

Published on *National Catholic Reporter* (<https://www.ncronline.org>)

January 22, 2013 at 8:51am

More From Kaveny

by Michael Sean Winters

Distinctly Catholic

My friend Cathleen Kaveny has posted the third in her recent columns on the HHS mandate. There is much here to ponder, including an issue that NCR raised in its editorial naming Chief Justice John Roberts our "Person of the Year," namely, why do Catholic judges get a pass from neo-conservative Catholic thinkers but legislators do not? I understand that judges play a different function in a democracy from that of legislators, but still, it seems to me that if we are all called to be "Catholic first," and I think we are, surely no one gets a pass because they are members of the judiciary. As always, a principle needs to be applied, whether its roots are religious or not, and the key is in the application, especially in a pluralistic democracy such as ours. This is what was always wrong about the frequent claims about some issues being "non-negotiable" while other issues are subject to prudential judgment. As I have stated previously, all the teachings of the Church are, in a sense, "non-negotiable," and yet all of them need to be applied prudentially, and the exercise of that prudence will be different for a judge than it is for a legislator, both of which are yet still different from the application of a voter.

But, there was another point in Kaveny's column that really jumped out at me. She writes:

Nor do I think that it's necessarily a good thing for religions to imply that they can't give an account of whether a burden is substantial or non-substantial? it suggests that religiously infused moral beliefs aren't susceptible to being given rational accounts.

Once again, we are back at the Reformation. Kaveny's view, which is entirely correct, was explicitly denied by Luther and the Reformers. Recall "Beware the whore Reason for she will go with any man." That was Luther. And, the Reformation, through various twists and turns, gave rise to the idea that religion, in part because it was not rational, must be banished to the realm of the private. We RCs decline to accept that banishment. But, we must also be aware that we need to find ways to rationally defend our

beliefs that go beyond our traditional natural law reasonings. Like it or not, natural law is now taught almost exclusive in our Catholic intellectual tradition. Then-Cardinal Ratzinger admitted that natural law reasoning had become a "blunt" instrument in public dialogue when he met for a public discussion with Jurgen Habermas in 2004. But, Ratzinger did not then say nothing. He found different ways to express his and the Church's concerns about secularism. That discussion, published in English under the title, "The Dialectics of Secularization: On Reason and Religion," is a must-read for all.

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