

CONSCIENCE

THE NEWSJOURNAL OF CATHOLIC OPINION

VOL. XXXIII—NO. 2 2012

A Delicate Balance
A History of the Separation of
Church and State in the US

ROB BOSTON

The Lay State and
Religious Freedom
in Mexico

The Debate on Amending
the Constitution

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THE NEWSJOURNAL OF CATHOLIC OPINION

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Conscience is published by Catholics for Choice.

Catholics for Choice shapes and advances sexual and reproductive ethics that are based on justice, reflect a commitment to women's well-being and respect and affirm the capacity of women and men to make moral decisions about their lives.

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ISSN 0740-6835

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EDITOR'S NOTE

NO MATTER WHAT YOU CALL IT, SECULARISM, THE LAY STATE, the separation of church and state, the role that religion plays in shaping public policy generates incessant and seemingly irreconcilable debate.

Some argue, with cause, that it is simply an issue for atheists who want to end religious influence on public policy. But many religious people also see the benefit of keeping religion and public policy separate. They recognize that religion plays an important role in many people's lives, but do not think that religious beliefs should have an unelected place at the table when public policy is being decided.

There are two important rights involved in religious freedom: the right to practice one's religion as one sees fit and as long as it does not harm others and the right to be free from religion. This latter right is often pushed aside in discussions about religion in public policy, but both are equally important for those seeking to ensure a healthy separation.

As an organization, Catholics for Choice is committed to the development and protection of real religious freedom, and this issue of *Conscience* brings together some of the leading voices on religious freedom.

Rob Boston from Americans United for Separation of Church and State provides us with an excellent introduction to the role this concept played in the foundation of the United States of America. Noted scholar Roberto Blancarte reveals what really happened when the Mexican constitution was amended earlier this year and its implications for the lay state. cfc's Kim Puchir examines the unique role of the Holy See at the United Nations and the impact that has on international policies, including those that affect women's lives.

Journalist and author Frederick Clarkson shines a light on the real motivations of those who want to insert religion into every public policy debate and reflects on the lack of concern that too many people have for religious pluralism. And finally, Sara Hutchinson explains why the current situation has reached such a dire state that it warranted setting up a new coalition to defend church-state separation in the US. There's much more to be said on this topic, and it is one that we will surely return to in future issues. In the meantime, please use our letters page to tell us what you think.



DAVID J. NOLAN
Editor

Conscience is a unique magazine, and one we would like to get as wide an audience as possible. So, I have a favor to ask. Think for a moment. Ask yourself, do I know other people who I want to be as well-informed as I am? I'm sure you do, because inquisitive people always know other inquisitive people.

So, please consider buying them a subscription as well. To purchase, please visit our website, www.CatholicsForChoice.org, or call us at (202) 986 6093.

“Evangelical Christians would not exist in America were it not for the separation of church and state—a concept many of them now assail. The irony is rich.”

— ROB BOSTON, p12

Conscience offers in-depth, cutting-edge coverage of vital contemporary issues, including reproductive rights, sexuality and gender, feminism, the religious right, church and state issues and US politics. Our readership includes national and international opinion leaders and policymakers, members of the press and leaders in the fields of theology, ethics and women’s studies.

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Praise for Thorny Issues

I'M SURE YOU ARE HEARING this from all corners, but I have to chime in—the current issue of *Conscience* (Vol. XXXIII No. 1) is truly excellent! Just read it cover-to-cover—the articles are thought-provoking and together they really create a platform for new conversations. Wish everyone in our movement could read this issue.

Thanks for helping to push us forward.

SUSAN YANOW
*Reproductive Health Consultant
Cambridge, Massachusetts*

The Many Stories behind Abortion

IN “A PERSPECTIVE ON LATER Abortion... From Someone Who Does Them” (Vol. XXXIII No. 1), Dr. Parker’s call to his OB/GYN colleagues to begin or expand their abortion care could not be more timely amid the intense escalation of legislative attacks on these services, especially those performed after 20 weeks. Prochoicers often minimize the need for later abortions, since 90 percent of abortions occur before 12 weeks. It’s true that most patients choosing abortion are able, and prefer, to do so within the first trimester. However, those whose abortions are necessarily

Letters may be edited for clarity and length.

delayed—whether due to changed circumstances, lack of funds, ignorance of the pregnancy, diagnosis of fetal or maternal anomalies, and/or the human reality of ambivalence—equally deserve our compassion and safe medical care.

Like Dr. Parker, I am witness to the often desperate circumstances that surround women seeking abortions after 20 weeks, and the gratitude they express when the procedure is over. As an abortion counselor, I am proud to be part of their care. I am grateful that my clinic is available to patients who, at their stage of pregnancy, would have nowhere else in-state to go.

I am also witness to stories that don’t end in my clinic. I have been the one to tell a patient that she has passed our gestational limit. I have provided the alarmingly short list of later providers in other states, a list made ever shorter by the gaping hole left by the assassination of Dr. George Tiller three years ago. I’ve made calls to try to schedule appointments over 200 miles away, and I’ve strategized with patients about how to travel, fundraise, obtain childcare, miss work and potentially conceal everything from a partner or family. I never know how these stories end.

Dr. Parker is right that as reproductive justice advocates, there is an urgent need for us to normalize second trimester abortions. But perhaps more importantly, we need to normalize abortion without regard to the stage of pregnancy. Our rallying cries about trusting women so that they can maintain control over their bodies, as well as our steadfast belief that patients and healthcare providers alone should determine medical care, hold true for the patient who needs a 27-week abortion, too. It may be a difficult conversation, but it’s one worth having.

LILY SHIELD
*Co-Editor
The Provider Project*

An Atheist on Religious Freedom

TO MOST PEOPLE I AM THE worst kind of sinner; I am an atheist. Without the fear of God or acceptance of the teachings in the Bible they have no basis to argue with me. It drives them crazy and they hate me even more.

I understand and respect why people have faith and seek religion. My disconnect comes when people start attempting to convince others their god is the correct god or try to force their morality on other people. I do not care what people do in their private lives and do not want anybody trying to convince me that I am a bad man because of my beliefs.

With regard to abortion rights, I look at them like a lot of things in life: When

the lights are out and you are in bed you need to get to sleep. Only you can make that happen. Abortion is a very personal and hard choice and the reasons, regardless of what they are, should be up to the person who will be responsible for the happy life of the child.

Assuming I am not breaking any laws or hurting anyone, no one should have the audacity to tell me that my decisions that led up to my happiness were wrong. Rather, everyone should go find their own happiness.

TODD STAVE
*Director
Voice of Choice*

Bishops and the Defense of the Constitution

THROUGHOUT CHRISTIAN history, public oaths about important matters have been viewed as very serious by both the laity and hierarchy of the Catholic church. Marriage vows and ordination vows are examples of this.

The oath taken by the president of the United States reads: “I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States.” (The Congressional oath is also to the Constitution of the United States. Most gubernatorial oaths model the presidential one.)

It is important to realize that the president does not swear to uphold his/her own (much less the bishops’) personal views on matters

that have been repeatedly reviewed by the Supreme Court. Rather, the president is expected to uphold *all* Supreme Court decisions. This includes *all* decisions related to the legality and availability of abortion. The same is true for members of Congress. We are a nation of *written* law and the oath of office is to uphold that *written* law.

Are the US Catholic bishops prepared to say that the oath is invalid? If so, then Catholics could not be elected to national office. If, however, the oath is valid, then it is a futile task to pressure Catholic lawmakers about court rulings.

By now, it should be apparent to the bishops that the *only* way to make abortion illegal is through an amendment to the Constitution. Why do they not turn themselves to the task of educating and evangelizing, instead of threatening Catholic lawmakers on the subject? Either the bishops do not understand the fundamental nature of our secular, democratic government, or they do not appreciate the freedom it assures them under that very same Constitution.

The bishops owe the country an answer: Is the oath valid?

RICHARD LANG
San Francisco, California

Bishops' Call for Civil Disobedience Doesn't Ring True

ON APRIL 12, 2012, THE nation's Roman Catholic bishops, all of whom are Vatican appointees, issued a

proclamation calling for Catholic laypersons to disobey laws with which the hierarchy disagrees. This subversive action accompanies recent statements by the bishops that their religious freedom is "under attack."

Surely it is time for the hierarchy to weigh the subsidies and other advantages Catholic institutions currently receive from state and federal governments:

1. Churches, church schools and religious broadcasters pay no property taxes.
2. The church pays no income tax.
3. Religious organizations do not have to apply for tax-exempt status; rather they receive it automatically.
4. Individuals are allowed to deduct contributions to churches, church schools, etc., from their individual income taxes.
5. Some church social service programs are funded in part by taxpayers.
6. Churches are routinely exempted from employment laws, anti-discrimination measures and even routine health and safety inspections.
7. Religious groups avoid the stringent reporting requirements imposed upon secular lobbies.

If the Catholic bishops were truly in favor of religious liberty, they would end their opposition to separation of church and state, which is the cornerstone of religious liberty in America. But the bishops also want taxpayer money for parochial schools, a clear

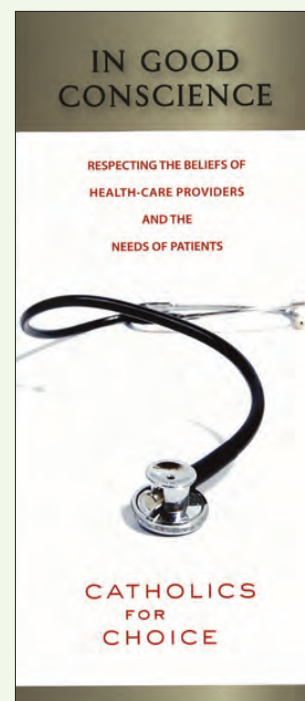
violation of this doctrine. Perhaps these gentlemen should be reminded that during the 19th century, in the period of German unification under the Prussian leader Otto von Bismarck, many German

Catholics emigrated to our shores precisely because of the then-novel concept of separation of church and state and its promise of religious liberty.

DONALD D. MEYER
Labadie, Missouri

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The Church and Contraception

Catholics Support Contraception Coverage, Reject Bishops' Religious Liberty Interpretation

SURVEYS HAVE LARGELY found support among Catholics for the announcement from the Department of Health and Human Services (HHS) that employee health plans must offer no-cost contraception coverage. However, the US Conference of Catholic Bishops has decided that the move threatens centuries of religious liberty, and are proposing a major campaign to oppose the HHS decision. Thus far, there has been little public support for the bishops, except from ultra-conservative Catholics.

One poll, by the Public Religion Research Institute (PRRI), found that only six percent of respondents who believed religious liberty is threatened in the US point to the contraception debate as proof for this belief.

PRRI also said that according to their findings, "Catholics are generally more supportive than the general public of the contraception coverage requirements."

Other polling data documents the divide between the bishops' views and those of US Catholics. In February, Public Policy Polling found that 57 percent of Catholics support the Obama admin-

istration's plan to arrange for no-cost birth control coverage at religiously affiliated hospitals and universities without these institutions paying for it directly. A survey published in the December 2011 issue of *Politics and Gender* found that "the vast majority of Latinos and Latinas strongly agree that women should ... have easy access to contraception," as summarized in an article from the *Florida Independent*. Over 80 percent of respondents support access to birth control, a sample that included men and women, native-born

Americans and immigrants, as well as Catholics and non-Catholics.

However, several bishops and priests have used the issue as a rallying cry to conservatives. Fr. Paul D. Scalia, son of Supreme Court Justice Antonin Scalia, said that Catholics should protest against the contraception policy by following the example of St. Thomas More, who, "for refusing, in short, to have his conscience forced—he was imprisoned and ... beheaded." Scalia compared More's protest against King Henry VIII's divorce and the current contraception debate in an article for the *Catholic Herald*. He likened the English monarch's founding of a breakaway church with the Department of Health and Human Service's decision on individuals' access to contraception.

ACLU Wins Lawsuit on Contraceptive Services for Trafficking Victims over US Bishops

IN MARCH, A FEDERAL judge ruled in favor of the American Civil Liberties Union (ACLU) in a lawsuit filed against the Department of Health and Human Services (HHS) for awarding funds through the Trafficking Victims Protection Act in such a way that providers may impose religiously based restrictions on reproductive health services. The ACLU took issue with grants for the care of human trafficking victims awarded to the United States Conference of Catholic Bishops (USCCB), which refused to provide access to or even referrals for contraception or abortion. The USCCB, which joined the lawsuit as a co-defendant with HHS, testified that "USCCB disputes as a matter of principle that abortion and contraception are 'medical services' that any person 'needs,'" according to *Mother Jones*.

The USCCB appealed the decision, claiming that the ruling was a threat to religious freedom: "[A]ll faith-based service providers are threatened, because the court's novel rule severely restricts the ability of government to accommodate any contractor's religious commitments."

In his ruling, Judge Richard G. Stearns stated, "No one is arguing that the USCCB can be mandated by government to provide abortion or contraceptive services or be discriminated against for its refusal to do

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so. Rather, this case is about the limits of the government's ability to delegate to a religious institution the right to use taxpayer money to impose its beliefs on others (who may or may not share them)."

The Church and Abortion

Ireland Names Expert Group to Rule on Access to Abortion

IRELAND'S EXPERT GROUP on abortion has been named to make recommendations on implementing a European Court of Human Rights (ECHR) ruling on abortion. In December 2010, the ECHR determined in *AB & C v. Ireland* that the state had failed to make abortion care accessible for women whose lives were endangered by a pregnancy, though they do possess that legal right, established by 1992's *X Case*.

In a column for the *Irish Times*, Niall Behan, head of the Irish Family Planning Association, outlined some of the challenges the expert group must resolve. Many of these are related to doctors and other healthcare professionals, who currently risk criminal prosecution for being involved in an abortion. Doctors will also need clear guidelines about what constitutes a life-threatening condition, a distinction Behan says is "unworkable in practice."

Gerard Corr, Ireland's ambassador to the United Nations, said before the UN Human Rights Council in March that the expert group



In May, Action on X protests the Irish government's refusal to implement the 20-year-old court ruling known as the *X Case*, which recognized women's right to access abortion under some circumstances.

would have its report ready by May.

Colombia Upholds Right to Abortion in Cases Where a Woman's Mental Health is in Danger

WHEN COLOMBIA'S CONSTITUTIONAL Court ruled in 2011 in favor of a 12-year-old girl who sought an abortion because her life and health were in danger, it was a pyrrhic victory. Judgment T-841/2011 did not come fast enough for the girl, who was forced to continue her pregnancy after 10 weeks of delays.

Ruling in February on a suit brought by the minor and her guardians with the help of advocacy group La Mesa por la Vida y la Salud de las Mujeres, the court has determined that the girl was caused irreparable harm and

must be compensated. Further, the healthcare system known as EPS (Entidades Promotoras de Salud) will be investigated.

The judgment established a five-day time limit within which administrative questions related to abortion provision must be resolved. It also affirmed risks to mental health as sufficient reason for permitting an abortion.

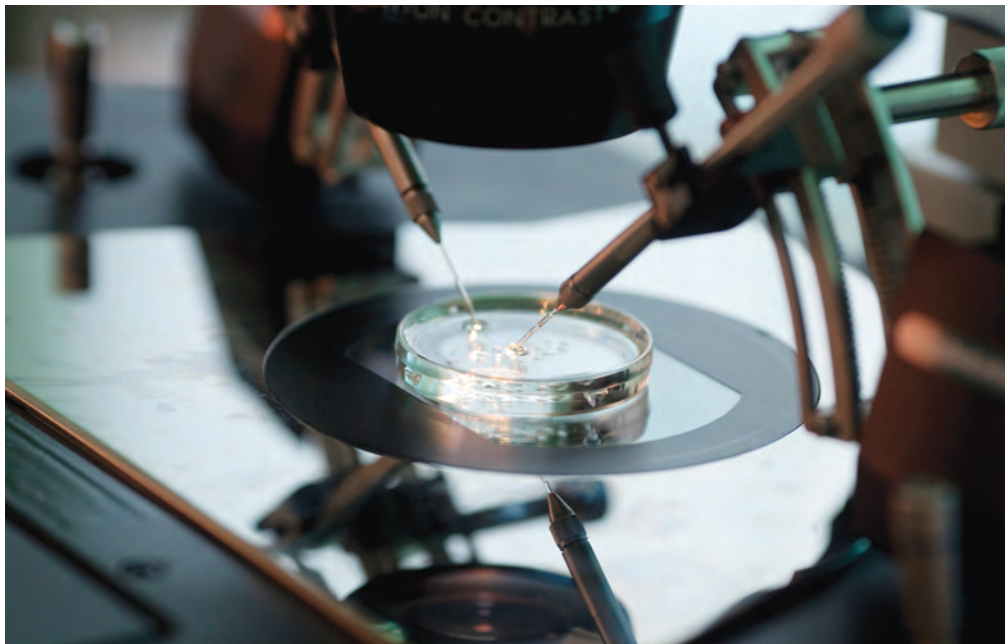
Colombia's *El Espectador* published an interview with Paola Salgado Piedrahita, the girl's lawyer, in which she said one of the reasons the EPS denied the abortion was because "there are lots of 12-year-old girls who are already mothers and nothing [bad] had happened to them." She also elaborated on the court's attempt to safeguard against future

use of delay tactics to prevent abortion. The ruling stated that even at "an advanced gestational age," abortions will be granted based on a woman's rights and needs because "a limit cannot be established either by the judges or by ... healthcare authorities."

The Church and Bioethics

Pope Condemns Those Who Use In Vitro Fertilization

AT A VATICAN CONFERENCE on infertility in February, Pope Benedict XVI declared that marriage, in his definition, "the union of a man and a woman," is "the only 'place' worthy of the calling into existence of a new human being," according to the *Vatican Insider*. The



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A doctor injects sperm directly into an egg during an IVF procedure at a clinic in Warsaw.

pontiff also criticized scientists researching alternative reproductive technologies (ART), accusing them of being devoted to scientism and profit, which ultimately would limit scientific progress. Benedict also said that “easy income, or even worse, the arrogance of taking the place of the Creator” are inherent in alternative reproductive technology, and thus, even sperm or egg donation is prohibited for the faithful.

In a response, Jon O’Brien, the president of Catholics for Choice, said, “Catholics around the world will be saddened at the label ‘arrogant’ being applied to couples seeking help to have children and the doctors who try to help them. The pope’s remarks only serve to drive another wedge between people of faith and the church hierarchy. I am confident that millions of Catholic couples will

continue to seek fertility assistance and that Catholic doctors and researchers will keep helping infertile couples, in good conscience, knowing that they are good Catholics working in good faith to help families make choices that are right for their lives.”

The Church and Healthcare

New Trends in Catholic Hospital Mergers

CATHOLIC HEALTHCARE continues to expand its reach in the US. A document issued by the Catholic

Health Association (CHA) in January stated that “one in six patients in the United States is cared for in a Catholic hospital.” In addition, Catholic hospitals employ over half a million full-time employees and almost a quarter of a million part-time workers. This growth has meant more communities have had to grapple with the restrictions on reproductive healthcare access that seem to be a package deal when merging with a Catholic facility.

The *New York Times* estimates that 20 such mergers have been announced in the last three years. Some, like Seattle’s Swedish Health Services, stopped offering abortion care after merging, though it agreed to help fund a Planned Parenthood health center next door in response to concerns about restricted services, according to Kaiser Health News.

In January, Catholic Healthcare West, one of the



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Dignity Health affiliate St. Joseph’s Hospital and Medical Center in Phoenix was stripped of its Catholic status in 2010 because administrators allowed an abortion procedure to save the life of the woman.

nation's largest hospital systems, broke away from its Catholic affiliation while some of the hospitals in its network retained their Catholic identity. Now known as Dignity Health, the system will no longer require non-Catholic hospitals in its network to adhere to the Ethical and Religious Directives for Catholic Health Care Services (ERDS), though no affiliates will offer abortion services or in vitro fertilization. Sterilizations such as tubal ligations will be allowed at secular institutions.

The Church and State

Ignoring Views of Catholics, Illinois Bishops Close Doors on Same-Sex Adoption

CATHOLIC BISHOPS IN Illinois have chosen to close most of the state's Catholic Charities affiliates because of a new state requirement that recipients of state funding must consider same-sex couples as potential foster-care or adoptive parents.

"In the name of tolerance, we're not being tolerated," claimed Bishop Thomas J. Paprocki, a civil and canon lawyer who led the Illinois bishops' unsuccessful attempt to keep state contracts for adoption services without having to comply with the new nondiscrimination laws.

In five of the state's six dioceses Catholic Charities received between 60 and 92 percent of their revenues from the state. The Dioceses of Peoria and Belleville have



Archbishop Daniel R. Jenky of Peoria, Illinois, arrives at a USCCB conference in 2002.

chosen to stay in business by moving employees and children to new nonprofits unaffiliated with the Catholic church. "We have 600 children abused and neglected in an area where there are hardly any providers," said Gary Huelsmann, executive director of Catholic Social Services of Southern Illinois, located in the Belleville diocese. "Us going out of business would have been detrimental to these children, and that's a sin, too."

The bishops' compromise offer that would have

allowed Catholic agencies to refer same-sex couples elsewhere was rejected because, according to Kendall Marlowe, spokesman for the Department of Children and Family Services, "Separate but equal was not a sufficient solution on other civil rights issues in the past either."

According to survey data from the Public Religion Research Institute, Catholics are more likely to support adoption by same-sex couples than the general population—60 percent compared to 53 percent.

Bishop's Comparison of Obama to Hitler and Stalin Draws IRS Complaint

ON APRIL 15, BISHOP Daniel R. Jenky of Peoria, Illinois, delivered an incendiary sermon likening President Obama to "Hitler and Stalin, [who] at their better moments, would just barely tolerate some churches remaining open, but would not tolerate any competition with the state in education, social services and health care." Jenky warned that Catholic schools and hospitals "could easily be

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shut down” for refusing to comply with the Obama administration’s policy requiring most employers to provide no-cost contraception coverage. President Obama’s “violation of our First Amendment rights” and the “politicians who pretend to be Catholic, but in their public lives, rather like Judas Iscariot” support contraceptive coverage are part of the present-day persecution the Catholic church is suffering, as it has survived “barbarian invasions” and “wave after wave of Jihads,” Jenky said.

A spokesperson for the Peoria diocese subsequently

stepped back from the bishop’s claims, stating that “we have not reached the same level of persecution” as Jenky’s examples but “history teaches us to be cautious once we start down the path of limiting religious liberty,” according to the *Chicago Tribune*.

Members of the Notre Dame faculty wrote a letter calling for the resignation of Bishop Jenky from the University Board of Fellows if he does not publicly withdraw his remarks. After the bishop’s remarks became public, Americans United for Separation of Church and State filed a

complaint against the Peoria diocese, alleging that Bishop Jenky’s pleas to parishioners about their voting decisions violated Internal Revenue Service restrictions on church involvement in election-related activities.

Church and Reform

Outpouring of Support for Nuns after Vatican Condemnation

AMERICANS HAVE MADE A massive show of solidarity for the nuns of the Leadership Council of Women Religious (LCWR), which was

condemned by the Vatican for allegedly having the wrong priorities, including being “silent on the right to life from conception to natural death.” The attack has generated a swift backlash in both the Catholic and secular media in the United States.

In April, the Congregation for the Doctrine of the Faith (CDF) announced that an investigation had discovered “serious doctrinal problems” within the LCWR, the largest group of American nuns. The Vatican report accused the nuns of “promoting issues of social justice” while not placing enough emphasis on “issues of crucial importance to the life of the church and society,” such as opposition to abortion and gay marriage.

Asserting that the bishops were “the church’s authentic teachers of faith and morals,” the report named Archbishop J. Peter Sartain of Seattle as the leader of the efforts to steer the nuns’ conference away from its alleged “radical feminist themes incompatible with the Catholic faith.” The Vatican has granted Sartain license to make leadership decisions for the council, which is made up of 1,500 superiors who lead women’s religious communities—equaling 80 percent of the nation’s nuns. The archbishop is also empowered to make changes to statutes, approving plans and programs, examining organizational affiliations and supervising liturgical choices and practices.

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The sisters' first reaction was to say they were "stunned" by the announcement. After an internal review, the LCWR issued a statement arguing the investigation "was the result of a flawed process" and based on "unsubstantiated accusations." They further indicated their intent to meet with Cardinal William Levada, former head of the CDF, along with Sartain, in Rome.

In response, Catholics in more than 50 cities have organized vigils, interfaith groups have expressed their support and more than 52,000 signed a petition agreeing to donate to a nuns' group instead of a church collection, according to the *New York Times*.

Vatican Panel Elevates Hierarchy's Authority over Theologians' Role in Church

A DOCUMENT RELEASED BY the Vatican's Congregation for the Doctrine of the Faith argued that the judgments of the hierarchy should be given more weight than those of theologians and the Catholic faithful. The Religion News Service's reading of "Theology Today: Perspectives, Principles and Criteria" emphasized the message that "authentic interpretation" of the Catholic faith comes from the bishops and the pope. It further quoted a section that said while the bishops and theologians have "distinct callings and must respect one another's particular callings," it is important that the latter do not "presume to substitute" for the authority of the bishops.

"Theology Today," written by the International Theological Commission, was approved by Cardinal William J. Levada, the Vatican's chief doctrinal authority, and suggested a change from the plurality asserted in documents that came out of the Second Vatican Council.

Like Vatican II, the report deals with the issues the church faces in the modern world, but comes to different conclusions. The document traces a "fragmentation of theology" to its beginnings in "the years following the Second Vatican Council," and while it does not reverse the Council's affirmation of pluralism, it says that this "plurality must manifest distinctive family traits."

UK Archbishop Rejects Claims of Christian Persecution over Gay Marriage

The Catholic church in England may be split over the issue of gay marriage, but Archbishop of Westminster Vincent Nichols has spoken out against those who are denouncing the "militant secularism" supposedly besetting the nation: "I personally don't feel in the least bit persecuted. I don't think Christians should use that word," Nichols told the *Guardian*.

Though the official church stance is to encourage Catholics to sign an online petition against gay marriage—led by the former Archbishop of Canterbury, Lord Carey—the Catholic church in England has stopped short of direct endorsement of or par-

ticipation in the campaign.

Nichols did say that the church is considering taking action against legislation that prohibits Catholic adoption agencies that discriminate against gay couples. On the other hand, the archbishop called the Catholic teaching that homosexuality is an "objective moral evil" a "philosophical construct."

Church and Sexuality

Irish Catholics' Views on Sex Diverge from Church Teachings

A SURVEY COMMISSIONED by the Association of Catholic Priests in Ireland has revealed that 75 percent of Irish Catholics believe that the church's teachings on sexuality have "no relevance." The February poll of 1,000 Catholics across the country turned on its head the idea that Mass attendance equals conservative values. One third of Irish Catholics attend Mass weekly, but a significant majority diverge from the hierarchy's views on married priests (87 percent) and women priests (77 percent), as well as homosexuality (61 percent).

"We had the feeling all along that the way lay Catholics were being presented—as a very traditional, a very conservative group of people who weren't open to change and were happy with the way things were and ... [that] wasn't the case," said Fr. Brendan Hoban to the BBC. "The perception that Rome has of the church in Ireland

is very different from the perception on the ground."

The Church and Abuse

Cardinal Egan Calls Bridgeport Abuse Scandal "Fun" for the Media

CARDINAL EDWARD EGAN retracted his apology for Bridgeport's sexual abuse scandal, saying to *Connecticut Magazine*, "I should have never said that." Instead, he put the blame on the media: "Of course, the scandal was going to be fun in the news—not fun, but the easiest thing to write about."

The local media has found much to report on the cardinal. The *Connecticut Post* claimed to have "10 years of reporting" that found church documents proving that Egan was aware of allegations of abuse but either covered them up or reassigned the accused priests. Egan said he believes there is no legal reporting requirement in Connecticut.

David Clohessy, director of the Survivors Network of those Abused by Priests, spoke out against Egan's comments and urged his successors to denounce them as well. Though Egan's successor, then-Bishop William E. Lori, made a public apology in 2003 for those abused by Bridgeport's priests, diocesan spokesperson Brian Wallace indicated a different policy might be in force. "I believe it's not in the bishop's heart to condemn another bishop," Wallace said according to the *Post*. ■

A Delicate Balance

A HISTORY OF THE SEPARATION OF CHURCH AND STATE IN THE US

By Rob Boston



SCENE AT THE SIGNING OF THE CONSTITUTION OF THE UNITED STATES, HOWARD CHANDLER CHRISTY (1873–1952), PUBLIC DOMAIN.

SEPARATION OF CHURCH AND STATE, TV PREACHER PAT ROBERTSON DECLARED in a 1993 speech in South Carolina, is a myth.



According to Robertson, the “radical left ... kept us in submission because they have talked about the separation of church and state. There is no such thing in the Constitution. It’s a lie of the left, and we’re not going to take it anymore.”

Two other televangelists, the late Jerry Falwell and D. James Kennedy, were no fans of church-state separation, either. W.A. Criswell, a once-prominent Southern Baptist pastor in Texas, famously declared during the Republican National Convention in 1984, “I believe this notion of the separation of church and state was the figment of some infidel’s imagination.”

In more recent times, David Barton, a Texas-based pseudo-historian, has made a comfortable living peddling books and DVDs to fundamentalist Christians arguing that the United States was founded to be a “Christian nation” and that separation is a myth.

Evangelical Christians would not exist in America were it not for the separation of church and state—a concept many of them now assail. The irony is rich.

The Catholic bishops rarely assault the separation of church and state by name. The party line is that they’re for it. But the bishops have a long history of advocating for policies that would elevate church dogma over secular law. They’ve demanded various forms of taxpayer aid that would compel all Americans—Catholic or not—to support the church’s schools and other ministries and have doggedly sought to conform US abortion policy to church teachings. Lately, they’ve even taken to arguing that the church has a “religious freedom” right to receive contracts from the government to provide social services to the public without meeting any accountability or oversight rules that they find offensive.

The late Cardinal Anthony Bevilacqua of Philadelphia summed up the bishops’ position well in a 1989 sermon: “In spite of attempts to separate one from the other, to put an impenetrable barrier between, [church and state] knew from the beginning that they needed each other, and along the way they became even more convinced of this truth.... In their quest for their respective kingdoms, church and state are seen as walking with an inviolable, impenetrable and towering wall between them. This opposition, this impregnable wall between two friends traveling the road of our American experiment, cannot

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endure much longer. If it does, both will suffer and crisis will be upon us.”

How did this happen? How did religious organizations that have benefitted so greatly from the separation of church and state come to the point of either heaping disdain on it or advocating policies that would shred it?

It's a case of too much success. Once small and marginalized, both evangelicals and Catholics grew and prospered under America's free and open theological marketplace. As they grew, they tasted political power—and promptly forgot their roots. It's an old story.

The story of how religious freedom and the separation of church and state grew alongside one another in America, intertwined and mutually dependent, is

portions of the Bill of Rights—has now been extended to the states through the Fourteenth Amendment. The words of the religion clauses encompass two key concepts: The government will not make laws that foster an “establishment” of religion (or give any or all religions special preference), and the government will protect the right to engage in religious activities.

This is the genesis of the separation of church and state. Note that the First Amendment does not simply say that the government will not create an official church, as existed in Great Britain and many other nations at the time the amendment was drafted. Rather, it bars laws “respecting an establishment of religion.” The Founders wanted something

reflect on the colony's dismal record on religious liberty.

Bay Colony Puritans had no use for religious freedom, as we understand the principle today. Under their system, church and state were melded into one. By law, only members of the Puritan church, which ultimately became the Congregationalists, could vote or serve in the state assembly and a series of religiously inspired laws were rigorously enforced. Failing to attend church services, blasphemy, working on Sunday and various sexual offenses were crimes.

The Puritans were heavily influenced by John Calvin, the French Reformation leader. They expected government officials to enforce religious dictates. They argued that if government did not curb

Many members of the clergy were wary of government's attempts to control religion and eagerly endorsed the efforts of Jefferson and Madison to sever this tie.

an old one too. But it's worth telling again. Apparently, too many Americans have forgotten their history—or perhaps never learned it.

Opinion polls tell a sad tale: Many Americans believe the Constitution, a wholly secular document, contains a declaration that America is a “Christian nation.” Others are confident that founders like George Washington, Thomas Jefferson and James Madison, were really right-wing “born-again” Christians. The United States, one hears all too often, was founded on the Bible, the Ten Commandments and the teachings of Jesus.

None of this is true.

The First Amendment guarantees five core freedoms: religion, speech, press, assembly and petition. In the case of freedom of religion, that fundamental right is expressed in just 16 words: “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.”

Originally a limit on Congress, the First Amendment—and indeed other

stronger than a mere ban on a national church, and their words have been interpreted to mean that government will not make laws that advance religion or interfere in theological matters.

How did this two-pronged guarantee of liberty come about? It was forged by bitter experience. The founders were influenced by the situation in many European nations, which retained state-established churches, and examples in American colonies, many of which also had official churches or attempted to regulate theological behavior through the law.

Many conservative Christians today point to colonial Massachusetts with pride and even fondness as they seek the return of a “Christian America.” Indeed, actor Kirk Cameron recently produced an entire documentary arguing that the Pilgrims got it right and that our nation fails to emulate their biblical vision at its peril.

Claims like this are nothing short of remarkable when one takes a moment to

sin, society would fall apart. In many ways, today's Religious Right activists are their spiritual descendants.

In Massachusetts, the colony's General Court levied a tax on all citizens to support religion and the clergy. Since ministers were paid by the government, any who rebelled were quickly cut off and replaced. There was no religious toleration. A group of Quakers who had been exiled from Boston dared to return and were promptly hanged.

Not every colony followed Massachusetts' model. Some maintained established churches but were less harsh in dealing with dissenters. Others allowed a broader measure of religious liberty.

During the post-Revolutionary War period, it became obvious that the church-state unions existing in many colonies were suppressing human freedom. This wasn't a new idea. Roger Williams, a dissenting preacher who fled Massachusetts and founded Rhode Island, advocated for what he called “soul liberty”—freedom of conscience—in

1636. Later thinkers from political and religious spheres took the idea and ran with it.

Among the most prominent advocates of what became church-state separation were Thomas Jefferson and James Madison. They worked together (aided by dissenting clergy like John Leland) to end the established church in Virginia and pass a law guaranteeing religious liberty for everyone—Christian and non-Christian.

This 1786 law, the Virginia Statute for Religious Freedom, is considered by many scholars to have been a model for the First Amendment. Although Jefferson was in France when the Bill of Rights was written, his influence is felt through his collaboration and correspondence with Madison, who was in many ways Jefferson's protégé. Jefferson, for example, wrote the Virginia Statute, but it was Madison who pushed it through the legislature and made it law.

Jefferson and Madison had nearly identical views on religious freedom. Both saw coercion and state sponsorship of religion as a great evil. In this thinking, they were motivated to act in part by their knowledge of the many centuries of religious warfare and bloodshed that had plagued Europe, as both men were keen students of history.

Yet Jefferson and Madison were not hostile to religion. Evidence for this is found in the great outpouring of support they received from religious leaders. Many members of the clergy were wary of government's attempts to control religion and eagerly endorsed the efforts of Jefferson and Madison to sever this tie.

In 1785, Patrick Henry proposed a bill that would have taxed all Virginians to pay for "teachers of the Christian religion." In response, Madison wrote one of the great classics of religious liberty—"The Memorial and Remonstrance against Religious Assessments." Essentially a list of 15 reasons why no one should

be compelled to support religion, Madison's Memorial was circulated throughout the state, often by clergy. Letters of opposition to Henry's bill flooded the Virginia legislature, and the religion tax was defeated. Madison then used his advantage to successfully secure passage of Jefferson's religious freedom bill.

The experience undoubtedly influenced Madison's actions during the deliberations over the wording of the religion clauses of the First Amendment



President Thomas Jefferson wrote in 1801 that the American people have built "a wall of separation between church and state."

number of distinct religious denominations and groups in the country to be as high as 2,000. People who say they have no religion account for a growing percentage of the population.

The phrase "separation of church and state" was used by both Jefferson and Madison to describe the impact of the First Amendment. Much attention has been given to Jefferson's 1801 letter to the Danbury Baptists, in which he said the American people have built "a wall of separation between church and state." This letter, which Jefferson knew would be made public, is an important pronouncement of his views on the relationship between religion and government.

While the Danbury letter is important, it should not overshadow the achievements of Madison. As one of the primary authors of the First Amendment, Madison is considered authoritative on this matter. His views on church-state separation were very strict. As president, he vetoed attempts to give churches federal support and even expressed reservations about issuing proclamations calling for days of prayer and fasting. (Jefferson did not issue them at all.) These actions are important because they debunk claims from the Religious Right that the First Amendment was intended to prevent only the establishment of a national church. This was clearly not Madison's view, and he considered the amendment to have a much broader interpretation.

Over the years, courts have struggled to interpret the separation of church and state and apply it to a variety of issues such as the role of religion in public schools, tax aid to religious institutions and the display of religious symbols.

Although they laid down a broad principle of religious liberty that rests on the church-state wall, the Founders simply could not have anticipated the rise of some of the issues courts are confronted with today. Public education, for example,

in 1791. Madison wrote early drafts and played an active role in the discussion over its language.

Jefferson and Madison did not bequeath us a "Christian nation." The United States has never had an established church, and our Constitution grants no special preference to Christianity. In fact, there is only one reference to religion in the Constitution proper, and it is supportive of separation: Article VI bans "religious tests" for federal office. The Constitution contains no mention of God.

None of this was done out of hostility toward religion. In fact, the founders believed that decoupling church and state would lead to a great flowering of religious freedom and diversity in America. Time has proven them right. Some scholars have estimated the

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is of relatively recent vintage, as is the idea of education for the masses. The framers could not have foreseen the rise of modern technology, mass transit and a nation stretching from coast to coast with a population exceeding 300 million. Their genius is that they bequeathed us a governance document that can adapt to changing circumstances.

In a multi-faith and diverse society, the doctrine of church-state separation contains three central concepts that grow out of the First Amendment:

No coercion in religious matters:

Individuals must be free to embrace or reject any faith. People have the right to change their minds about religion. The decisions people make about religion—which group to join or whether to join any—are private and are no business of the government.

No one should be expected to support a religion against his or her will: Support for religion—financial, physical and emotional—must be voluntary. No American should be taxed to pay for the faith of another. All religious groups must be supported through voluntary channels.

Religious liberty encompasses all religions: Americans may join any number of religious groups. In the eyes of the law, all religions are equal. Larger groups do not have more rights than smaller ones. No group was meant to have favored status or a special relationship with the government.

The Supreme Court has, in a line of decisions that stretch back many decades, attempted to flesh out these principles with rules and legal tests that can be applied in various circumstances.

In 1971, the high court handed down a decision in a case called *Lemon v. Kurtzman* that dealt with tax aid to religious schools. In this case, the court fashioned a three-

part test for determining if a law violates church-state separation. The “*Lemon Test*” consists of the following prongs:

- A law must have a valid secular purpose.
- A law must not have the primary effect of advancing or inhibiting religion.
- A law must not foster excessive entanglement between church and state.

A law or government action is deemed to violate church-state separation if it runs afoul of any of these prongs. The *Lemon Test* has its critics—and some of



As one of the primary authors of the First Amendment, Madison had very firm views on church-state separation.

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them sit on the Supreme Court—but it has never been explicitly overturned, although the court has augmented it with other tests over the years.

Recent church-state cases have exposed a sharply divided Supreme Court. In a 2002 case, *Zelman v. Simmons-Harris*, the court upheld an Ohio law that gives vouchers (tax aid) to private religious schools. The result was a disappointment to advocates of church-state separation. On the other hand, the high court has continued to recognize the need for church-state separation in public education and has struck down various laws and policies that impose religious worship onto unwilling student participants.

A host of “culture war” issues confronts the courts today. These controversies, including same-sex marriage, access

to contraception and intervention in elections by houses of worship, could never have been anticipated by the founders. Yet they left us a mechanism, a process for separating church and state, that addresses them all.

Not everyone is a fan of this process; some of its loudest critics are Religious Right leaders and some Catholic bishops who are angry that the government does not promote their theology. They complain a lot, and they often assail Jefferson’s church-state wall—yet they have never been able to articulate a coherent vision

for replacing that wall. Alternatives include a union of religion and government—in other words, a theocracy (Which religion? By what mechanism? With what provisions for dissenters?) or an established church. Either avenue is unacceptable in America for obvious reasons. Theocracies crush freedom of conscience, and established churches—based on experiences in Great Britain, Sweden, Norway and other European nations—turn religion into little more than a showy prop for the state.

In a nation of more than 300 million people that ranges from

the extremely devout to the wholly atheistic and everything in between, there is but one way to keep the peace: a government that is neutral on matters of theology and is officially secular.

These words, “neutrality” and “secularism,” are dirty ones to many Americans today. They shouldn’t be. They provide the crux of the separation of church and state. They are the platform upon which freedom of conscience rests. Without them, we can have no real religious liberty.

There was a time when most religious leaders in America understood that principle. Unfortunately, too many have turned their backs on it, and worse, they’ve led their flocks astray. Leading them back may be the biggest challenge advocates of church-state separation face today. ■

Papering over the Differences

THE POLITICAL ALLIANCE BETWEEN
EVANGELICALS AND THE CATHOLIC RIGHT

by Frederick Clarkson

THERE WAS A TIME WHEN future Christian Right leaders Tim and Beverly LaHaye were the Southern Baptist couple best known for writing Christian sex manuals for married couples under such titles as *The Act of Marriage: The Beauty of Sexual Love*, first published in 1976. They were also advocates for birth control, including the Pill. It was a time when even the Southern Baptist Convention (SBC) accepted abortion under certain circumstances.

Times have certainly changed, as conservative evangelicals have increasingly taken on views more like the Catholic bishops than those of traditional Baptists on abortion, birth control and the separation of church and state. And this political season, the views of theocratic factions are on striking display, providing an important backdrop to the debates about religious freedom and birth control in federal policy.

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Let's begin our story in 2003, when journalist Cynthia Cooper approached Wendy Wright, then a spokesperson for the Christian Right group Concerned Women for America (CWA), which was founded by Mrs. LaHaye. The occasion was an FDA hearing about emergency contraception (EC), which is a high-dose version of the Pill. The journalist asked Wright about the discrepancy between her opposition to EC and the views of CWA's

founder, since Mrs. LaHaye had always supported birth control pills. Wright "turned on her heel," Cooper reported, "and walked away without answering."

This story epitomizes an important trend in our national conversation: small leadership groups professing to speak for many millions on behalf of certain religious institutions regarding matters of birth control and public policy, when they actually speak for very few beyond themselves.

The framers of the Constitution would probably be alternately aston-

ished and alarmed by the role religion has taken in politics in recent years—this year's presidential contest in particular. The hearty mix of Baptists, Catholics and Mormons in the 2012 Republican primaries suggests that we have come a vast distance as a society that embraces religious pluralism. But just below the surface lies a dark stew of religious bigotry and contempt for the principle of religious pluralism itself. These currents will play a role as the US sorts through important constitutional issues regarding individual conscience rights.



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Wendy Wright, a conservative evangelical Christian and former president of Concerned Women for America, is now the interim executive director at the conservative Catholic UN lobby group, C-FAM.

WHEN BAPTISTS GO CATHOLIC

Historically, conservative Baptists have considered the Roman Catholic church to be problematic at best. And certainly the Catholic church has given the Baptists plenty of reason to be concerned about its hostility to the principles of separation of church and state in the US. Presidential candidate John F. Kennedy specifically addressed Protestant concerns that he would be an agent of the papacy in his famous 1960 campaign address to the Houston Ministerial Association. And while Kennedy's clear commitment to the principles of pluralism and separation made Catholic policymakers seem less toxic to Baptists and many others in subsequent years, greater public tolerance of Catholicism does not necessarily translate into theological accommodation.

Rev. Dr. Al Mohler, president of the Southern Baptist Theological Seminary, used an appearance on CNN's *Larry King Live* in 2000 to sharply distinguish his view of Christian orthodoxy from Catholicism. "As an evangelical," Mohler declared, "I believe the Roman church is a false church and it teaches a false gospel. I believe the pope himself holds a false and unbiblical office." Strong stuff—but not as strong as the view of Bob Jones University at the time, which held to the view that Catholicism is a cult.

Thus, conservative Catholic politicians who have not made efforts to distinguish their public role from their private faith, as Kennedy did, have not usually been able to count on readily accessible public approval. Nevertheless, the resolute conservative Catholicism of Rick Santorum has made him a hero to certain like-minded Catholics: "To us, he's the preeminent Catholic politician in America," Austin Ruse, president of the antichoice Catholic Family and Human Rights Institute (C-FAM), told the *National Catholic Reporter* in a 2005 profile. "The 'us' Ruse refers to," the newspaper reported, "are conservative Catholics, loyal to the magisterium, to this pope and his predecessor."

Rick Santorum proved to have unexpected crossover appeal. Christian Right

leaders, mostly evangelicals, endorsed Santorum over Baptist-to-Catholic convert Newt Gingrich, Baptist Herman Cain, Baptist Ron Paul and Mormon Mitt Romney. (Texas Governor Rick Perry, an evangelical Methodist, would probably have been their choice if his campaign had not already imploded.) Additionally, that the top choices in most of the GOP primaries were Catholics and a Mormon must have surprised more than a few conservative Protestants.

Santorum went to great lengths to go through the right political motions to please the evangelical wing of the Religious Right before his candidacy ultimately faltered. But when speaking only to Catholic audiences he has said things that many would find troubling—Catholics and non-Catholics alike. For example, he said in 2008 that mainline Protestantism had come under the sway of "the Father of Lies," "is in shambles" and "is gone from the world of Christianity." And earlier this year, he said that JFK's historic speech on the separation of church and state made him "want to throw up."

Mohler, who apparently has come some distance since his appearance on *Larry King*, said that "Santorum is a Catholic who often sounds, perhaps by intention, like an evangelical. In any event, his positions on moral issues like marriage and his use of theological language are recognizable to evangelicals. In terms of the political context, we share a common space."

ARE MORMONS THE NEW CATHOLICS?

Another feature of this political season is the awkward effort to reconcile the existing anti-Mormonism among conservative evangelicals with the presidential candidacy of Republican Mitt Romney. Mainstream polling and conventional wisdom indicate that conservative evangelicals, when faced with the decision, will ultimately choose Romney over President Barack Obama. Maybe so. But such views may underappreciate how widespread is the view that Mormons are not Christians, and how many have been

schooled that Mormonism is a dangerous heresy and may, as a result, be unable to bring themselves to vote for a Mormon.

Researcher Rachel Tabachnick, who was raised as a conservative Southern Baptist but converted to Judaism, believes that many Southern Baptists will not be able to vote for Romney. She points to books and articles, currently available on the SBC's website for its LifeWay publishing empire and bookstore chain, suggesting that this mistrust of Mormonism remains unchanged for many. Indeed, a LifeWay Research poll of 1,000 American Protestant pastors last fall found that 75 percent of respondents did not consider Mormons to be Christians. Ed Stetzer, president of LifeWay Research, explained, "A person can respect a religious group and even appreciate their commitment to traditional moral values without equating their beliefs with Christian orthodoxy." They can, but whether they will is another question.

Tabachnick adds that Christian Right leaders know that they face an uphill battle. She points to a recent edition of Rev. James Robison's television show, in which he and Christian Nationalist advocate David Barton kept reminding viewers that conservative broadcaster Glenn Beck is a Mormon, as if to help them find the idea of Mormonism more acceptable.

But even Beck may not be able to assuage the concerns of those schooled in conservative Baptist orthodoxy. Divisions on the matter of Mormonism have been very public in recent years. In 2010, Richard Land, the political point man in the SBC, stated that Mormonism is the "fourth Abrahamic faith," and that he intended to work with Beck on a campaign of national "renewal." But in a widely discussed commentary, Al Mohler's seminary colleague Russell Moore called this rapprochement with the Mormon faith a "scandal." For his own part, Mohler tweeted Moore's commentary, as if to signal agreement.

It is worth noting that other volatile, religiously informed views are equally as widespread and not hard to find in the political world. On the LifeWay books

website, for example, one of the featured books played a role in one of the biggest religio-political blow-ups of the last election: *Jerusalem Countdown*, the 2006 book by Texas televangelist Rev. John Hagee. Republican candidate John McCain had sought and received Hagee's endorsement, but was compelled to renounce it in light of the views Hagee expressed in the book and in his sermons—that God sent Hitler to hunt down the Jews as a sign that they should go to Israel to fulfill Biblical prophesy.

What is remarkable in all of these shifting alliances is that, while many religious conservatives may share substantial agreement on such matters as abortion, LGBT rights and separation of church and state, they cannot necessarily paper over other profound differences by

universities and hospitals. This new plan has been met with hostility by the US bishops, who view a wide range of institutions as an integral part of the church itself, and want no part in the provision of reproductive healthcare such as contraception.

This very public argument has highlighted the definition of “ministry,” which was the focus of a recent landmark Supreme Court case. The unanimous decision in *Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission* was an unambiguous exemption of churches from employment and civil rights laws. Briefly, at issue was the firing of a teacher by a Lutheran church school over a disability. The church claimed that the teacher served in a capacity of ministry,

teacher actually led students in prayer as part of her job, although she insisted it was a very small part. But when the case involves non-Christian groups, or Christian groups with an expansive definition of ministry, such a scenario may force the court to be clearer.

ETERNITY IN AN HOUR, OR LESS

“The issue before us,” wrote Chief Justice Roberts, “is not one that can be resolved by a stopwatch. The amount of time an employee spends on particular activities is relevant in assessing that employee's status, but that factor cannot be considered in isolation, without regard to the nature of the religious functions performed.”

The court granted the church in question considerable latitude to define its ministry, allowing even small amounts

Just below the surface of our pluralistic society lies a dark stew of religious bigotry and contempt for the principle of religious pluralism itself.

clinging to these relatively narrow areas of agreement. Indeed, for many, there is nothing more serious than the definition of Christianity (and other religions) and who gets to decide what that definition is. Wars have been fought over less. The depth of these divisions should give pause to those who would erode the wall of separation in the name of religious freedom, as we have seen recently with the conservative religious backlash against such policies as the new federal requirement that employer-provided insurance plans include no-cost birth control coverage, including many religious employers.

When the Catholic hierarchy called the policy a violation of the entire church's religious freedom, the Obama administration made an effort to compromise by shifting the cost burden for certain religious institutions to insurance providers, but not exempting church-affiliated employers such as

and that the government had no right to intervene in its employment decisions. The court agreed: “Requiring a church to accept or retain an unwanted minister, or punishing a church for failing to do so, intrudes upon more than a mere employment decision,” wrote Chief Justice John Roberts on behalf of the entire court. “By imposing an unwanted minister, the state infringes the Free Exercise Clause, which protects a religious group's right to shape its own faith and mission through its appointments.”

The court also opted not to “adopt a rigid formula for deciding when an employee qualifies as a minister.” That may have been wise, but the question of what qualifies as a ministry of a religious institution, and the degree of its exemption from laws and constitutional protections, may well be one of the crucial issues of our time. *Hosanna-Tabor* was fairly easy for the court, because it involved a Lutheran Church and the

of time spent on religious functions by a school teacher to be the controlling factor in the relationship between the individual, the employer and federal civil rights laws.

But we can see the unresolved public policy and church-state implications of ministry creeping into the birth control debate. As the Catholic church continues to clamp down on such institutions as hospitals and universities, compelling conformity with doctrine in defiance of the rules for larger society, the extent to which state and federal government can enforce the law is up for question, especially as the number of personnel covered under the definition of ministry grows. Indeed, some of the more theocratic elements of the Religious Right have expansive definitions of ministry, and the *Hosanna-Tabor* case will likely give rise to more tug-of-war over where the reach of religious institutions end, and the rights of individuals begin. ■

Religious Extremism Cloaked in Diplomacy

THE HOLY SEE AT THE UNITED NATIONS

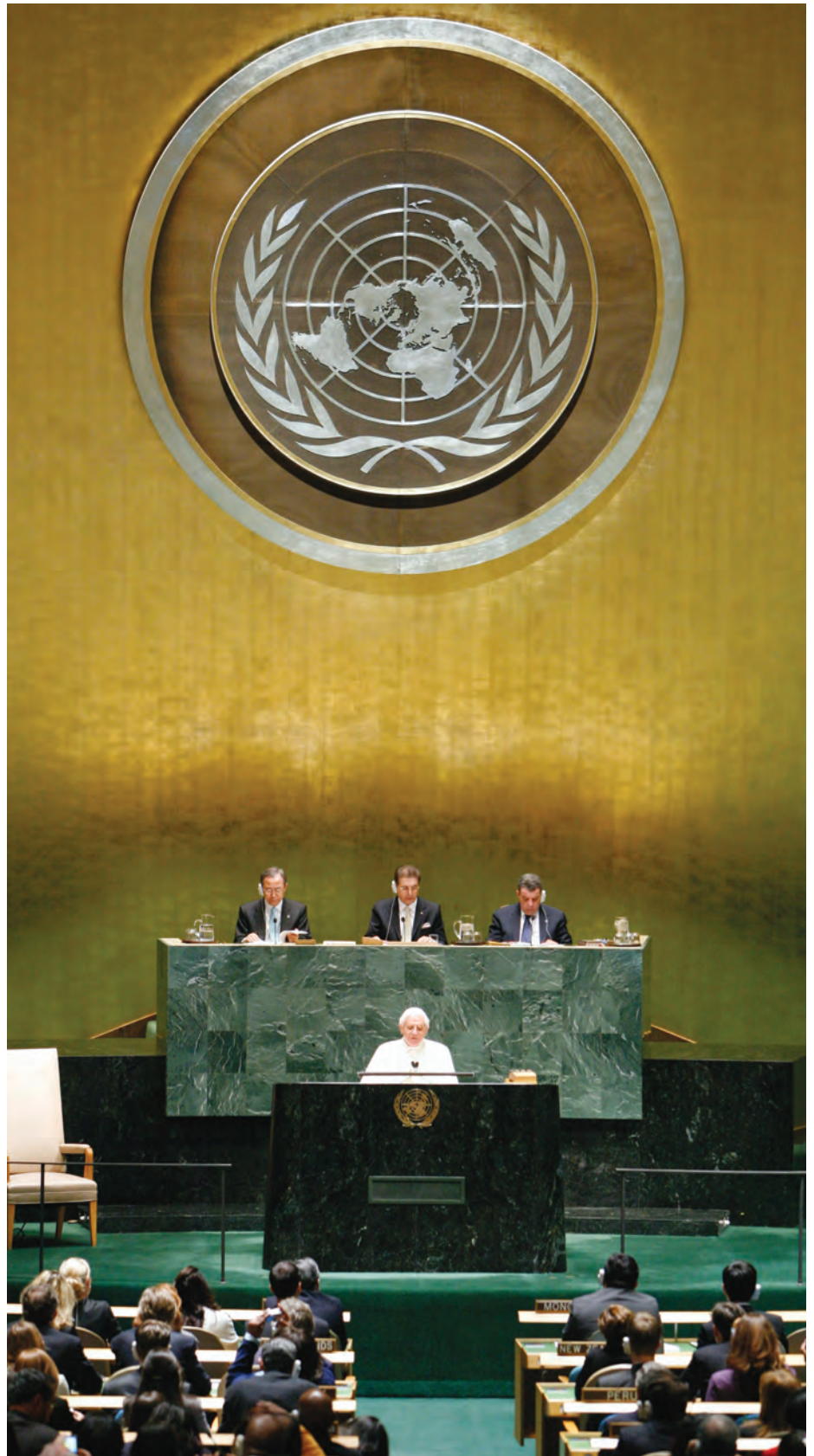
By Kim Puchir

OVER THE LAST 20 YEARS, the Holy See has played an increasingly destructive role at the United Nations. Diplomats, policymakers and advocates alike have drawn attention to this role, but no solution has been forthcoming. The tension arises from the Holy See's claim to statehood, which grants it special status at the UN, and its dogmatic views on the provision of reproductive health-care services and the family—views that place it squarely in the way of policymakers who wish to guarantee rights and provide services to people around the world. While the debate about the Holy See's status at the UN is not new, a resolution is available to those with the political and diplomatic will to seek it.

Legal scholars have long attempted to answer the “Roman Question”—what to

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This article is based on a forthcoming publication from Catholics for Choice on the Holy See's role at the United Nations.



Pope Benedict XVI addresses the United Nations General Assembly in New York.

© REUTERS/RAY STUBBLEBINE, 2008

do about the Holy See, a Janus-faced creature with one profile as religious authority and a second as secular power. The intractable nature of this discussion has kept the Holy See exactly where it is—comfortably ensnaring diplomats in loopholes while wielding an unjust and sometimes harmful influence on the international stage.

The Holy See's impact has been most painfully felt in the area of reproductive health, where it has used its prestige and resources to stymie attempts at the United Nations, state and local levels to provide comprehensive reproductive healthcare services. Often cloaked in language that

century, the pope as a territorial sovereign was indeed the creation of emperors. The Catholic church had its rights to hold territory affirmed by the emperor Constantine the Great in the year 321. The Donations of Pepin in 754 and 756 provided the legal backdrop for what came to be known as the Papal States or the Papal See, holdings in what is now central Italy that were the earthly arm of the pope's dual temporal-spiritual reach.

Earthly power brought with it earthly concerns that were hard to square with the pope as apostolic successor. The seductions of this power contributed to the rise of some 30 antipopes, pretenders

the same hand, contrary to the practice of civilized states.”

Shortly thereafter, in 1870, this uneasy predicament came to a halt when the Papal States were finally absorbed by a unifying Italy. Rome and Latium were annexed after being captured by Italian forces, but Pope Pius IX chose to protest the loss of his lands by becoming a “prisoner in the Vatican,” as did three popes after him. This nearly 60-year gap, during which the papacy's temporal power was measurable in yards, occurred between the old Papal See and what would become the Holy See when Pope Pius XI signed the Lateran Treaty with Benito Mussolini in 1929. This agree-

The Holy See doesn't act like a state, or possess the qualities of a state, so it is not a state.

seems to respect women's needs, these obstruction tactics accomplish the exact opposite—without access to abortion, contraception and other basic services people die, and value systems that undermine women's well-being are fostered. Policy resolutions that have been weakened by the Holy See's objections flow into other legislative bodies as well. Dana Rosemary Scallon, a former member of the European Parliament, said in 2002 that the EU adopted language about reproductive health that made no reference to abortion because of the UN Programme of Action the Holy See helped shape in 1994.

THE PAPAL SEE ... AND THEN THE HOLY SEE

The papacy has long had to defend its temporal and religious nature. According to the *Catholic Encyclopedia*, it was Pope Leo IX who started in 1054 the practice of referring to the Donation of Constantine as evidence for the dual nature of the papacy. Although this bequest in which the Emperor Constantine I transferred the western part of the Roman Empire to the pope was unmasked as a forgery in the 15th

century, the pope as a territorial sovereign was indeed the creation of emperors. The Catholic church had its rights to hold territory affirmed by the emperor Constantine the Great in the year 321. The Donations of Pepin in 754 and 756 provided the legal backdrop for what came to be known as the Papal States or the Papal See, holdings in what is now central Italy that were the earthly arm of the pope's dual temporal-spiritual reach.

Earthly power brought with it earthly concerns that were hard to square with the pope as apostolic successor. The seductions of this power contributed to the rise of some 30 antipopes, pretenders

French writer Edmond About spent some time observing the curious workings of the Papal States for his 1859 book *The Roman Question*. He described a pope who, though “not an evil-disposed man,” presided over a territory where the educational system was poor; the force of law practically dysfunctional; the tax system in disarray; and whose inhabitants were “all crying out loudly against him.” About traced this situation to the odd social structure where “the legislative, executive, and judicial powers are united, confounded and jumbled together in one and

ment established the Holy See within the area of Vatican City, which, as Cardinal Timothy M. Dolan remarked recently, is only “about the size of an 18-hole golf course”—and that was an exaggeration.

Over the next several decades, the Holy See began participating in international organizations such as the World Health Organization and the International Telecommunication Union, but its most significant move came when it joined the UN as a Nonmember State Permanent Observer in 1964. This rarely used designation it once shared only with Switzerland, which became a full member in 2002. No other religion is situated at this elevated status, which grants the Holy See much more direct access to UN proceedings than other religions participating as nongovernmental organizations. Since 2004, the Holy See has had some of the privileges of a member state at the UN, such as being able to speak, reply and circulate documents in the General Assembly.

Though today the Holy See's Permanent Observer Mission website lists diplomatic relations going back to the 15th

century, whether the various incarnations of the Papal States are the same “Holy See” that claims to be a state now is highly doubtful. After all, the modern concept of a state is relatively recent—evolving alongside the Renaissance out of feudalism—and by no means static. “New” states can spring up after the withdrawal of colonial powers. What exactly makes a state a state?

A STATE IS AS A STATE DOES

The two most common definitions of statehood have nothing to do with history, but look at either what attributes a state has, or diplomatic recognition by other states. According to the criteria from the 1933 Montevideo Convention on the Rights and Duties of States, an entity is a state if it has: a permanent population,

Countries have also unilaterally granted diplomatic recognition to emerging nations, as Germany did to Croatia in 1991.

Accepting that the Holy See is a state brings with it certain expectations. According to Martin Dixon’s *Textbook on International Law*, “States are legal equals and the legal system which regulates their actions *inter se* must reflect this.” One of the United Nations’ foundational principles, the Rule of Law, demands that all states are accountable to the same laws and human rights norms. Also explained as the “avoidance of arbitrariness,” the Rule of Law is important enough to the United Nations that it is embedded in the UN Charter. In other words, states around the world should all follow the same rules when dealing with

2008, Apostolic Nuncio Archbishop Celestino Migliore said “state responsibility” and the “responsibility to protect” might be an “essential aspect of the exercise of sovereignty at the national and international levels.”

The crucial difference is that, unlike other UN actors, the Holy See has a ready exit if it is called to account: it can face its critics as a religion. Supporting freedom of religion is one of the UN’s basic tenets, so when Holy See representatives speak about their divine mission or unique grasp of “natural law” it’s like dividing by zero. This gambit short-circuits the usual back-and-forth of diplomacy and lets the Holy See claim almost anything to be true. The diplomatic finesse employed by other UN actors is a poor match for the Holy See’s

Everyone has the right to question why the Holy See is allowed to stand in the way of the UN’s efforts to advance reproductive health.

a defined territory, a government and the capacity to enter into relations with the other states. While the Holy See conducts diplomatic relations and provides official leadership, it is 108.7-acre Vatican City that possesses a small territory and an even smaller population. Many residents never obtain citizenship, and those that do have their citizenship revoked upon termination of their employment.

Thus, the Holy See’s status in the international arena is completely reliant upon the constitutive model of statehood—the diplomatic recognition awarded by other states. In 1964 UN Secretary-General U Thant based his decision to allow the Holy See’s entrance as a permanent observer on the fact that it enjoyed diplomatic recognition by most UN member states. As powerful as it is, diplomatic recognition can be revoked in certain situations: many countries withdrew recognition from South Africa towards the end of the apartheid era.

each other and at the UN, because they are all basically the same.

At the United Nations, however, the Holy See has cultivated itself as a class apart. It signs treaties as a state, but with numerous caveats about its self-styled “peculiar” kind of state. What such a highly qualified signature actually means became clear when the Holy See signed on to the Convention on the Rights of the Child, warning that it did “not intend to prescind in any way from its specific mission which is of a religious and moral character.” Subsequently, the Holy See did not submit a mandatory progress report due on the Rights of the Child in 1997, and although it was supposed to be released last year, the document is now 15 years late.

Nevertheless, the Holy See does ostensibly agree that responsibility is part of what keeps the whole international mechanism going. At an address to the General Assembly in October

tendency to sketch out doctrinal stances with broad strokes. How is an organization that protects religion to counter the Holy See’s invocation of the Book of Genesis in its reproductive health policy: “If anyone sheds the blood of man, by man shall his blood be shed”?

And things don’t add up on other levels beyond the rhetorical. All member states have a definite population, but when the Holy See decides to speak as a religion, its numbers jump from 1,000 Vatican City residents to 1.2 billion Catholics worldwide. This creative mathematics is impractical. Which UN representative truly reflects the will of the people—the national ambassadors, or the Holy See? When these two voices claim to speak for women’s needs, they often cancel each other out. Where the 1995 Beijing Declaration pledged to ensure the rights of women and girls as “inalienable,” the Holy See rejected this very premise, saying, “Surely this inter-

national gathering could have done more for women and girls than to leave them alone with their rights!”

THE HOLY SEE IN ACTION: DOCTRINE AND DIVISION

The Holy See goes to great lengths to insert itself into UN processes dealing with reproductive health precisely so that women are *not* left alone with these basic rights. In 1994 the Vatican sent special envoys to Tehran and Tripoli to drum up support for the Holy See’s planned anti-reproductive rights stance at the forthcoming International Conference on Population and Development in Cairo—a collaboration with radical regimes that *Washington Post* columnist Jim Hoagland likened to “sup[ping] with the devil.” Pope John Paul II also sent letters to every head of state worldwide warning that the wrong policy decisions at the conference could bring about an impending “moral decline resulting in a serious setback for humanity.”

A similarly focused approach characterizes the Holy See’s behavior at international conferences, where a painstakingly constructed consensus can be shaken by those inclined to do so. At one such conference, Holy See delegate John Klink spoke five times in an hour to object to confidential sex counseling for adolescents, and the final document had a narrower view of women’s reproductive choice as a result. The Holy See’s many objections at Cairo delayed the conference for a full week in order to exclude abortion from the definition of “reproductive health.” Instead of a commitment to safe abortion access for all women, the resulting Programme of Action merely stated, “In circumstances in which abortion is not against the law, such abortion should be safe.”

Women who happen to live in countries where abortion is illegal are not the only ones the Holy See has failed to advocate for at the United Nations. Representatives have repeatedly fought against comprehensive contraception access. The Holy See declared in 1989 that it “interprets the phrase ‘Family planning educa-

tion and services’ ... to mean only those methods of family planning which it considers morally acceptable, that is, the natural methods of family planning.” In a 2011 statement on the “Women, the Girl Child and HIV/AIDS” resolution, the Holy See further clarified its position: “Regarding the term ‘family planning’ the Holy See in no way endorses contraception or the use of condoms.”

The fact that these are unpopular opinions doesn’t stop them from making an impact. When the Holy See objected in 1999 to the UN’s provision of emergency contraception to rape victims in

such as claims that a rights-based reproductive health model turns women into victims, or that abortion has been documented to harm a woman’s mental health. Faced with allegations like these, other UN actors must choose between refuting each and every claim or moving forward. As a result, falsehoods like “as a matter of scientific fact, a new human life begins at conception,” were entered in the minutes of a 2011 General Assembly session.

A CALL FOR RESPONSIBILITY

The word “responsibility” appears frequently in Holy See statements,



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Advocates took to the East River in New York City aboard the schooner *Richard Robbins* in 2000 as part of The “See Change” campaign, an effort spearheaded by Catholics for Choice to draw attention to the Holy See’s unique privileges at the UN.

Kosovo, there was an international outcry. Reflecting in 2008 on the early years of the UN AIDS response, Adrienne Germain, former president of the International Women’s Health Coalition, said, “I remember when people literally gasped when the Holy See said no condoms for AIDS. It got to the point where the member nations said if they didn’t stop obstructing on condom access at these meetings, they should leave.” The Holy See’s extreme stances distracted from the issues at hand—women living in a war zone and the spread of a deadly epidemic.

Holy See statements about reproductive health are rife with pseudoscience,

particularly related to family planning. Ironically, the Holy See sets itself up to define what “responsible sexuality” means for individuals, but it has not yet defined what its own responsibilities are. The very lack of structure inherent in its “peculiar” nature gives the sense that it can duck from one side of the statehood line to the other, as it sees fit, with the expectations in either case ultimately less demanding for the Holy See.

This has international law repercussions beyond the United Nations. In the ongoing clergy sexual abuse crisis, legal systems all over the world have come knocking at one door—trying to prosecute the Vatican as a religious organiza-

tion. But the Holy See has answered at its other door with arguments jealously defending its sovereign immunity as a state. So far only one case has breached

this defense—a UK High Court ruled in 2011 that the Portsmouth Diocese “may be vicariously liable” for an abuser priest. But the knocks will continue.

The Holy See must also constantly defend its unique status at the United Nations, but in addition to its trump card—the Janus-headed king up its sleeve—its diplomatic savvy is undeniable. After all, it took four prisoner popes to do it, but eventually the Vatican wore down Italy into giving it back a slice of its old territory. At the UN, the Holy See’s representatives have deftly exploited confusion about its statehood, but the answer to the Roman Question doesn’t lie in a tangled history or a spiritual-religious hybrid that trips up existing legal frameworks. The Holy See doesn’t act like a state, or possess the qualities of a state, so it is not a state. Only a web of diplomatic relations keeps the Holy See in its current position at the UN, and those threads can be rewoven in another configuration, as they have been for others in the past.

It so happens that many people think the Catholic faith can be defended even better at the UN as an NGO. Imagine what a powerful gesture it would be for the Holy See to voluntarily join the ranks of the other religions as an NGO, to walk away from the never-ending defense of its “peculiar” nature, and concentrate on partnering with other religious leaders to bring solace to a troubled world. As the *Irish Times* wrote in February, such a move would probably do wonders for the Holy See’s public image, so badly in need of repair after the sexual abuse crisis and the recent clampdown on dissent.

If the Holy See decides to continue to use its diplomatic influence for other goals, everyone—individuals and states—should feel free to ask why. Everyone has the right to question why the Holy See is allowed to stand in the way of the UN’s efforts to advance reproductive health, when the provision of these services could save lives and improve the health and well-being of individuals the world over. Right now, it’s hard to justify Pope Paul VI’s eloquence before the General Assembly in 1965—when he said that as representative of the Holy See he was at the United Nations as an “expert in humanity.” ■

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Religious Liberty

TOWARDS A TRULY “CIVIL” SOCIETY

By Sara Hutchinson

THE DEBATE OVER RELIGIOUS freedom is front and center this election season. But the debate is a parody of what a real discussion about religious freedom should be.

In their campaign against certain provisions of the Affordable Care Act, the United States Conference of Catholic Bishops has claimed that their right to religious liberty eclipsed others' right to contraceptive access. Others have argued that this was not a debate about religious freedom at all—it was simply about reproductive rights.

Both sides are wrong. There is a real debate to have about religious freedom, but it's not the one that the bishops want it to be. Some of the pertinent questions include: Are there any circumstances in which certain groups may be denied healthcare services for religious reasons? What privileges, if any, should service providers demand from the government?

A broad spectrum of organizations has come together as the Coalition for Liberty & Justice because, as both secular and religious groups, we oppose efforts by conservative religious advocates to restrict individuals' ability to access a wide variety of services under the banner of religious freedom.

VISIONS OF AMERICA

With the launch of its Ad Hoc Committee on Religious Liberty last September, the United States Conference of Catholic

SARA HUTCHINSON is the domestic program director for Catholics for Choice and coordinates the work of the Coalition for Liberty & Justice for CFC.



Protesters at the June kickoff event for the bishops' Fortnight for Freedom outside of the Basilica of the National Shrine of the Assumption of the Blessed Virgin Mary in Baltimore.

Bishops (USCCB) was transparent about the future it was working towards. If the bishops get their way, hard-working families will not be able to afford contraception; with a shrinking safety net, more children will grow up in poverty. Victims of sex trafficking will not receive unbiased counseling and will endure a forced pregnancy. Lesbian, gay and transgender people will be refused jobs and services; committed couples will be denied the rights and benefits of marriage. Men and women won't be able to get their prescriptions filled if their employer or pharmacist judges the use of the medicine immoral. People at risk of contracting or spreading HIV won't learn that condoms can help save their lives and the lives of people they love. Women who need abortions, even to save their lives, will be

turned away. This is not what Americans want, and it's not what America is at its foundation.

Last year, Catholics for Choice heard one American's story, that of a teacher at a Catholic school in the Midwest, whom we'll call "Sandra." This young woman had taken a pay cut to do the type of work she loved, but found out at the pharmacy counter that her new insurance plan did not cover birth control. Paying out-of-pocket for the contraceptive method that worked best for her, a non-generic prescription, was a significant strain on the budget she had carefully planned with her husband. Sandra especially objected to the interference in her personal decision-making about contraception: "I don't like being told by some guy that I've never met that I can't use it."

Sandra and employees at all other “religious institutions” should be granted an equal opportunity to access affordable contraception. Ensuring such access avoids the untenable position of allowing the government to determine which employees’ consciences—and health—matter, simply on the basis of where they work. But what we’re hearing from the USCCB is that these women’s ability to make moral decisions for themselves doesn’t matter. The conscience of people like Sandra may be run over by an employer or bishop, and that would be acceptable collateral damage.

AN ORWELLIAN COUP

That the bishops would have convinced anyone that their version of “religious freedom” is anything but oppression represents an Orwellian coup. The writer George Orwell paid close attention to anyone, from politicians to businesspeople, who spoke in jargon because he said “if thought corrupts language, language can also corrupt thought.” In this way, a crusade has been whipped up by sweeping calls to defend religious liberty from its enemies, when the stakes and even the players have been depicted incorrectly. The USCCB would have us

believe that a school, a Taco Bell or a hospital has a “conscience” and “freedom of religion.” They do not. Individuals, according to our Catholic tradition, have consciences and deserve to exercise them without coercion. Individuals also deserve to have their freedom of and freedom from religion protected.

There is a natural give-and-take that is expected from members of a society. We “give” money from our insurance premiums for coverage of many medical services that we may not agree with or need ourselves, and expect to avail ourselves of that safety net when we need it. The institutional Catholic church, for its part, benefits from a tax-preferred status and has a long history of seeking government funding streams—including support for Catholic schools, hospitals and programs run by Catholic Charities, which give back to the community. But just as institutions do not have a conscience, they are not citizens. Individuals have a conscience, and they enjoy citizenship. The only “second-class citizens” created by laws allowing employers to refuse contraceptive coverage are women. It is absolutely discriminatory to allow the beliefs of employers to violate those of employees. But the bishops want to rewrite several important parts of our American social contract.

In the laundry list the bishops laid out last September, we see that the false idea of institutional conscience is a handy excuse for preventing same-sex couples from adopting, or victims of human trafficking from accessing comprehensive reproductive healthcare. The same reasoning is used to justify keeping the person living in rural Africa with no local access to condoms from protecting herself from the spread of HIV. The USCCB believes it has a right to receive government funding to provide religiously circumscribed services here and abroad, and claims that the good that it does in some sectors of society gives it license to discriminate at taxpayer expense in others. It’s a cold kind of brinksmanship that puts too many individuals’ freedom in the balance.



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Women’s League for Conservative Judaism
Women’s Ordination Conference

Each of these scenarios represents what is supposedly the exercise of the bishops' "religious freedom"—one of those bureaucratic phrases hiding an ugly reality that Orwell would have deplored.

ROOM AT THE TABLE

The bishops' misrepresentation of religious freedom has brought together a remarkable coalition of diverse groups who are all on the same page. Can you imagine sitting at one table with feminists, atheists, progressive Catholics, rabbis, gay Catholics, sexual and reproductive health nonprofits, as well as groups from the medical and legal fields? Representatives from each of these fields make up the Coalition for Liberty & Justice, and each advocacy organization serves a different community. There are those keeping an eye on the separation of church and state. Medical and nursing students are looking to the care they want to provide for future patients. Advocates for LGBT rights wish to prevent discrimination from being encoded into law by religious fiat. And religious groups across the board see that giving one ultraconservative sector of one faith special legal protections jeopardizes the freedom of worship for all people of faith. Everyone agrees that the most equitable solution to differing values lies in creating the minimum structures necessary to help provide services to individuals who want them. The coalition supports freedom of conscience—for individuals, including health-care providers and for service recipients, but not for institutions.

This wide variety of stakeholders has come together precisely because this debate means a lot of things to a lot of different people. The bishops have denied that their recent campaign against the regulation is about contraception, but for the everyday person who utilizes contraception, having affordable access to such services has many implications. No-cost contraception for the average woman, including many Catholic women, can mean following her religious beliefs, following her conscience,

protecting her health, saving money for her family, protecting her future or myriad other things that we cannot be privy to. If the bishops succeed in eliminating coverage, it will most definitely be about contraceptive access, and all of the things that access means to millions of Americans. Each of the other items on the bishops' religious freedom wish list has similar concrete effects on real people.

In contrast to some of the contentious debate we've heard about religious freedom recently, working with the Coalition for Liberty & Justice has been

a reminder that civil society is actually supposed to be civil. Nonprofits serving different constituencies don't have to be in competition. Rather, groups that are secure enough in their values that they can listen to others' differing perspectives are free to share resources, which can be taken home to their stakeholders and translated into more capacity and deeper wisdom. Catholics for Choice approached Nancy Kaufman from the National Council of Jewish Women as co-convenor in this spirit, and now, joined by more than 50 additional organizations, we are realizing the ben-

It's Not Just About Catholics...

By **Sammie Moshenberg**
National Council of Jewish Women

As Jews, we hold the constitutional protection of religious liberty as quite precious—not only because we are a minority in the United States but also because our history is replete with instances of religious persecution and oppression. This country has ensured the Jewish community what may well be historically unprecedented religious freedom, thanks to separation of religion and state and safeguards for the free exercise of religion. We have, however, had to be vigilant to protect this freedom, which is why the National Council of Jewish Women (NCJW) was quick to take up the Catholics for Choice invitation to co-convene the Coalition for Liberty & Justice.

When it comes to matters like access to healthcare, the freedom to marry and what students are taught in public schools, among other issues, we are seeing a continual, well-funded and powerful campaign to change laws and public policies to institutionalize one particular religious viewpoint. What does elevating one religious tradition over another do to the constitutionally protected right of an individual to make decisions based on her or his religious beliefs or conscience? If laws allow religiously affiliated institutions to impose a single religious belief on all of their employees, where's the protection for those individual workers' religious freedom? And what is the impact of legislating religious beliefs on the separation of religion and state?

Just as there are differing religious teachings on social issues among religions, so, too, are there different rabbinic interpretations of Jewish law on those issues. Despite these differences, we should all be able to get behind efforts that preserve the separation of religion and state, which guards against the imposition of a particular faith view on everyone. In 1996, NCJW circulated a letter to rabbis across the country urging the US Senate not to overturn President Clinton's veto of the so-called "partial birth abortion" ban. More than 700 rabbis signed on, making it clear that although they may not all share the same rabbinic interpretation of Jewish laws and texts regarding abortion, they all agreed that legislating restrictions on reproductive choice impedes a woman's ability to make decisions based on her individual conscience or religious beliefs.

Quite simply, that is what is at stake when the state takes sides on issues that involve deeply held religious views, and that's why NCJW has joined the Coalition for Liberty & Justice.

efits of identifying commonalities among the differences of our backgrounds.

For us as Catholics, social justice is at the core of our faith. We are compelled by our religious tradition to work toward justice and equity for all and to create a society in which women and men, young and old, poor and rich are

treated with the same dignity and respect and granted the same opportunity. As Catholics, our tradition of social justice informs everything we do and defines how we relate to family members, neighbors, coworkers and our fellow Americans. It requires us to stand with those who are the neediest—the

hungry, the homeless, the jobless—and then help to fill their needs.

Each of the coalition’s members has traveled distinct paths to get here, but we have arrived at the same conclusion: freedom of religion must translate into individual freedom of conscience, or it’s not true freedom at all. ■

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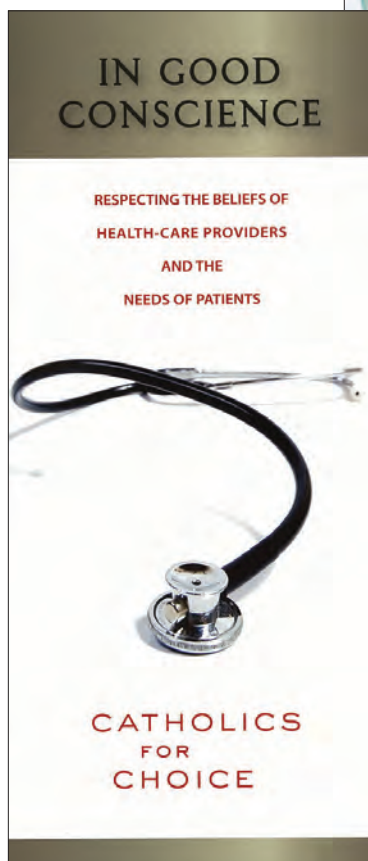
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Ireland's Disappeared: *The Magdalenes*

By Ruth Riddick

My stain washed & rinsed

Down the Drain

Dreams wrung out & hung out

To dry

I remain faded & pressed

Folded & blessed

A half-light lost

In the Cloths of Heaven

— Cheryl Parry,
The Magdalene Laundries

ONCE UPON A TIME IN Ireland, it was permissible to lock up your daughters for sexual sin, perceived (“being pretty”) or actual (“having a baby”). Incarceration was at the pleasure of the church and there was no recourse to the law. These special prisons offered laundry service to ecclesiastics, reputable businesses and the respectable Catholic middle classes, and the women installed there—against their will and without hope of reprieve—were unpaid for their labor. Upon entry, their names were changed in the institutional register. No state taxes

Reproductive rights activist and former service provider **RUTH RIDDICK** won a freedom-of-information judgment against Ireland at the European Court of Human Rights in the *Open Door Counselling case* (1992). She regularly reviews books and films for Conscience, most recently “*There Be Dragons*” (2011).



Dancers perform Cheryl Parry's *The Magdalene Laundries*, at New York's Clemente Solo Véllez Cultural Center.

PHOTO COURTESY OF AUTHOR

were paid on their behalf, nor were contributions made to state pension plans. No outside authority, no trades union, oversaw or improved working conditions. When the inmates died, often after decades of institutionalization, they were interred in unmarked graves.

“Once that door was locked, never, never, were you going to get out of there,” survivor Mary Smith told Irish radio in 2011.

Meanwhile, their children were appropriated and exported to adoptive Catholic families in America. Incomplete records were kept of these transactions, some undoubtedly involving payment, in a deliberate attempt to frustrate any future efforts to reconcile mother and child.

The so-called Magdalene “asylums” were located in full view of the complicit citizenry and served as an object lesson in female terror.

These practices were finally halted, and the institutions closed, fewer than twenty years ago, not by public outcry or legal reform or political initiative, but by the newly popular laundromat. Technology trumped servitude.

This is the century-spanning scandal of Ireland's Disappeared.

An open secret in Ireland, audiences in the United States were shocked to learn of it from Peter Mullan's searing 2002 film, *The Magdalene Sisters* (reviewed in these pages).

Which is only the beginning of the story.

The *Irish Times* confirms the extent of the laundries' connections at the highest levels of Irish society. “A ledger for a Magdalene laundry in Dublin's Drumcondra reveals that its regular customers included Áras an Uachtaráin [the president's residence], Government depart-

ments, Guinnesses [brewery], some of Dublin's leading hotels and golf clubs, Clerys [premier department store], the Gaiety theatre and Dr Steevens hospital in the city," wrote correspondent Patsy McGarry last year. "Included also are religious congregations in the city. Dublin airport and the Bank of Ireland were also regular customers of the laundry." The ledger covers a six-month period in the early 1980s and was discovered during a 1993 exhumation of over one hundred anonymous women's remains when the Sisters of Our Lady of Charity sold off land to developers. It took seventeen years to come to light.

"Yes, the church was very involved," says historian Dr. Mary McAuliffe of University College Dublin. "But the Irish state was complicit too." Recent research confirms that the Department

of Health paid capitation grants for "problem girls" sent to the laundries as recently as the 1980s. McAuliffe adds that girls and women were routinely referred to these church-owned enterprises by the civil courts and probation services. "They were conveyed, escorted and contained there by agents of the state, the gardai [the police]"—"in their fancy car," as one Magdalene described.

vivors have been denied the protection of a contemporary Ireland struggling to come to terms with this shadowy past. "The laundries were privately owned," McAuliffe summarizes. "That put them beyond the scope and recommendations of inquiries into abuse in children's institutions." In 2002, as a direct result of journalist Mary Raftery's groundbreaking investigations, the government established a Residential Institutions Redress Board to make awards to those who were abused as children while resident in industrial schools, reformatories and other institutions subject to state regulation or inspection. Again, the Magdalene survivors were excluded from its reach.

Then-Minister for Education and Science, Batt O'Keefe, was unambiguous in a letter of September 2009: "The Mag-

Rights Council and the UN Campaign Against Torture (UNCAT).

"We participated in the UN process [of examining human rights abuses] by submitting evidence of the state's involvement in the Magdalene Laundries abuse, including first-hand testimony from survivors," says Maeve O'Rourke of JFM's advisory committee.

UNCAT duly issued a damning report recommending that Ireland establish a full statutory investigation into allegations of torture and degrading treatment against women and girls forced to work without pay, and for prosecution of those who abused them. "The government has elided the suffering of the women who spent time in Magdalene Laundries, who have so far been denied any apology or reparation," adds JFM spokeswoman, Claire McGettrick.

The so-called Magdalene "asylums" were located in full view of the complicit citizenry and served as an object lesson in female terror.

Thus, the laundries were used by the state as places of confinement similar to the state-run industrial schools where boys such as writer Gerard Mannix Flynn spent miserable childhood years subject to daily horrors, including sexual abuse perpetrated by Catholic priests. (Flynn's moving drama about his experiences—*James X*, a solo performance directed by Gabriel Byrne—was seen to acclaim in New York late last year.)

There, however, the similarities end. In a foreseeable twist, the Magdalene sur-

dalen [sic] Laundries were privately owned establishments which did not come within the responsibility of the state." He dismissed any possibility of redress under existing legislation. Mary Raftery was not impressed. She wrote, "While the state did not fund these institutions, it is unarguable that the legal duty to inspect and regulate them did exist."

In his letter, the Minister astonishingly refers to Magdalene survivors as "employees" of the laundries. This solecism only follows that of his fellow minister who, 70 years previously, had mendaciously claimed under parliamentary privilege that army contracts with Magdalene laundries "contain a fair wages clause."

Which is the point at which Justice For Magdalenes (JFM), an advocacy group established in 2004, brought the issue to the attention of the UN Human

Amid evidence of political foot-dragging, Dr. Martin McAleese was appointed in July 2011 to chair an interdepartmental committee established to clarify the state's interaction with the Magdalene laundries. (McAleese, spouse of the former Irish president, is a member of the Senate and was widely commended for his role in the Northern Ireland peace process.)

Mary Raftery cautiously welcomed the McAleese committee. "[They] will need to deploy formidable skills in lateral thinking," she wrote. "Official information on these institutions can be tricky to find, and may pop up in unexpected places." Thus far, four religious congregations, including the Sisters of Our Lady of Charity, have agreed to participate, characterizing the laundries as "a dark story of Irish society."

JFM's O'Rourke was also welcoming, "This interdepartmental committee is the

first step because we are confident that if this inquiry is fast and fair, it will soon lead to an apology and concrete measures such as reparations for the women," she said. "Magdalene Laundry survivors need to know that the government is serious about putting this injustice right."

The Irish government's response to the UN was due in May 2012 and the McAleese report expected in September.

* * *

"It was the story of the graves at Drumcondra that caught my attention," says artist Cheryl Parry, on a mission of reclamation. "I went to Ireland to see for myself, and I only use well-documented material in my work."

Parry is creator of the multimedia piece, *The Magdalene Laundries*, recently installed and performed at New York's Clemente Solo Vélez Cultural Center. "It was important to me to be in this kind of institutional setting evoking the 19th century aesthetic of despair," says Parry.

A stark classroom is decorated only with the flotsam of Catholic iconography—a rosary, a small crucifix, a missal. "The objects have a symbolic and metaphorical meaning," says Parry. "I've collected lots of them which I lay out to be site specific wherever we're presenting this piece." Astonishingly, these artifacts are interspersed with oranges, the only representation of life in the uncompromising setting. It's a dramatic contrast—vibrant color against white-washed walls and the darkened objects. "For poor families, oranges were often the only gift they could give at Christmas," Parry explained. "You'll remember the scene in Mullan's film where the orange appears on the pillow."

This *mise en scene* also reminds the witness (it's difficult to think of ourselves as an audience) of the Magdalenes' obsession with cleanliness. Parry refers us to the old adage, "Bad girls do the best sheets." We're left to meditate on how cleanliness is next to godliness

and on the need to expiate our sins.

The whole effect—sterile, redolent—is enormously moving.

A sheet pinned to the wall serves as an apt screen for Parry's short film, *The Cloths of Heaven*. This engrossing, somber piece follows the path of a Magdalene in illustrative montage, a *via dolorosa*. The narrative is given only in titles, as in silent movies; the accompanying music is unexpectedly engaging and appropriate. Overall, the effect is poetic; the story primitive, heartbreaking.

Live performance interprets the story further. "I once wanted to be a dancer," says Parry, so it was automatic for her to



The Magdalene Laundries installation incorporates Catholic iconography with oranges, a traditional Christmas gift among poor families.

include movement. "My ballet teacher referred me to the choreographer, Mary Clare McKenna, whose grandmother was a Magdalene whose son was adopted in Brooklyn." McKenna's piece is disciplined, with five ghostly dancers performing repetitive movements mimicking the routine of institutional life.

To complete the installation, Parry contacted LuLu LoLo, the New York performance artist best known for her monologues commemorating the Triangle Shirtwaist Factory fire. "LuLu's really interested in women's history and she creates characters from her own research. I thought she was perfect," Parry explained. For *The Magdalene Laundries*, LuLu imagined an original mother/child monologue. Its impact was

heightened by being the only voice heard all evening.

"The subject matter requires different media," says Parry, who hopes to bring *The Magdalene Laundries* to other venues, possibly including Ireland. "The story is about gender, class, codified behavior. It needs a wider audience to break the silence." Mary Raftery could only agree. She wrote, "The most important thing you can do is to give a voice to people who have been silenced."

* * *

Meanwhile, Catriona Crowe, senior archivist and head of special projects at Ireland's National Archives, turned her attention to the adopted children. "Some of these would undoubtedly be children of Magdalenes," she confirmed. "I came across the records from the embassy in Washington, DC, when they were handed over to us after the 30 year moratorium. There were approximately 2,000 files, covering years from the 1940s through the '70s." Crowe was aware of how important it would be to adopted children to know who their mothers were. She became an advocate. "It's really important to reassure people that the files exist and that they can have access to a proper contact register through the Department of Foreign Affairs," she said.

Nor has Gerard Mannix Flynn, now a member of Dublin City Council, been idle. As Far Cry Productions, Flynn has launched an internet petition to stop a €500,000 memorial to victims of child abuse, originally proposed in 2002. He writes, "In June 2012, the Office of Public Works will announce the winning artist's design.... However, the more difficult issues of responsibility, accountability and securing justice for the abused still appear to be a long way off."

Referring explicitly to the Magdalenes, Flynn concludes, "The time to memorialize an issue like this is only when all that can be put right has been put right." ■

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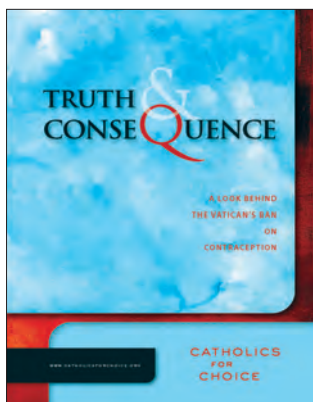


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The Lay State and Religious Freedom in Mexico

THE DEBATE ON AMENDING THE CONSTITUTION

By Roberto J. Blancarte



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IS RELIGIOUS FREEDOM COMPATIBLE WITH A LAY OR SECULAR STATE?

On March 28, 2012, after spending two years held up in the Mexican Senate, an amendment to Article 40 of the Constitution was passed by a necessary two-thirds majority. This amendment adds the word “lay” [“secular”] to the existing language describing the Mexican republic: “It is the will of the Mexican people to constitute themselves into one representative, democratic, lay [laica] and federal republic....” The proposal to modify the language had appeared before the Senate two years ago, but the approval process lagged until recently. To be ratified, this change needs to be approved by a majority of the state legislatures, which will likely happen in the next few months.

On the same day, the Senate also approved a controversial amendment to Article 24 of the Constitution on freedom of religious beliefs and practices. The initiative, pushed for years by a Catholic hierarchy calling for greater religious freedom, does not necessarily meet the hierarchy’s full expectations, but changing this article does open up the possibility of amending other articles that

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The changes to Article 24 of the Mexican constitution, which started out as a crude attempt orchestrated by the Catholic hierarchy to undermine the meaning of the secular state, ended up opening the door to constitutional secularism in Mexico.

the hierarchy deems restrictive of its freedom.

The previous version of Article 24, in effect since 1992, read,

“Every man is free to profess the religious beliefs that he pleases and to practice the corresponding ceremonies, devotions or acts of worship, provided that these do not constitute an offense penalized by law. Congress may not issue laws that establish or forbid any religion. Religious events of public worship shall normally be held in houses of worship. Those that on an exceptional basis are held outside houses of worship shall be subject to corresponding laws.”

A political, social and intellectual debate has opened up in recent years, both in Mexico and in other parts of the world, as to the best system for achieving equality and nondiscrimination among religions, toward religions, and throughout all of society. Some religious leaders and right-wing parties claim that a government that ensures complete religious freedom is the best way to develop all spiritual and confessional opportunities. Others, by contrast, believe that the best way to ensure religious freedom, as well as equality among all believers, is a “lay” or secular state that regulates public expressions of religious beliefs, one that neither favors nor opposes any religion. This latter per-

they want and to practice their religion, with only minimal restrictions on external events of worship (considered exceptional), based on the need for government to regulate the public activity of organizations and to maintain public order. While replacing the concept of “freedom of religious belief” with that of “religious freedom,” may not seem important, there are crucial differences between the two. Its denials notwithstanding, the Catholic hierarchy’s main objective was to incorporate into the Constitution an element that would later open the door to other claims, e.g., religious education in public schools, the right to own electronic media companies

The main problem with the perfect-society doctrine is that it is based on freedom of “the church”—the Catholic church—not on freedom of “religion.”

Article 24 is now worded as follows:

“Every person has the right to freedom of ethical beliefs, of conscience, and of religion, and to hold or adopt, as appropriate, the beliefs of his or her choice. This freedom includes the right to participate, individually or collectively, publicly or privately, in the corresponding ceremonies, devotions, or acts of worship, as long as these do not constitute offenses penalized by law.”

There are a number of important shifts in language, such as the addition of a caveat that “no one may use public acts in exercise of this freedom for political purposes, for proselytizing, or for political propaganda” to the new version. The new amendment reiterates that events of public worship shall *normally* be held in houses of worship, with exceptional acts of worship (held outside the houses of worship) subject to regulatory provisions. How can we understand these amendments and their significance, not only for Mexico but for the rest of Latin America as well?

spective would build a lay or secular government that, in fact, goes beyond the separation of church and state to establish true equality and nondiscrimination based on the independence of the political sphere from the religious.

Those who advocate this second position believe that true religious freedom has never existed historically, nor does it exist today, unless some form of lay or secular government is in place. Conversely, whenever a religion has been able to influence or determine public policy, or when the state attempts to meddle in churches’ internal affairs and shape believers’ minds, religious freedom ends up suffering.

THE CHURCH AS A PERFECT SOCIETY

The Vatican-directed global strategy of pushing a particular conception of religious freedom is an important trend that manifested in the Mexican debate about freedoms and the role of the State. Why did Mexico’s Catholic hierarchy want to change Article 24 of the Constitution? This article seemed to guarantee full freedom for people to believe whatever

and the freedom to participate openly, not only in political affairs, but in elections. This notion of religious freedom—as conceived by the Catholic hierarchy—carries the hidden claim that no government may place any legal limitations on the activities of religious organizations. Where does this sweeping affirmation come from?

The key to understanding how the concept of religious freedom has evolved in Catholic-majority countries lies in the doctrine of the church as a “perfect society,” which was fully developed in the nineteenth century. Archbishop Roland Minnerath, a theologian and one of the most renowned Catholic specialists on this question, described “the doctrine of the church as a perfect society” in this way:

“Spiritual society and temporal society have been desired by their common Author, with one independent of the other, but also placed in a hierarchy based on the unequal elevation of their purposes to perform the role that is assigned to each in God’s salvatory design.”

The liberal formula of “a free church in a free state” was articulated by Camillo Benso, Count of Cavour in the mid-19th century. The problem is that, at roughly the same time, the Catholic popes advanced their idea of a relationship of legal equality *between* church and state, and even one where the material was subordinate to the spiritual. From Pius IX to Pius XII, the Vatican developed the idea of the church as a perfect society in which according to Minnerath, “the temporal order is subordinate to the spiritual order ‘in accordance with a system of relationships analogous to the union in man of body and soul.’” By this reasoning, the church refuses “to bend to the changing demands of civil matters, since ‘the constitution and organi-

claimed for all people, regardless of whether they are wrong or right, from the moment they obey the dictates of their conscience. The state’s mission was now seen as protecting the inalienable rights of people—these are social and civil freedoms, hence the subtitle, “On the Right of the Person and of Communities to Social and Civil Freedom in Matters Religious.” This also means that the church agrees that these freedoms are not absolute, but rather their aim is the common good. The state may then intervene in three cases where public order is jeopardized: (1) when public peace is under threat; (2) when public morality is violated; or (3) when the rights of third parties are violated, i.e., when a person’s right to religious

church’s claim to religious freedom sprung. As a result, there are two distinct treatments of the church’s freedom at work within the Declaration:

“On one hand, its basic freedom as any community of believers to experience its faith in communal fashion, and on the other, its freedom based on its divine vocation and specific mission.”

Is this not a sneaky way of returning to the perfect-society doctrine? Is it truly possible in practice for two doctrines with such contradictory logics, such as the perfect-society doctrine and the religious-freedom doctrine, to coexist in the civil and social context? This is the dilemma with which the

The Catholic hierarchy questions the sovereignty of a lay or secular state that seeks to regulate social life and that of the churches in it.

zation of Christian society are completely immutable.’ And the church ‘holds on to its established independence in the broad interest of souls.’”

The main problem with the perfect-society doctrine is that it is based on freedom of “the church”—the Catholic church—not on freedom of “religion.” This reasoning cannot possibly be squared with civil society. It was not until the emergence of totalitarian states in the WWII era that the hierarchy began slowly and gradually to abandon the issue of ecclesiastical freedoms in favor of that of the fundamental rights of man.

Until 1965 the position of the Catholic church was basically that of most churches in the eighteenth century. Religious dissidents had no rights of their own in society, and their legal status varied according to social and international circumstance. But in that year, the Second Vatican Council issued its Declaration on Religious Freedom, *Dignitatis Humanae*, opening up the possibility for religious freedom to be

freedom is curtailed by others’ exercising the same right.

I would simply like to stress two main points that I believe will help clarify the current state of religious freedom in Latin America. The first is the relationship between “freedom of the church” and “religious freedom” as conceived in Catholicism. The second has to do with the acceptance of the Second Vatican Council’s new approach, as well as the continuation of traditional thinking in this regard.

Indeed, *Dignitatis Humanae* intentionally does not take church doctrine as its starting point, but rather the declaration focuses on the world external to the church. According to Minnerath, once the focus is on the Catholic church itself, however, “the guiding concept is no longer ‘religious freedom’ but rather ‘freedom of the church.’” The archbishop-theologian, who was part of the Second Vatican Council, described a conservative faction there that clung to the idea of an “internal authority” from which the

Catholic church constantly struggles, and which it can’t quite resolve.

In any event, it is with this equivocal position on religious freedom that the Holy See has relaunched a challenge to Latin American political societies. In a stance reminiscent of the old perfect-society theories and the two sovereign powers, the Catholic hierarchy questions the sovereignty of a lay or secular state that seeks to regulate social life and that of the churches in it. The governments of Latin America—weak, hesitant and accustomed to an alliance with the religious authority—cannot quite arrive at a clear philosophical and ideological position vis-à-vis a Catholic hierarchy that is striving in various ways to return to the state and public life—if indeed it ever left.

THE HIERARCHY’S HIDDEN AGENDA

Some people wonder whether the changes to Article 24 represent a step back from the “Estado laico”—at least as we know it in Mexico—even though politicians and reli-

gious leaders deny this. The amendment was intended to open up a pathway toward substituting the terms of “freedom of belief” and “freedom of worship” for the hierarchy’s preferred term—an equivocal notion of “religious freedom,” which the Catholic bishops define not only as the right to believe what one wants, but also as a number of specific demands, including that religious education should be offered in the public schools.

A few months ago, at the 92nd Plenary Assembly of the Mexican Episcopal Conference, Bishops Víctor Rodríguez and Alfonso Cortés, general secretary and head of pastoral education for the organization, respectively, stated that “the state has the obligation to provide a religious education to children if their parents so request.” Bishop Rodríguez reportedly made the clarification that “the Catholic church is not seeking that [religious] courses be given in public schools or that the Constitution be amended to include religion in education,” and that “it does not promote religious education in the schools, since this can be provided in the parishes and at home.” But rather than a push from the church hierarchy, the bishop instead saw the movement for religious education in schools as coming from non-clerical sources, from laypersons who are “not bound by the same restriction and can embark on the full legislative path to allow parents to secure religious education for their children in the schools.” This legislative path can include taking the bishops’ very flexible view of “religious freedom” into the Constitution, so that later they could demand the right of parents to have their children receive a religious education in the public schools.

THE FALSE ARGUMENT OF INTERNATIONAL TREATIES

The Catholic bishops, the conservative administration of Mexican President Felipe Calderón and the Institutional Revolutionary Party, which promoted the amendment, justify their position by claiming Mexico’s laws on religion must fall in line with international treaties and the human rights standards established in these treaties.

Some political leaders and legal specialists cite the Mexican government’s constitutional obligation to abide by Article 12 of the American Convention on Human Rights, which recognizes both the freedom of conscience and of religion, with the manifestation of religion limited by concerns of public safety and others’ rights.

There is some confusion about where to draw these lines. For example, it is questionable whether the right of churches to own electronic media companies can be described as a “human right.” Nor is it obvious that restrictions on the political activity of religious leaders are violations of human rights. And, though it is true that parents must be allowed to raise their children in the religion of their choice, no international legal

document states that religious instruction must be provided in public schools. There is nothing in the international agreements signed by Mexico that says this right must be guaranteed through the public schools. Up until now, this education has taken place in the home, in houses of worship, or in religious schools, since such is the will of the Mexican people. These practices, and the Mexican Constitution itself, are already in line with international standards. This is why many people said that Article 24 did not need to be amended. Not for those reasons, at least.

THE DEBATE ON EXTERNAL ACTS OF WORSHIP

There is much confusion about the right of the faithful to “go out from the temples,”

Lay vs. Secular: When Semantics Matter

Although very similar concepts, it is very important to distinguish between the terms “lay”, “laicity” or “laicization” and “secular”, “secularity” or “secularization”. The use of the word “lay” and its derived words (“laicity”, “laicization”), in the sense of a secularization of political institutions, took place in the context of the Latin continental European countries, and in other latitudes such as Canada, Latin America and the Caribbean. Laicity and laicization are recent terms practically unknown in the English language and commonly used in Latin countries almost as a synonym of the concept “secularization.”

Although, in fact, its semantic contents and history are diverse, it can be said that both terms are in many ways related.

While secularization has to do with social differentiation, worldliness, privatization of religion and reconfiguration of beliefs, laicization concerns the process of separation of religion from public affairs in order to safeguard freedom of conscience, equal treatment and non-discrimination, independently of the particular beliefs of everyone. [See my entry “Laicization” in Mark Juergensmayer & Wade Clark Roof (Editors), *Encyclopedia of Global Religion*, London: Sage, 2012), pp. 685-687.] The distinction between “lay” [laico] and “secular” is very relevant because the concept of “laicity” has a more neutral and impartial sense than the concept of secular regarding a political approach and treatment of religions.

and I believe the confusion has been intentionally provoked. As far as I can tell, no one wants believers to be unable to express their beliefs publicly or collectively. The 1917 Constitution stated that “all religious ceremonies of public worship shall be held precisely within the houses of worship, which will always be under the supervision of the law.” But the Constitution was amended 20 years ago, on January 28, 1992, to state that “religious ceremonies of public worship shall *normally* be held in houses of worship.” [Emphasis added.] It then adds that “those that, on an extraordinary basis, are held outside houses of the worship will be subject to regulatory law.” The recently approved amendment repeats this wording.

If we look closely at this phrasing, it only refers to religious ceremonies of “public worship.” No one is trying to

“dialogue” with political sectors “in search of full religious freedom.” The archbishop of León, while stating that “the church in Mexico recognizes the advantage of establishing ‘un Estado laico,’” also called for “overcoming the hostile laicism or secularism that persecutes the Catholic church” and said that “full religious freedom, not freedom of worship, is what the Catholic hierarchy has demanded.”

Two years later, the PAN-controlled Senate had not approved the constitutional amendment establishing the secular nature of the Mexican government. It wanted to pass the amendment to include “freedom of ethical beliefs, of conscience, and of religion,” before it would then move on with the proposal on the lay or secular nature of the government. Catholic leaders insist, though not always explicitly or categorically,

popular sovereignty (as stated in Article 39 of the Constitution), and on the will of the majority, but also on the rights of minorities.

Behind the scenes, the original initiative to amend Article 24 was actually a serious counterreform effort orchestrated by the Catholic hierarchy, long promoted by the PAN and submitted and supported by some members of the Institutional Revolutionary Party (PRI). Ultimately, the wording of the amendment was changed thanks to the intervention of the leftist parties in the chamber and some members of the PRI who did not agree with the gift that was being offered up to the Vatican and the Catholic bishops with the religious freedom language. Thus, what started out as a crude attempt to undermine the meaning of the lay State ended up opening the door to constitu-

Whenever a religion has been able to influence or determine public policy, or when the state attempts to meddle in churches’ internal affairs and shape believers’ minds, religious freedom ends up suffering.

interfere in private acts of worship, which are just that, private. The only thing it does state is something normal in any part of the world: that ceremonies of public worship must be regulated by the public authority. There is nothing here hostile to true religious freedom, whether private or public.

APPROVING THE AMENDMENTS

“Two years ago, during the debate over proposed amendments to article 40, Gustavo Madero, the Senate leader for the National Action Party (PAN), stated: “The state is secular (laico) and must continue to be secular (laico). In the PAN caucus we are secular but not delusional, and we don’t want to fall for the provocations that are behind the proposal’s stated rationale in its current form.” That same day, Archbishop Carlos Aguiar Retes, chairman of the Mexican Episcopal Conference, said he would initiate a

that this amendment has nothing to do with secular education, that the public school system remains “laico” in the sense of nonreligious.

After spending two years holding up the amendment to Article 40 of the Constitution, the Senate finally passed it. A single adjective, “secular,” [laico] should now determine how we understand the role of religion in public affairs in the Republic of Mexico. “Laicity” strengthens the historical principle of separation of church and state, which was already established in Article 130, but it goes beyond this to add basic concepts such as freedom of conscience, independence of politics from religion (which involves more than mere separation of church and state), equality of individuals and organizations before the law and nondiscrimination. Laicity also entails a transition from a system where authority is based on sacred power to one that is essentially based on

tional laicity of the Mexican Republic.

Not everyone was in agreement with the final wording of Article 24. Those opposed to freedom of ethical beliefs, referenced in the new version, ignore the fact that the most widely disseminated statements on laicity refer to freedom of conscience and the freedom to follow a religion, but they also refer to philosophical (i.e., ethical) beliefs, which would include those held by agnostics or atheists. They also ignore the fact that freedom of conscience is crucial to the lay state and, in that vein, to all people who advocate sexual and reproductive rights, such as those who defend a woman’s right to choose, according to her conscience, what will happen to her own body and whether to legally end a pregnancy. Of course, this article also opens the door to legislation on conscientious objection. And it cannot be forgotten that Article 24 itself states that “no one

may use public acts in exercise of this freedom for political purposes, for proselytizing, or for political propaganda.”

The persistent opposition to this article by some groups is due to both historical and current circumstances related to the Catholic hierarchy’s multiple attempts at counterreform.

HAS THE TIME FOR TRUCE ARRIVED?

Are defenders of laicity and of sexual and reproductive rights naïve, or has the time come to allow freedom of conscience, freedom of belief and freedom of religion to find their place in Mexico’s *Estado laico*?

A noteworthy feature of the debates on both amendment proposals is that none of the political or religious leaders in question has denied the existence and validity of laicity in Mexico. But the recognition of secularism is only the start of a long road, full of discussions, choices and decisions as to what we want that to mean.

Some media outlets and certain religious leaders now profess to be outraged by the alleged leftist anticlericalism of many Mexicans, but it must be recognized that laicity and its many freedoms prevailed in spite of the determined opposition of the Catholic church. To be honest, I am not sure that circumstances have changed.

The French sociologist of Catholicism Émile Poulat affirmed:

“We live in a regime of rights and freedoms that constitute our ‘public laicity’ with its guarantees assured to all. An autonomous reality, which has taken shape independently of the secular idea, without which this reality would not exist, and of the Catholic religion, which has done everything it can so that it doesn’t exist Our public laicity is thus the result of a political wisdom and a subtle balance which forces no one to sacrifice his or her principles, but which proposes to all people a new art of coexisting.”

Thus, we can ask ourselves the final question: Should we continue to be vigilant toward those who have long refused



The Templo del Santuario church in Patzcuaro, Mexico, is adorned with flags in the state colors for a civil event.

to accept plurality and diversity, or can we say that the war is over? Many of us would like to think we have reached that point in Mexico. However, we continue to see a church that is accustomed to religious hegemony and to living within the state, and a belligerent church hierarchy

that seeks not only to influence legislation and public policy but also to curtail those freedoms that it does not approve of or share. Can we think, with a stronger lay or secular state, that the time of unlimited religious freedom has arrived despite itself? ■

The Battle for Kenya's Constitution

By Tewodros Melesse

The Great Controversy: A Story of Abortion, the Church and Constitution-Making in Kenya

Dr. Joachim Osur

(Majestic Printing Works, 2011, 181 pp)

9966742247, \$32.00

IN *THE GREAT CONTROVERSY: A Story of Abortion, the Church and Constitution-Making in Kenya*, Dr. Joachim Osur narrates the debates, intrigues and battles around abortion in Kenya during the constitutional referendum that took place from 2009 through 2010. Having lived and worked in Kenya for nine years until 2011, I recognize his description of the forces that fought for women's right to safe and affordable abortion services in this country where more than 40 percent of births are unplanned; where each year an estimated 316,560 abortions—both spontaneous and induced—occur; and where one in 39 Kenyan women dies from pregnancy-related causes. Dr. Osur does a good job of depicting and analyzing the tendency to denial or hiding behind “moral” and “religious” standpoints that contributes to these stark statistics.

The book usefully demonstrates how a constitutional debate, originally intended to address the broad democratic and standard-of-living deficits in Kenya, turned into a debate on abortion and sexual and reproductive health and rights (SRHR). In the process, those who pretended to

uphold democracy and human rights then denied these fundamental principles by obstructing women's access to comprehensive sexual and reproductive health information and services—with the consequent suffering that can arise from

pregnancy and related complications. Maybe, as Njoki S. Ndungu suggests in the book's foreword, it is because “a man can walk away from a pregnancy and from the financial, social and educational, professional, physical and emotional responsibility of childbearing and child raising.” It is no surprise, therefore, that most of the religious leaders and other defenders of this point of view are men.

Dr. Osur depicts the constitutional debate as a trial: a trial of his faith as a Christian, of his professional ethics as a medical doctor and of his values as a democrat and humanitarian. He feared for his own life after being threatened by fanatics, and he feared the security of his employment because those opposed to him were in powerful positions. The doctor even feared for his children's access to schools, as many educational institutions are operated by religious groups.

Osur underwent this trauma because he was at the forefront of the battle to ensure that women's rights were respected during the creation of this critical legal framework for Kenya. He worked to ensure that, at a minimum, the phrase “life begins at conception” did

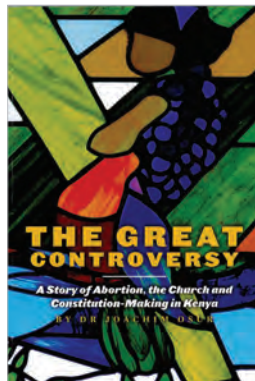
not become part of the fundamental law of Kenya, as demanded by some religious groups. Osur's fight led him to confrontations and alliances with societies of medical professionals, women's lawyers groups, members of parliament, civil society groups, NGOs and well-known personalities in Kenya.

The author also does a good job of documenting the reality of SRHR in the Kenyan context, especially the state of women's reproductive health with respect to childbearing and parenting, as well as the inadequacy of that health-care system's accessibility and delivery mechanism. Osur places these circumstances within a wider view that encompasses politicians, church leaders and their varying motivations to help or hinder SRHR in the elections. The international dimension of the debate is also an important part of this picture—US fundamentalists and evangelists providing financial and political support to Kenyan religious bodies.

Dr. Osur provides evidence of how the US Congressman Chris Smith and his group have tried to gain increased support for their views on abortion by inserting themselves in the Kenyan constitutional debate with allegations that the US government was using public funds to promote abortion in that country. This exportation of American abortion politics is a clear demonstration of how women's rights have an international dimension, and how foreign interests and funding are used to pressure developing countries into not exercising their own democratic rights.

Whereas the Kenyan constitutional debate needed to focus on critical issues related to land, decentralization, democracy and accountability, it was instead diverted to a moralistic debate about abortion. This shifted the argument to one of principles and faith, areas traditionally controlled by religious leaders. This strategy served to divert attention from the crucial economic and democratic debates at that time.

During this period politicians were—all too often—afraid of facing the brokers



TEWODROS MELESSE is Director-General of the International Planned Parenthood Federation (IPPF). Prior to IPPF, Mr Melesse was the country representative of Ethiopia for Pathfinder International. Originally from Ethiopia, he is now based in the United Kingdom.

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who influence their voters. Religious groups in Kenya have a powerful hold on communities through the churches, schools and medical facilities they operate, as well as through their land holdings. This gives them a hold on the electorate and thus leverage to pressure the politicians.

It is also to be noted that external forces, predominantly US evangelists, maintain a disproportionate level of influence in Kenya, beyond the debate on abortion. Ample political and financial resources allowed US fundamentalists and anti-reproductive rights groups to establish offices in Kenya and recruit local staff. This presence might yet prove to be a springboard for more aggressive action in other parts of Africa. The activities of these outside religious groups should be closely watched, as they are placed to continue advancing their agenda to deny access to sexual and reproductive health services needed by many.

The main message to take away from *The Great Controversy* is that determined individuals, groups and personalities can fight in extremely difficult situations against powerful opposition. Determination, coalition building and tactical approaches are critical. The battle is not yet won and it will continue. We must prepare ourselves for this long fight.

There are several other critical lessons to be learned from Dr. Osun's book. Those of us engaged with the SRHR movement must work to ensure broad-based support from communities at the grassroots level. We tend to focus on advocacy efforts aimed at policymakers and politicians. However, these groups are very much influenced by the electorate—the community. If we ensure the involvement and support of the community, it is likely that the politicians will listen to their constituents and support our cause. This analysis is regrettably not given adequate coverage by the author.

The opposition to SRHR uses simple and down-to-earth communication and mobilization messages and strategies. We must learn from their moves, as our messaging is often too sophisticated and

Beautiful Souls: Saying No, Breaking Ranks and Heeding the Voice of Conscience in Dark Times

Eyal Press (Farrar, Straus and Giroux, 2012, 196 pp)

Unlike Hannah Arendt's classic *Eichmann in Jerusalem*, which investigated the situation that turned an ordinary person into a Nazi war criminal, *Beautiful Souls* is meant to explore the opposite—what makes ordinary people overcome the pressure of their situations and instead follow their conscience for the common good? Case studies are woven together to reveal commonalities and differences between diverse subjects such as a Swiss border guard who refused to expel Jewish refugees, an Israeli soldier who does not want to serve in occupied territories, a whistleblower from the financial world and a Serb who saved the lives of Croats.

Press asks more questions than he answers, but the sources he evokes are solid, like the classic experiment by Yale psychologist Stanley Milgram that suggested that people will do anything they are told, including causing harm to someone else. Even as the author discounts circumstances as a determining force, he skillfully depicts the setting in which each case study takes place, not unlike Arendt's study. The book leaves room for a bit of mystery about conscience in general, but succeeds at telling several compelling tales about the individual conscience at work.

Of Homunculus Born: A Short History of Invisible Women

Barbara Bonnekessen (University Press of America, Inc., 2012, 135 pp)

Those who might not ordinarily be drawn to anthropology may be pleasantly surprised by this compact book that takes on Western culture's marginalization of women. *Of Homunculus Born* moves from the modern age's beginnings in Aristotle to future-facing questions about post-patriarchal possibilities scarcely allowed for in our time.

The author sees all of this through one very small lens: the homunculus, or the "little man" that Nicholas Hartsoeker, one of the innovators of the microscope, claimed to have seen in his studies of spermatozoa. Rather than a now-discredited scientific theory, Bonnekessen sees the homunculus as an ongoing tragedy that elevates the male contribution to reproduction while at the same time limiting women to this one function. She traces the many ways that men are put into the foreground of society and women forced into the background, discovering in this one image a pervasive mythology that our society tells about conception, childbearing, gender roles and sexuality.

By taking seriously the apparently innocent, pseudo-scientific tales told about the male-female binary, the book reveals some of the most fundamental disagreements between reactionary and progressive views about gender.

Homunculus helps isolate why some people are so exercised about abortion and LGBT rights, two of the issues that represent "a major wrench ... thrown into the not-so-smoothly turning gears of de/prescribing the proper household." Most of all the book shows that the myths about who we are, how our bodies work, how we love—or how someone else thinks we should do all these things—are worth paying attention to.

(continued on page 45)

analytical to appeal to the average person. Communication strategies that can resonate with people at a basic level are critical to gain support.

I encourage people in our movement to read this book for its emotional insight into a compelling period of Kenyan history. We can learn a lot from this case that can help shape our advocacy and

communication battles to ensure that every woman and man, of any age, all over the world, is able to live free of coercion, intimidation and denial of their rights. There will not be democracy, freedom and peace without fundamental sexual and reproductive health and rights being in place. Respect for life starts with respect for rights. ■

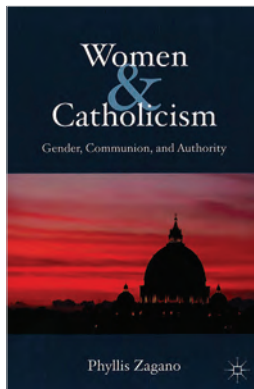
Forces They Cannot Control: The Hierarchy's Battle with Women

By Rosemary Radford Ruether

**Women and Catholicism:
Gender, Communion and Authority**
Phyllis Zagano
(Palgrave Macmillan, 2011, 203 pp)
978-0-230-11164-6, \$28.00

WOMEN AND CATHOLICISM: *Gender, Communion and Authority* focuses on three case studies, which show the complex interconnections between juridical authority, sacramental authority and gender in the recent history of the church. The author, Phyllis Zagano, a noted Catholic scholar who focuses on women in the church, is particularly known for advocating women's ordination to the diaconate. In this book she places a good deal of attention on the male hierarchy because she is filling in the backdrop against which the struggle for church reform of all kinds must be played out.

The first study focuses on Bishop Fabian Bruskewitz, bishop of the diocese of Lincoln, Nebraska, since 1992. Bruskewitz came into a diocese where Catholic reform groups were anxious for a fuller implementation of Vatican II reforms,



such as integrating laypeople into greater participation in the local church. At first, these reform groups hoped he would be more open to their concerns than the previous conservative bishop, but they soon realized that they were

dealing with an even more rigidly traditional figure dead set against laypeople's, particularly women's, participation in parish liturgy as lectors, Eucharistic ministers and altar servers.

Bruskewitz entertained a highly autocratic view of the power of his office. For him, each bishop was the supreme leader of his diocese, reporting directly to Rome. He rejected Vatican II's encouragement of collegiality between bishops, expressed through the institution of the United States Conference of Catholic Bishops (USCCB). His exercise of power in his diocese, combined with a refusal to consult with the USCCB on his policies, resulted in intense confrontations with Catholic reform movements.

Bruskewitz' friction with lay reformers began when he refused the overtures of the CALL movement (Catholics for Active Liturgical Life), which called for women lectors and Eucharistic ministers. The conflict soon turned into

an all-out war with Call to Action, a liberal Catholic reform organization, which CALL members soon joined. Bruskewitz became convinced that the views advocated by Call to Action (both locally and nationally) were completely contrary to Catholic teaching. In 1996 Bruskewitz issued formal guidelines excommunicating any Catholic in his diocese who belonged to Call to Action, lumping it with various other groups such as the Masons, Planned Parenthood, the Society of Pius X, Catholics for Choice and the Hemlock Society, all seen as "forbidden societies" by the ultra-orthodox. Most of these societies were not relevant to the Lincoln situation, so this list was a way of making Call to Action appear to be more radical than it really was.

In taking this line with Call to Action, Bruskewitz ignored the policies of the USCCB, which had already defined a position of tolerance toward this movement. Bruskewitz also ignored the guidelines the national bishops' conference was developing on preventing sexual abuse of children by priests, insisting on dealing with this question by himself and in secrecy. Zagano sees Bishop Bruskewitz as a major example of a prelate who claimed his juridical authority in direct relation to the Vatican in a way that refused to concede the new developments of collegiality that had emerged in Vatican II reform movements.

Zagano's second case study has to do with Emanuel Milingo, the first African Archbishop of Lusaka, Zambia. Milingo aroused the nervousness of local church authorities, and eventually the Vatican, by his cultivation of African traditions related to the healing of evil spirits and his outspoken criticism of injustice to the poor. White missionaries objected to Milingo's embracing the very African traditions from which they saw themselves as liberating Africans by Christianizing them, while the Zambian government did not care for his social justice message.

Milingo was encouraged to stop his healing ministry, which he did for a

ROSEMARY RADFORD RUETHER is a professor of feminist theology at the Claremont Graduate University and Claremont School of Theology and is an emerita member of the board of Catholics for Choice.

while, and then took it up again. Ordered to retire to Rome, he developed a similar healing ministry in Italy. He then suddenly broke away from the Catholic church and married in a blessing ceremony of the Unification Church. Ordered to separate from his wife, Milingo submitted to Rome, but again broke away and established a new ministry, starting in the United States, to ordain married men to the priesthood. Opposition to celibacy and the reclaiming of married former priests for the priesthood became a global crusade for Milingo against what he saw as a sexual tradition that was responsible for many kinds of abuse.

have never been ordained and so the church has no authority from Christ to do so now.

The prospect of Catholic ecumenical reconciliation with Anglicanism was challenged when the Church of England moved to ordain women as priests and then as bishops. There was also the case of the Czech underground church that ordained both married men and women. These challenges came to a head when some radical bishops claiming apostolic authority ordained seven women priests on the Danube River in 2002. Some of these women priests were then ordained bishops. They, in turn, began to build a movement of ordained Roman Catholic women in Europe, Canada and the US.

even the “attempt” to ordain a woman to be a “grave crime.”

Yet this movement shows no signs of slowing down, and the Vatican’s attacks look increasingly impotent and divorced from reality. Zagano examines this case in terms of the conflict of juridical with sacramental authority. The claims of valid sacramental power through their founding bishops continue to put in question the Vatican claim that ordination of women “cannot happen.”

Zagano’s style of writing is based on a detailed examination of the legal and sacramental traditions of Catholic authority and how these traditions can fall into conflict with each other. She carefully avoids taking a position on

Increasingly, churches whose ministries Catholicism accepts as valid began to ordain women.... This tradition of the female diaconate conflicts with the Catholic insistence that women have never been ordained....

Despite his radical conflict with Vatican authority, Milingo remains an archbishop and so retains the sacramental power to ordain. The author views this case as a conflict between the juridical power of the Vatican’s enforcement of celibacy and the sacramental power exercised by ordained bishops.

Zagano’s third example has to do with women’s ordination and the movement of Roman Catholic Women-priests, which has defied the Vatican insistence that ordained women cannot be allowed in Roman Catholicism. The movement to ordain women has been building in Christian churches since the 19th century. Most Protestant churches moved to ordain women as ministers and bishops in the mid-20th century. Increasingly, churches whose ministries Catholicism accepts as valid began to ordain women. Eastern Orthodoxy restored the female diaconate, as did the Old Catholic Churches. This tradition of the female diaconate conflicts with the Catholic insistence that women

The Vatican rolled out its full power of retaliation against those in this movement, declaring that they incurred *latae sententiae* excommunication, that is, excommunication without investigation or trial, but merely by the fact of their actions. In July 2010, the Congregation for the Doctrine of the Faith declared

these conflicts, although it is evident that she favors women’s ordination to the diaconate. Her three cases make clear that when sacramental authority and juridical authority collide, the Vatican and bishops’ conferences are sometimes left shouting at forces they cannot control. ■

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From the Front Lines: Dr. Peter Piot and the AIDS Epidemic

By Paul Zeitz

No Time to Lose: A Life in Pursuit of Deadly Viruses

Peter Piot

(W.W. Norton & Company, 2012, 304 pp)

978-0393063165, \$28.95

DR. PETER PIOT, FOUNDING Executive Director of UNAIDS, the UN Special Programme on HIV/AIDS, and current dean of the London School of Tropical Medicine and Hygiene, presents a surprisingly candid and enlightening mid-life memoir in *No Time to Lose*. Piot's experience as a leading global health pioneer represents a critically important and poignant crossroads in the global AIDS movement.

Stories from Piot's early life reveal his unique personality—a hard-nosed scientist who sought the truth with the most rigorous of scientific and epidemiological methods available, and a man who felt a deep compassion for the human experience of those living in squalor and poverty in sub-Saharan Africa. Piot's passion for the investigation into infectious diseases began when, as a young father with a comfortable research life at the Institute of Tropical Medicine in Antwerp, Belgium, he leaped into the depths of the first recog-

nized Ebola outbreak investigation in the late 1970s. The passages about his first experiences working in Sub-Saharan Africa recall the extremely primitive state of infectious disease epidemiology and laboratory investigation, illustrating how rapidly modern biomedical technology is changing our ability to prevent and respond to infectious diseases and other global crises.

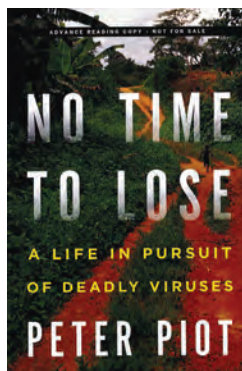
If Piot comes across as the Indiana Jones of the deadly viruses who easily surmounted any challenge, the reader also grasps how much luck was involved in his survival of these pathbreaking field experiences. The author was one among many who carelessly handled life-threatening Ebola-infected blood products, despite the awareness of a likely fatal outcome to all those exposed. The advent of "universal precautions" seems even more prudent in light of these anecdotes from a very recent past when lab workers and investigators of infectious disease worked without these safeguards. The author shares the gruesome story of avoiding a dangerous helicopter journey with an intoxicated pilot—only to have to deal with retrieving the corpse in the crash aftermath and the reactions of

locals blaming witchcraft for his uncanny survival.

In addition to physical hazards, Piot was also confronted with the cross-cultural politics of global health. This required the Belgian-born doctor to overcome the painful colonial legacy of his country's impact on the people of Zaire while navigating the Mobutu regime and the competitive dynamics of modern day global scientific institutions and personalities. Though unprepared for these conflicts by his medical training, Piot emerged as a skillful broker between his interests and those of others—including Americans, other Europeans and his host country leaders, to name a few. With all these competing agendas, it is impressive that Piot maintained a focus on protecting the needs of individuals—especially those who were disadvantaged—over the ego-driven needs of institutions and scientists.

UPON HEARING THE FIRST reports of Gay-Related Immune Disease (GRID) over 30 years ago, Dr. Piot quickly identified a similar ailment in heterosexual Africans and men who had sex with men living in Belgium and launched the first pioneering investigations of related ailments through his networks in sub-Saharan Africa. Piot also helped counter the political resistance to the evidence of the heterosexual transmission of HIV, and convinced leaders that the pandemic would cross all social and geographical boundaries to become a worldwide threat.

No Time to Lose also chronicles the author's efforts to catalyze a global coalition to respond to a worsening global HIV/AIDS pandemic from the formative years of UNAIDS in the mid-1990s until today. As I am keen observer of and participant in the global AIDS movement—one of the "angry" activists that held Peter accountable while he served as head of UNAIDS—I found this section simultaneously infuriating, informative and revealing, and definitely worth the read.



PAUL ZEITZ is an advocate for global justice and the vice president of policy for ACT V: The End of AIDS, which is working to end the HIV/AIDS pandemic by achieving universal access to treatment and prevention.

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While the author acknowledges that the book is a memoir that does not try to document a full account of this era, the many critical lessons from this phase of global health history do merit an in-depth historical review. And the driving question behind *No Time to Lose*—whether this one doctor did everything that he could to save as many lives as possible—is the question all of us should ask ourselves today.

Likewise, Piot's struggle with the Catholic hierarchy's opposition to condoms begs the question of whether we are doing all we can do save lives, while revealing a few important blind spots. He relates the stories of Catholic health-care workers in Africa who were distributing condoms while he stayed silent in the face of Pope John Paul II's public opposition to the use of condoms to prevent HIV transmission, even for discordant couples—despite his frustration with the policy. In 2003, however, the doctor drew a line in the sand and was willing to take on Cardinal Alfonso Lopez Trujillo, head of the Pontifical Council of the Family, when the cardinal stated publicly that condoms do not prevent HIV because the virus is so small that it can penetrate through the pores of a condom. Piot's willingness to stand up to the hierarchy and hold it accountable for spreading such misinformation led to high-level negotiations in which church leaders promised to avoid making these kind of statements.

TO THIS DAY, I CANNOT UNDERSTAND why Piot and other UN leaders remain silent in the face of Catholic leaders who, as representatives of the Holy See, distort science for their own purposes, especially when, in the case of HIV/AIDS, this compliance leads to unnecessary infections, disease and death. If global health leaders would use their voices as advocates for public accountability to call for a robust adherence to evidence-based policy, then perhaps many more HIV infections could have been prevented and more lives saved. Even today, these flawed

Pluralism and Freedom: Faith-Based Organizations in a Democratic Society

Stephen V. Monsma (Roman & Littlefield, 2012, 227 pp)

What exceptions can religiously based institutions like charities and hospitals rightfully claim? This question has been hotly debated in the US, but the recent tone of the rhetoric is so inflamed that it is difficult to have a reasoned conversation about it. *Pluralism and Freedom* comes very close to achieving this. The book provides resources such as Supreme Court decisions and information on constitutional interpretations of religious freedom that will be useful for readers of any political background. Monsma's assumptions are so unobtrusive, in fact, that the reader may be surprised to read a calmly worded religious justification for discrimination against LGBT individuals. In general, the book tends to award many more exceptions for faith-based institutions than those who focus on individual conscience rights would feel comfortable with. Though the author ends up in certain conclusions that may not sit well with some people, he begins in the right place, and the assembly of primary sources will be useful for readers from all parts of the political spectrum.

Sex, Celibacy & Priesthood: A Bishop's Provocative Inquisition

Lou A. Bordisso, OSJV (iUniverse, 2011, 91 pp)

Sex, Celibacy & Priesthood was written by Lou A. Bordisso, a therapist who has treated ordained clergy and lay ministers who is a Bishop Emeritus within the American Catholic Church in the United States (ACCUS). Though the ACCUS is not in communion with Rome—it allows women's ordination and openly gay clergy—the priests interviewed in the book are all ordained in the Roman Catholic church. As such, they are subject to Canon 277 of that church's law, which says that "clerics are obliged to observe perfect and perpetual continence." What does this mean in human terms?

This book is a cross-section of the struggles of priests trying to live within the mandate of priestly celibacy, including some who have chosen to reject it. These intimate narratives reveal the process by which individual priests come to different conclusions about how their sexuality relates to their vocation. Interestingly, many participants refer to the loneliness that comes from not being allowed to talk about their sexuality—often not with peers and certainly not with superiors—or from disagreeing with some of the hierarchy's political positions on issues like homosexuality or priestly celibacy.

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policies are being translated into ill-conceived programs on the ground in Africa.

Piot's book reveals that UN leaders actually have the ability to choose when and how to draw the line against anti-science crusaders. Thus, his willingness to confront gross distortions of scientific data, while at the same time justifying years of passive silence with respect to papal opposition to condoms was, in my view, a tragic contradiction.

Surprisingly, the book barely mentions the author's scathing battles with President George W. Bush's administration on their ideologically driven prevention policies requiring abstinence-only programming, forcing African groups to sign anti-prostitution loyalty oaths and preventing family planning services from being effectively integrated into AIDS treatment services. While some US activists were vocally opposed, UNAIDS remained silent as



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PHOTO: KEVIN MAZUR

flawed programs were brought to communities throughout Africa. One has to wonder if Dr. Piot could have simultaneously ensured sustained US investment in PEPFAR and the Global Fund while also implementing an evidenced-based prevention policy.

Similarly, while the policies of then-President of South Africa Thabo Mbeki infuriated Peter Piot on a personal level, neither UNAIDS nor the UN system took effective action to hold the leader accountable for his denial about the AIDS epidemic, an attitude that set off the wildfire of death that ravaged post-apartheid South Africa. Refreshingly, Piot does rebuke the morass that is the UN's bureaucratic interagency. But he surprisingly stops short of acknowledging the travesty of a UN leadership that allowed complicity with powerful governmental antisience forces to be rationalized as intergovernmental UN protocol to trump human rights. This tragic flaw in United Nations policy warrants further exploration and transformation.

Peter Piot worked brilliantly within the system that he was part of, but his story reveals that some of the fundamentals of the system need fixing. I am grateful for his memoir, as it allowed me to reflect on what he got right and what we all need to do going forward. My favorite story was Piot's amusing close encounter with Fidel Castro—which I will leave readers to discover on their own.

I was in Geneva in January of 2009, where I had the opportunity to attend Dr. Piot's farewell celebration at UNAIDS and was deeply moved by the love and camaraderie that his colleagues expressed. After reading this memoir, I now have a much deeper insight into why he should be honored for all that he has done and will continue to do to combat disease and promote global health. I highly recommend this book to anyone interested in lessons on the highs and lows of creating a world where public health and human dignity are both protected. ■

Adapting our Political Institutions to a Multicultural World

By Liz McManus

Secularism and Freedom of Conscience

Jocelyn Maclure and Charles Taylor

Translated from the French by Jane Marie Todd
(Harvard University Press, 2011, 160 pp)

978-0674058651, \$24.95

WHEN I WAS A CHILD, the term secularism was equated to godlessness and thus greatly feared by orthodox Christians. The world has changed a great deal since then, and yet how we relate to each other in terms of our beliefs is still a work in progress. I found *Secularism and Freedom of Conscience* to be pertinent to the times we live in, clear in its approach to the subject and practical in its solutions.

This book is set out in two parts. Part 1 is titled "Secularism," and Part 2 is "Freedom of Conscience." The arguments are succinctly put and there are good examples of how legislative and political solutions have been adopted in different societies grappling with similar challenges. In fact, I can think of quite a number of lawmakers, academics and political thinkers who would benefit from reading this book.

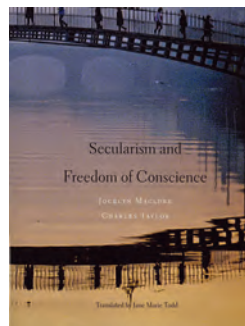
The proper balance between freedom of religious expression and civil rights for

all has dominated public discourse in Ireland for decades, so the book struck a chord with me. Reading Jocelyn Maclure and Charles Taylor's work, I was reminded of the old joke about the Belfast man who, on being advised that his new neighbor was Jewish, asked, "Yes, but is he a Catholic Jew or a Protestant Jew?"

The complexities that arise in a divided society like Northern Ireland have led to a political accommodation of a particular—some would say a peculiar—kind in which power is apportioned between Protestants and

Catholics, a.k.a. Unionists and Nationalists. The Belfast Agreement, a milestone in the Northern Ireland peace process, had overwhelming support in the island of Ireland because it delivered peace and parity of esteem to both communities. It is not without its critics, however, some of whom argue that the agreement maintains the sectarian divide and prevents "normal" politics from developing. There are people who belong to neither community—an increasing number, proven by the growth in support for the non-sectarian Alliance Party—who can justifiably feel alienated from the current structures.

Northern Ireland is an extreme example of the way that many societies



LIZ MCMANUS is a former minister of state and member of the Irish parliament. She was also a deputy leader of the Irish Labour Party. Liz is also a novelist and short fiction writer with a background as a newspaper columnist.

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Toward the Common Good: A Catholic Critique of the Discipline of Political Science

Robert F. Gorman (*Scarecrow Press, 2011, 194 pp*)

Catholic teachings about the common good and the role of faith in politics have varied over the course of the last 2000 years, but the Catholic influence upon the development of political science is undeniable.

Toward the Common Good is a collection of essays analyzing political science using some of the lenses available in the Catholic tradition. Authors look for principles like justice, the common good, solidarity and subsidiarity in the political challenges of our time.

With God on Our Side: The Struggle for Workers' Rights in a Catholic Hospital

Adam D. Reich (*ILR Press/Cornell, 2012, 183 pp*)

With God on Our Side explores one of the paradoxes of Catholic institutions: support for workers' rights would seem to be right in line with Catholic values, but unions and the workers' rights movement have had a complicated relationship with employers like those in the Catholic healthcare system. One explanation the author gives is that Catholic administrators tend to view the employer/employee relationship as a partnership based on shared goals working towards a common mission. There is a tendency to mistrust unions with their formal contracts as an alien force attempting to change practices that are both cultural and religious. Reich uses his experience as a volunteer organizer with the Service Employees International Union to explain how a Catholic hospital administration at Santa Rosa Memorial Hospital reacted to unionizers employing a Catholic strategy. The book suggests some of the new opportunities and challenges presented by unionizers confronting an employer with a strong moral and cultural identity.

Women and the Vatican: An Exploration of Official Documents

Ivy A. Helman, (*Orbis Books, 2012, 262 pp*)

Beginning with the *Address of Pope Paul VI to Women* (1965) and *Humanae Vitae* (1968), and ending with a statement on gender equality by the Holy See's Permanent Observer to the United Nations in 2010, this book collects all of the Vatican's major statements on women from 1960-2010. In these texts one can see the roots of both church and secular policy, as the Vatican's perspectives on women's possibilities and health has appeared in venues like the United Nations and in national political processes where the Catholic hierarchy exercises its influence.

have developed ways to deal with the intersection between religion and the public sphere. Historically in Europe, countries' religious and political power were intertwined and the dominant church maintained power over citizens, even those who did not believe in its tenets. Increasingly in today's world, multiculturalism is the norm, and yet our political structures have not always adapted to that new reality. In the

Republic of Ireland there has been a significant liberalization of laws since the 1970s, but the relationship between church and state in the education and health arenas is still being worked out—and at times still being avoided—by our leaders. *Secularism and Freedom of Conscience* makes for a timely read, not just for someone living in Ireland, but to a general audience because, to a lesser or greater degree, we are all facing the

same challenge. The authors define what that challenge is:

“Contemporary societies must develop the ethical and political knowledge that will allow them to fairly and consistently manage the moral, spiritual and cultural diversity at their heart. Those who embrace worldviews such as the great historical monotheisms, the Eastern religions, spiritual eclecticism, aboriginal spiritualities, militant atheism, agnosticism and so on must learn to coexist and ideally, to establish bonds of solidarity.”

That's a tall order, some may say. Yet the issues explored in this book are not hypothetical. They are practical concerns confronting nations, and they require a political and legislative response. The writers come from Canada, a country that, over the span of decades, has had to deal with division and where considerable attention has been given to the accommodation between French and English, to native peoples and settlers, and later to the new Canadians who have emigrated there. I lived in Quebec when De Gaulle made his impassioned *Vive le Québec libre* speech with its implied support for an independent Quebec, and I can recall the ripples it sent out. We have come a long way since then. *Secularism* explores the Canadian way of balancing the equal respect due to all citizens and the right to religious freedom.

It's not just in Canada that people have to wrestle with the issues of difference, such as the wearing of religious symbols in schools or in the public sphere. In *Secularism and Freedom of Choice* we learn how countries have found different solutions to the same problems. The case for secularism is made on the basis of its ability to accommodate the expression of religious belief as well as sincerely held secular convictions. It is an attractive scenario. It allows for diversity and a plurality of perspectives on humanity that is enriching rather than restricting. ■

Separate Elevators: Catholic Hospitals and the Healthcare Needs of a Diverse American Society

By Lois Uttley

American Catholic Hospitals: A Century of Changing Markets and Missions

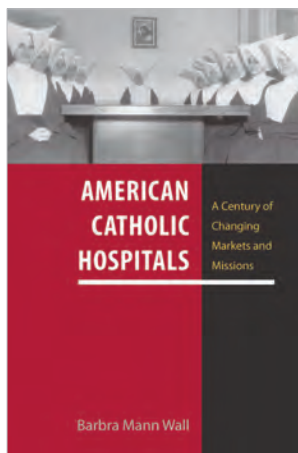
Barbra Mann Wall

(Rutgers University Press, 2011, 260 pp)

978-0813549408, \$45.95

THERE COULDN'T BE A MORE timely moment for the publication of a book that explores the changing role of Catholic hospitals in America's healthcare system. The nation's Catholic bishops, Congress and the media are all actively debating such questions as: Should Catholic hospitals be granted a "religious employer exemption" from a new federal rule requiring contraceptive coverage in employee health insurance plans? Should Catholic hospitals be permitted to impose religiously based healthcare restrictions on secular hospitals with which they are negotiating mergers? What does a hospital's Catholic identity really mean in today's healthcare marketplace when these institutions employ and serve people of all faiths and rely on billions of public dollars?

Barbra Mann Wall's new book, *American Catholic Hospitals*, anticipates these



questions in its subtitle: *A Century of Changing Markets and Missions*. Wall, a historian of nursing at the University of Pennsylvania, asserts that "few historians have investigated the importance of religiously affiliated hospitals for US society and the inevitable awkwardness when they attempt to directly shape medical policies in a diverse milieu." But "awkwardness" is probably too polite a word to describe what has happened as Catholic hospitals and their founding orders of sisters and brothers have encountered dramatic changes in American society since the mid-20th century.

Two of these changes were the labor movement and the civil rights movement. Catholic hospitals "became targets for their anti-union stance," Wall recalls, reporting that "a number of Catholic hospitals faced up to the labor problem constructively, but unionization in some turned acrimonious." Meanwhile, despite claims that they cared for all in need—regardless of race, creed and ability to pay—Catholic hospitals in some parts of the country did not admit black patients or kept them in segregated

wards, while some had no black physicians or nurses well into the mid-1960s. Any remaining segregationist policies, Wall recounts, ended when Catholic hospitals sought government reimbursement for patient care under the newly enacted Medicare and Medicaid programs, which banned such discrimination.

"That Catholic hospitals ideologically preferred to keep the government at bay did not diminish their participation in government programs when it helped their own hospitals to grow," the author writes. Acceptance of government funding has not, however, required Catholic hospitals to stop discriminating against women by prohibiting the provision of gender-specific health services such as contraception, tubal ligations, abortion or infertility services. "Not only do Catholic hospitals determine the type of services they offer based on Catholic religious beliefs, but they do this while supported with large pools of public funding—more than \$45 billion in 2002, according to one study," Wall notes, referring to research conducted by the MergerWatch Project.

DESPITE BOTH *HUMANAE VITAE*, the 1968 papal encyclical banning modern contraceptives, and the policies of Catholic hospitals against contraception, American Catholics readily accepted birth control when it became widely available starting in the mid-1960s. Catholics now use birth control, abortion and infertility services at rates virtually identical to that of other Americans. As a result, the Catholic bishops' current "religious liberty" campaign for the right to deny contraceptive coverage to employees of Catholic hospitals, social service agencies and colleges has met with disapproval from *both* Catholics and non-Catholics. Today's Catholics in the pews, Wall says, have largely adopted a pluralistic point of view and rejected the ethnic or religious separatism that may have characterized their immigrant grandparents.

How should Catholic hospitals handle what Wall calls the "tensions among the

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Reports Worth Reading

Whose Right to Life? Women's Rights and Prenatal Protections under Human Rights and Comparative Law

Center for Reproductive Rights, 2012

This report explores the difficulties that arise when the law tries to consider prenatal protections without infringing upon women's rights. Some legislation does balance prenatal protections with women's rights, such as policies designed to prevent mother-to-child transmission of HIV. Other policies in which the woman's rights are placed second can undermine human rights across the legal system. The Center for Reproductive Rights cites existing international law and human rights in this framework for approaching an issue that has often been laden with hidden ideology. The publication contains a useful glossary of frequently misused terms such as fertilization, embryo and fetus. Also included are some regional resources for Africa, Europe and the US. Case studies of instances in which courts have had to consider—or failed to consider—pregnant women's rights help drive home the dangers inherent in poorly crafted laws.

Consequences of Sex Education on Teen and Young Adult Sexual Behaviors and Outcomes

Laura Duberstein Lindberg & Isaac Maddow-Zimet,

Journal of Adolescent Health, 2012

These researchers from the Guttmacher Institute set out to improve upon the existing body of data about the relationship between different kinds of sexuality education and subsequent measures of teen sexual behavior. The results illustrate the importance of providing this instruction while disproving some common myths about teens' sexuality.

Sixteen percent of sexually experienced female and 24 percent of sexually experienced male respondents reported having received no sexuality education of any kind before their first sexual experience, with young men of color and males and females from lower socioeconomic cohorts more likely to fall into this group. The age of first sexual experience was significantly earlier for these individuals. Any type of sexuality education (abstinence-only or abstinence plus birth control instruction) delayed age of sexual debut.

Comprehensive sexuality education was associated with teens being more likely to use a condom or other contraceptive in the first sexual experience and with being less likely to have a significantly older partner, with this correlation stronger for females.

Overall, the study found that sex education that covered both abstinence and birth control was associated with better outcomes for young people's sexual health than no instruction at all. Perhaps the most significant discovery was that comprehensive sexuality education did not lead to promiscuity—rather, sexuality education leads to lower levels of sexual risk-taking.

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Catholic sisters and brothers were hypocritical, but rather that they were pragmatic....”

The book gives examples of attempts to practice this pragmatism in a chapter titled “Practical Solutions to Complicated Problems,” referring to a controversial statement by a Catholic theologian in a 1999 interview with the *Wall Street Journal*. Rev. Gerard Magill, who had been consulting with Catholic hospitals trying to figure out ways to partner with secular hospitals without running afoul of church teaching, declared, “We certainly will not do immoral acts, but we can certainly come to arrangements.”

WALL REPORTS AT LENGTH ON one such arrangement, the 1995 agreement by the Daughters of Charity's Seton Medical Center to lease Brackenridge Hospital, a safety-net hospital owned by the city of Austin, Texas. The deal, approved by the local bishop, permitted the continued provision of contraceptive services and sterilizations, but not abortions, within the facility on the grounds that it was still a city hospital, not a Catholic facility. Under Vatican pressure, the contract was renegotiated in 1998 to require the city to directly pay the workers who were providing this reproductive healthcare, thus creating a fiscal “wall of separation” between them and Catholic management. Even that revision ultimately was not enough to satisfy the Vatican, which appointed a new, more conservative bishop for the Austin diocese. The contract was again reopened, and in 2001 the city agreed to construct a separately licensed and managed women's hospital on the top floor of Brackenridge that could be reached only by a separate elevator built up the side of the hospital. (That unit has recently closed due to budget cuts affecting the University of Texas Medical Branch, which had been managing it, and patients now are being directed to another hospital.)

“This clash of spiritual ideals and market pressures has forced all Catholic

values of the Church, the government and society”? The author takes a sympathetic stance:

“Catholic sisters and brothers determined early on that if their hospitals were to survive, they would

need to make at least some subtle separation between their idealistic spiritual beliefs and the practices and policies of their hospitals that, due to market forces, sometimes demanded they reduce their rigidity and dogmatism. That is not to say that

Reports Worth Reading

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Obstetrician–Gynecologists, Religious Institutions, and Conflicts Regarding Patient Care Policies

Debra B. Stulberg, et al., *American Journal of Obstetrics and Gynecology*, 2012

This survey of a nationally representative sample of 1,800 ob/gyns revealed that, among those who practice in religiously affiliated institutions, 37 percent experienced a conflict over religiously based policies affecting the provision of services. Fifty-two percent of these reported conflicts came from doctors practicing in Catholic healthcare facilities. There were few reports that hospital policies acted as obstacles to the treatment of women with ectopic pregnancies, but some cases were presented. Only 2.5 percent of non-Catholic institutions reported limitations, while 5.5 percent of respondents from Catholic hospitals experienced problems with ectopic pregnancy treatment delivery.

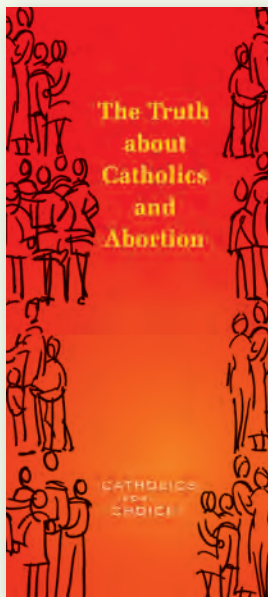
The researchers suggest that the existence of these institutional religious conflicts may have a negative effect on both provider well-being and patient care. The fact that Catholic ethicists still debate the appropriateness of certain treatments for ectopic pregnancy suggests that institutions could do more to clarify their policies and inform providers about treatment options that are available before an emergency situation arises.

hospital administrators ... into a delicate dance to ensure their institutions' survival in an increasingly competitive secular marketplace without alienating their ecclesiastical elders," Wall observes. Since the nation's increasingly conservative bishops have assumed a high profile in Washington, the trade organization representing Catholic hospitals has twice openly disagreed with them about the Affordable Care Act health reform law, which stands to increase the number of insured potential patients. First, in 2010 Catholic Health Association President Sister Carol Keehan declared that the proposed law's abortion coverage restrictions were adequate from her organization's standpoint, even as the bishops tried to torpedo passage of the law unless it contained a complete ban on abortion coverage. More recently, she said the Obama administration's "accommodation" on contraceptive coverage—requiring Catholic employers' insurers to pay for it—would satisfy her member hospitals, while the bishops rejected it.

What's next in the evolution of the nation's Catholic hospitals? One possible direction was signaled recently by the Catholic Healthcare West system,

which disconnected itself from the Catholic church and changed its name to Dignity Health. Although the system's announcement made no mention of it, one of its member hospitals had its Catholic status revoked last year by the Phoenix bishop for allowing an abortion to save a woman's life. If other Catholic

systems take a page from Dignity Health, Wall could be writing a new chapter on American Catholic hospitals in a few years to reflect the changing landscape of healthcare management, policy and, most importantly, the availability of reproductive healthcare services for American women and men. ■



The Truth about Catholics and Abortion

Church teachings on moral decision-making and abortion are complex—far more complex than the bishops would have us believe. This new publication from Catholics for Choice reveals how church teachings leave ample room for Catholics to affirm that abortion can be a moral choice.

To download: www.catholicsforchoice.org

“Things that are considered progress can be wicked and murderous. Catholics need to wake up and realize that what we are experiencing now is a new kind of paganism with air conditioning and digital television.”¹

—Archbishop Charles Chaput of Philadelphia, warning attendees at the Cardinal O’Connor Conference on Life to evaluate societal changes that may be “alien and hostile” to America’s founding ideals.

“You don’t want the gay liberation movement to morph into something like the Ku Klux Klan, demonstrating in the streets against Catholicism.”²

—The *Chicago Tribune* quoting a statement made by Cardinal Francis George in an interview with Fox News Chicago, which he later defended with another statement: “The rhetoric of the Ku Klux Klan, the rhetoric of the gay liberation people—who is the enemy? The Catholic Church.”

“If I quit this job and opened a Taco Bell, I’d be covered by the mandate.”³

—Anthony Picarello, general counsel for the United States Conference of Catholic Bishops, expressing dismay that employers other than religious institutions—“good Catholic business people who can’t in good conscience cooperate with this”—would be required to cover contraception in employee health plans.

“To me the issue is that we have young people who think they are doing good for others by handing out condoms. There are many instances of date rape in which the assailant uses a condom. I would hate to think that the condom they receive from this group somehow entitles them to ... [do this].”⁴

—Father Jude DeAngelo, head of Campus Ministry, disputing Catholic University Students for Choice’s practice of distributing free condoms on campus, as quoted in an article written by student Olivia Griggs and cited by Callie Otto, co-founder of *cusc*.

“‘[You must resist] the fascination of the technology of artificial fertility’ and the ‘easy income, or even worse, the arrogance of taking the place of the Creator.’”⁵

—Pope Benedict xvi, speaking to an audience of Catholic scientists and doctors at a conference on infertility held in Rome this February.

“Attention to the sensus fidelium is a criterion for Catholic theology. Theology should strive to discover and articulate accurately what the Catholic faithful actually believe.”⁶

—A new document from the International Theological Commission, headed by Cardinal William Levada, former prefect of the Congregation for the Doctrine of the Faith.

“The White House seems to think we bishops are hopelessly out of touch with our people....”⁷

—New York’s Cardinal Timothy M. Dolan, about a meeting in which the Obama administration advised the bishops to listen to the “enlightened” voices of accommodation on contraceptive access.

“I did say if we did anything wrong, I’m sorry, but I don’t think I did anything wrong.”⁸

—Former Cardinal Edward Egan in *Connecticut Magazine*, retracting his apology for the clergy sex abuse scandal in the diocese of Bridgeport, Connecticut.

“Kathleen Sebelius and through her, the Obama administration, have said ‘To Hell with You’ to the Catholic faithful of the United States.”⁹

—Bishop David A. Zubik of Pittsburgh, claiming that the new contraceptive coverage policy from the Department of Health and Human Services, which is headed by Sebelius, is equivalent to saying “to hell with your freedom of conscience.”

¹ Christopher White, “Cardinal O’Connor Still Inspires Pro-Life Movement,” *National Catholic Register*, January 23, 2012. ² *Chicago Tribune*, “The Cardinal’s Bizarre Analogy,” December 30, 2011. ³ Richard Wolf and Cathy Lynn Grossman, “Obama Mandate on Birth Control Coverage Stirs Controversy,” *USA Today*, February 8, 2012. ⁴ Callie Otto, “The Head of Campus Ministry suggests that giving out condoms encourages date rape,” *AmplifyYourVoice.org*, March 18, 2012. ⁵ Emma Reynolds, “Pope tells infertile couple to shun ‘arrogant’ IVF treatment as sex between husband and wife is the ‘only acceptable’ way to conceive,” *Daily Mail* (UK), February 25, 2012. ⁶ International Theological Commission, “Theology Today: Perspectives, Principles and Criteria,” Vatican.va, March 8, 2012. ⁷ Cardinal Timothy M. Dolan, “I Owe You an Update.” *The Gospel in the Digital Age*, 2012. ⁸ Antoinette Kelly, “Former NY Cardinal Denies Knowledge of Sexual Abuse and Regrets Apologizing,” *IrishCentral.com*, February 9, 2012. ⁹ Bishop David Zubik, “To Hell With You,” *Pittsburgh Catholic*, January 30, 2012.

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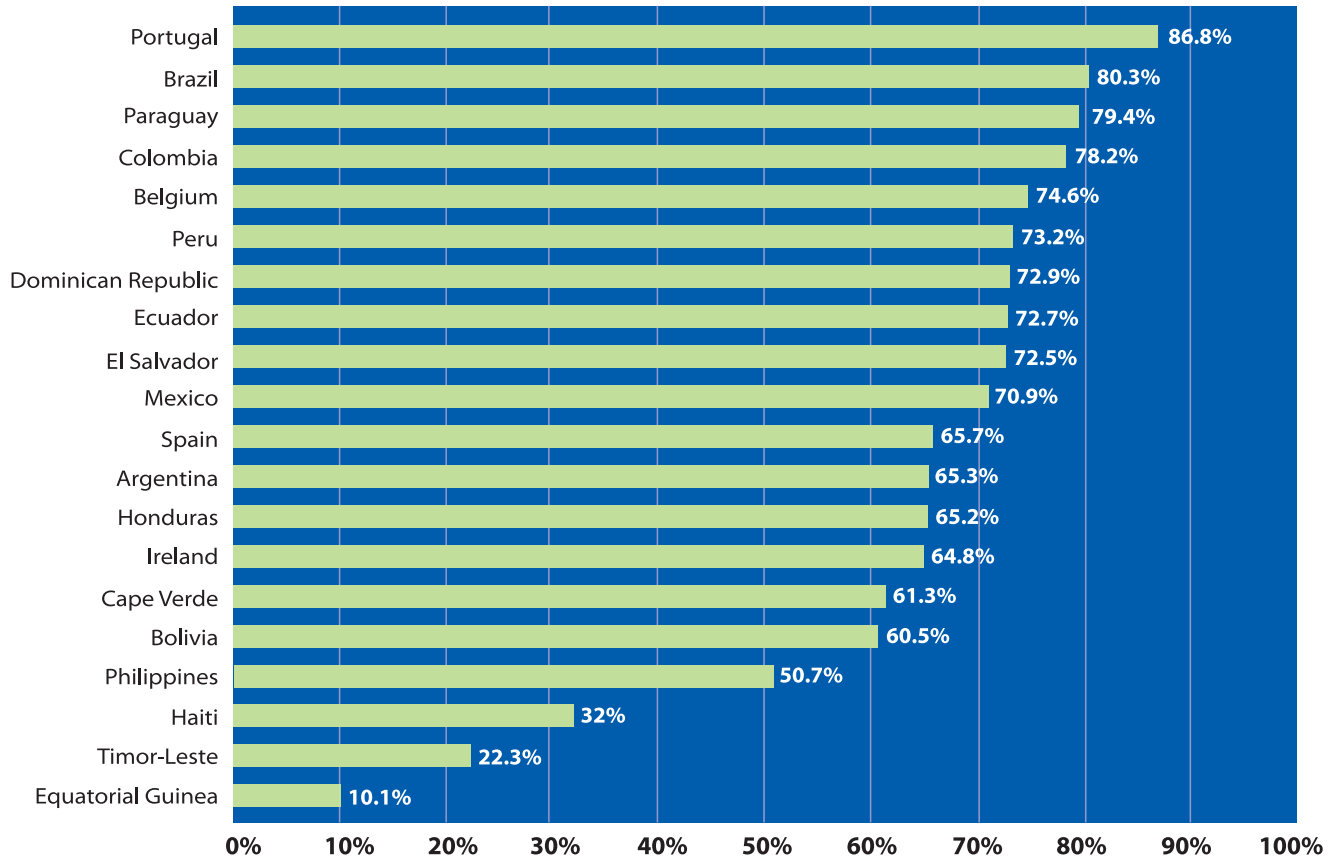
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Index: Contraceptive Prevalence in Predominantly Catholic Countries*

Chart reflects the percentage of married or cohabiting women in each country who report current use of at least one method of contraception, based on the latest available data since 2000.



Source: World Health Statistics, 2011, World Health Organization

* Where more than 70 percent of the population is Catholic