

J'ACCUSE! Why Obama is wrong on the HHS conscience regulations

Michael Sean Winters | Jan. 21, 2012 | Distinctly Catholic

President Barack Obama lost my vote yesterday when he declined to expand the exceedingly narrow conscience exemptions proposed by the Department of Health and Human Services. The issue of conscience protections is so foundational, I do not see how I ever could, in good conscience, vote for this man again.

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I do not come at this issue as a Catholic special pleader, who wants only to protect my own, although it was a little bracing to realize that the president's decision yesterday essentially told us, as Catholics, that there is no room in this great country of ours for the institutions our Church has built over the years to be Catholic in ways that are important to us. Nor, frankly, do I come at the issue as an anti-contraception zealot: I understand that many people, and good Catholics too, reach different conclusions on the matter although I must say that *Humanae Vitae* in its entirety reads better, and more presciently, every year.

No, I come at this issue as a liberal and a Democrat and as someone who, until yesterday, generally supported the President, as someone who saw in his vision of America a greater concern for each other, a less mean-spirited culture, someone who could, and did, remind the nation that we are our brothers' keeper, that liberalism has a long vocation in this country of promoting freedom and protecting the interests of the average person against the combined power of the rich, and that we should learn how to disagree without being disagreeable. I defended the University of Notre Dame for honoring this man, and my heart was warmed when President Obama said at Notre Dame: "we must find a way to reconcile our ever-shrinking world with its ever-growing diversity -- diversity of thought, diversity of culture, and diversity of belief. In short, we must find a way to live together as one human family."

To borrow from Emile Zola: J'Accuse!

I accuse you, Mr. President, of dishonoring your own vision by this shameful decision.

I accuse you, Mr. President, of failing to live out the respect for diversity that you so properly and beautifully proclaimed as a cardinal virtue at Notre Dame. Or, are we to believe that diversity is only to be lauded when it advances the interests of those with whom we agree? That's not diversity. That's misuse of a noble principle for

ignoble ends.

I accuse you, Mr. President, of betraying philosophic liberalism, which began, lest we forget, as a defense of the rights of conscience. As Catholics, we need to be honest and admit that, three hundred years ago, the defense of conscience was not high on the agenda of Holy Mother Church. But, we Catholics learned to embrace the idea that the coercion of conscience is a violation of human dignity. This is a lesson, Mr. President, that you and too many of your fellow liberals have apparently unlearned.

I accuse you, Mr. President, who argued that your experience as a constitutional scholar commended you for the high office you hold, of ignoring the Constitution. Perhaps you were busy last week, but the Supreme Court, on a 9-0 vote, said that the First Amendment still means something and that it trumps even desirable governmental objectives when the two come into conflict. Did you miss the concurring opinion, joined by your own most recent appointment to the court, Justice Kagan, which stated:

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"Throughout our Nation's history, religious bodies have been the preeminent example of private associations that have 'act[ed] as critical buffers between the individual and the power of the State.'" *Roberts v. United States Jaycees*, 468 U.S. 609, 619 (1984). In a case like the one now before us "where the goal of the civil law in question, the elimination of discrimination against persons with disabilities, is so worthy" it is easy to forget that the autonomy of religious groups, both here in the United States and abroad, has often served as a shield against oppressive civil laws. To safeguard this crucial autonomy, we have long recognized that the Religion Clauses protect a private sphere within which religious bodies are free to govern themselves in accordance with their own beliefs. The Constitution guarantees religious bodies "independence from secular control or manipulation" in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in North America*, 344 U.S. 94, 116 (1952)."

Pray, do tell, Mr. President, what part of that paragraph did you consider when making this decision? Or, do you like having your Justice Department having its hat handed to it at the Supreme Court?

I accuse you, Mr. President, as leader of the Democratic Party, the primary vehicle for historic political liberalism in this country, of risking all the many achievements of political liberalism, from environmental protection to Social Security to Medicare and Medicaid, by committing a politically stupid act. Do you really think your friends at Planned Parenthood and NARAL were going to support the candidacy of Mr. Romney or Mr. Gingrich? How does this decision affect the prospects of Democrats winning back the House in districts like Pennsylvania's Third or Ohio's First or Virginia's Fifth districts? How do your chances look today among Catholic swing voters in Scranton and the suburbs of Cincinnati and along the I-4 corridor in Florida? I suppose that there are campaign contributions to consider, but really, sacrificing one's conscience, or the conscience rights of others, was not worth Wales, was it worth a few extra dollars in your campaign coffers?

I accuse you, Mr. President, of failing to know your history. In 1978, the IRS proposed a rule change affecting the tax exempt status of private Christian schools. The rule would change the way school verified their desegregation policies, putting the burden of proof on the school, not the IRS. By 1978, many of those schools were already desegregated, even though they had first been founded as a means to avoid desegregation of the public schools. But evangelical Christians did not look kindly on the government's interference in schools they had built themselves and, even though the IRS rescinded the rule change, the original decision was the straw that broke the camel's back for those who wished to separate themselves from mainstream culture. They formed the Moral Majority, entered that mainstream culture, and helped the Republican Party win the next three presidential elections. You, Mr. President, have struck that same nerve. Catholics built their colleges and universities and hospitals. They did so out of religious conviction and, as often as not, because mainstream institutions did not welcome Catholics. It is one thing to support a policy with which the Catholic Church

disagrees but it is quite another to start telling Catholics how to run their own institutions.

I accuse you, Mr. President, of treating shamefully those Catholics who went out on a limb to support you. Do tell, Mr. President, how many bullets have the people at Planned Parenthood taken for you? Sr. Carol Keehan, Father Larry Snyder, Father John Jenkins, these people have scars to show for their willingness to work with you, to support you on your tough political fights. Is this the way you treat people who went to the mat for you?

Zola, of course, wrote his famous essay in response to the Dreyfuss affair. Then, the source of injustice was anti-Semitic bigotry. Today, while I cannot believe that the President himself is an anti-Catholic bigot, he has caved to those who are. In politics, as in life, we are often known by the company we keep. Hmmm. Sr. Carol Keehan, a woman who has dedicated her life and her ministry to help the ill and the aged or the fundraisers and the lobbyists at NARAL? Is that really a tough call? I have not joined the chorus of those who believe that this administration is "at war" with the Catholic Church. Yet, I must confess, when I first learned the news yesterday, an image came into my head, of Glenn Close and John Malkovich in "Dangerous Liaisons" when Ms. Close looks at Mr. Malkovich and says, "War!" That said, while not wishing to detract one iota from the gravity of this decision, the bishops are well advised not to read more into this than is there. It is a shameful decision to be sure, but it is not the end of the world and war is a thing to be avoided whenever and however possible.

Some Catholics have sought to defend the President, to hope that there might be some silver lining in the decision, to argue that because many Catholics use contraception, or because some states already mandate this kind of coverage, this decision is really no big deal. The fact that there is much to defend in the President's record does not mean that anyone need defend everything in that record, especially something as indefensible as this decision. And, it is a mistake of analysis to see this as a decision about contraception. The issue here is conscience.

Some commentators, including those in the comment section on my post yesterday, have charged that people like me, Catholics who have been generally supportive of the President, were duped, that we should confess our sins of political apostasy, and go rushing into the arms of a waiting GOP. I respectfully decline the indictment and, even more, the remedy. Nothing that happened yesterday made the contemporary GOP less mean-spirited, or more inclined to support the rights of our immigrant brothers and sisters, or less bellicose in their approach to foreign affairs, or more concerned about the how the government can and should alleviate poverty. It is also worth noting that the night before the decision, Mr. Gingrich said that he would halt the U.S. Justice Department's suit against the State of Alabama regarding that state's new anti-immigration law, a law that raises exactly the same kind of issues of religious liberty and the rights of conscience as are raised by the HHS decision. Religious liberty cuts both ways. Nor, is religious liberty the only issue. Voters should still consider how candidates for the presidency are likely to address a host of issues. As for myself, I could not, in good conscience, vote for any of the current Republicans seeking the presidency.

But, yesterday, as soon as I learned of this decision, I knew instantly that I also could not, in good conscience, ever vote for Mr. Obama again. I once had great faith in Mr. Obama's judgment and leadership. I do not retract a single word I have written supporting him on issues like health care reform, or bringing the troops home from Iraq, or taking aggressive steps to halt the recession and turn the economy around. I will continue to advocate for those policies. But, I can never convince myself that a person capable of making such a dreadful decision is worthy of my respect or my vote.

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