You can also look through pictures from the rally.



While you’re at the MCC’s website, be sure to join the MCC Citizens’ Network to get updates on religious liberty bills and other priority legislation in the Missouri General Assembly.