

## Obama cannot be at war with Catholics if he is at peace with religious freedom

Douglas W. Kmiec | Nov. 22, 2011



President Barack Obama. (CNS photo/Kevin Lamarque, Reuters)

### **VIEWPOINT**

Sometimes one is tempted to say a plague on both your houses. We're not even close to the 2012 election season and already there are overheated claims that the Obama administration is at war with Catholics.

It is not.

One of the most attractive aspects of President Barack Obama is the significance of faith in his life. Raised outside a formal church of any kind, Obama early on discovered his own life's meaning in giving of himself to others. He also discovered that even the magnanimity of community service could often be misunderstood outside a context of shared belief.

Yet with tea parties and occupiers and dissenters of every variety active in the land, shared belief is increasingly hard for political figures to manifest on a national or even state or regional level. It is easier, but still not without challenge, for churchmen to articulate first principles held in common -- like, for example, that life is a gift; it is sacred; and it is not within our power to forfeit our own life or take that of another.

The recital just made, with some exception, would garner near-unanimous agreement, but digging into its meaning even in the most superficial manner immediately divides. No right to forfeit our own life? Some seek to justify euthanasia; others find the attempt at that justification indistinguishable from murder, even as these others would respect a choice not to be kept alive by heroic means.

Of course, then there would then be disagreement over what is and is not a heroic means. Is it an extraordinary or heroic means to be force-fed with nutrition and hydration, for example? By his own witness, John Paul II thought it was not, but the sequence of death is not the same for all. In some cases, artificial nutrition and hydration can merely represent prolonged pain for the dying and wasted and anxiety-laden grief for families seeking to do the right thing.

The "right thing"? Different, not infrequently, conflicting religious beliefs do not stand as equal in Catholic thought. How could they? There is "one true, catholic and apostolic faith," after all. Yet not every human mind is prepared to grasp the truth as the church sees it, for among other reasons, the opposing views think we have it wrong. Trying to govern a civil government with people convinced that their neighbor has a fundamentally mistaken idea of something as consequential as life and death is not easy. Yet the Catholic tradition -- at least since Vatican II and *Dignitatis Humanae* -- opens the way to civil peace among faith beliefs not by imposing one view of the matter over another, but by proclaiming all of the holders of these divergent religious views to be equal before the law.

The principle of religious liberty that the Catholic church observes, and that the church must ask the polity to observe as well, is not the insistence that the deprivation of artificial nutrition and hydration be punishable under civil law, but that to the extent one's freely chosen faith belief requires such forced feeding that the law not make it impossible for the believer to pursue that care. If the law allows for religious beliefs to be observed or unobserved as the authoritative family member may decide, the church really should not complain about the president if its own believer makes the wrong choice in terms of Catholic doctrine. In such circumstance, the church's focus should be upon the education and conversion of heart of its own believer, not whether the law permits a contrary belief.

This same principle explains the limits of the law with respect to all manner of subjects, from abortion to artificial contraception. That the law may specify that abortion or contraceptive coverage be included as choices for employees ought not be seen as making the employer contributing to the legally imposed medical premium complicit in the act itself. To think that an authorizing statute or executive decision violates principles of religious liberty or free exercise merely because it allows a choice contrary to faith is to misunderstand the nature of democracy and individual freedom. It also vastly understates the responsibility of the church's own obligation of moral formation -- including effectively revealing to married couples the sublime joy and significance of intimacy that is total and ever open to new life.

At present, however, both political parties are remiss in not reminding the body politic how the principle of religious liberty actually operates. This has permitted some media voices, like the *Washington Post's* Michael Gerson, to perceive religious hostility where there is none. There is no violation of religious liberty when HHS announces a temporary (or permanent) regulation requiring all employers -- religious or nonreligious, Catholic or not -- to provide employees with an insurance benefit for artificial contraception. Yes, it would be more congenial if the HHS administrative process adopted the Catholic view of contraception over that of other churches, but that declination was a choice the church herself since Vatican II has conceded belonged to Caesar. Had the HHS regulation gone farther and demanded a religious employer to affirmatively endorse or require the use of artificial contraception or any other choice contrary to its own teaching or face a penalty, that would violate the principle of religious liberty.

While there is no constitutional violation of religious liberty in the HHS regulation requiring that coverage allow for the informed choice of all consumers, and therefore, HHS is not duty-bound to allow a Catholic employer exemption, why HHS went out of its way to promulgate an unduly narrow religious exemption intruding upon religious employer hiring policies and their ability to be of service to Catholics and non-Catholics alike illustrates a type of blunder-headedness on the part of some Obama subordinate officers playing into the hands of single-issue Catholics and other partisans. The intrusive exemption shows more disrespect for faith than the president's own value commitments.

Shame on Republicans for claiming a constitutional violation where there is nothing more than a fully authorized invitation to citizens to be guided by faith -- or not, as the case may be in matters of contraception. Shame on Democrats for undercutting the president's efforts to promote inter-religious respect and common ground. Shame on us all if we let ourselves get distracted by either shortcoming to the exclusion of addressing

the far more pressing need for a family wage and a restructuring of tax and regulatory policy to ensure the economic and social needs of the middle class or average American family, which New York's Archbishop Timothy Dolan highlighted recently. Aristotle taught us long ago in his ethics that the middle class is essential to the success of democracy, since the rich are immune from bad times and the poor consumed by them.

And, Mr. President, you cannot remind us too often of the prayer you told us in 2006 you said every day for your country that despite our profound disagreements, "we can live with one another in a way that reconciles the beliefs of each with the good of all."

[Douglas W. Kmiec is the former ambassador of the U.S. to Malta and is a professor of constitutional law at Pepperdine University.]

**Support independent reporting on important issues.**



---

**Source URL (retrieved on 06/23/2017 - 20:51):** <https://www.ncronline.org/news/politics/obama-cannot-be-war-catholics-if-he-peace-religious-freedom>

**Links:**

[1] <https://www.ncronline.org/donate?clickSource=article-end>