



Federal Mandates and the Crushing of Religious Freedom

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On Jan 20th, 2012 the United States Department of Health and Human Services (HHS) issued a mandate placing first amendment rights and religious freedom in the crosshairs.

The mandate, as a provision of the Affordable Care Act (colloquially referred to as "ObamaCare"), required "preventive health services" to be covered by all health insurance issuers and all group health plans. Those insurance plans were required to provide (with no co-pay) the full range of Food and Drug Administration (FDA)-approved contraceptive methods for women, which includes not only surgical sterilizations, but also potential abortion-causing agents such as Plan B (the morning-after pill), intrauterine devices (IUDs) and another form of "emergency contraception" known as *Ella*. This latter drug, which the FDA acknowledges may also work against the life of the embryo "by preventing attachment (implantation) to the uterus," can be taken up to 5 days after "unprotected" sex.

Essentially all employers would thus be forced — *and therefore complicit in* — financially subsidizing pharmaceutical abortions, contraception and sterilization procedures for their employees. All these procedures represent sinful and dam-

aging human choices, as the Catholic Church has never ceased to point out. The mandate, of course, constitutes an intrusion into the religious works and governance of the Church and represents a federally sponsored violation of her members' consciences.

Cardinal Francis George of Chicago aptly described the authoritarian environment created by the HHS mandate in a column from his diocesan newspaper:

"The bishops would love to have the separation between church and state we thought we enjoyed just a few months ago, when we were free to run Catholic institutions in conformity with the demands of the Catholic faith, when the government couldn't tell us which of our ministries are Catholic and which not, when the law protected rather than crushed conscience. The state is making itself into a church."

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science. "I side with those who feel this was an insult to freedom of religion and a slap in the face of faith-based institutions," Rabbi Eliot Pearlson of Temple Menorah in Miami Beach said.

Rabbi Dr. Michael Korman of Congregation Anshei Shalom in West Palm Beach concurred: "The entire contraception policy was poorly instituted. It appears to be in violation of our first amendment."

Jessica Devers in a Letter to the Editor of the *Wall Street Journal* perhaps put it most clearly when she wrote:

"I am not Catholic. I am a social liberal and a supporter of Planned Parenthood. I've educated my children about birth control since they were young. Nevertheless, I am offended at the arrogance of our government ruling that the Catholic Church must provide a benefit that the church believes is immoral."

The Church, as the largest provider of not-for-profit health care in the US, operates roughly 600 hospitals and employs three quarters of a million people, in addition to em-

ploying hundreds of thousands of others in her educational and social service ministries.

On February 10, 2012, after stormy reaction even from President Obama's staunchest Catholic supporters, he announced a so-called "accommodation," which — as the U.S. Conference of Catholic Bishops quickly explained — really changed nothing. When the government documents were made available, it became clear that there was no compromise at all but rather some slight procedural modifications that left the substance of the mandate entirely intact.

The day the "accommodation" was announced, in fact, the mandate was entered into the *Federal Register* with no changes, along with vague assurances of possible modifications at a future date (reminiscent of Speaker Nancy Pelosi's famous line when campaigning for ObamaCare: "We have to pass the bill so that you can find out what is in it.")

Subsequent attempts at "accommodation" (such as amendments issued on January 30, 2013), have similarly not addressed the central moral and constitutional concerns raised by the HHS mandate.

Those moral concerns, of

course, involve the fundamental right of American citizens not be forced, by the strong arm of a federal mandate, and in disregard of their religious freedom, to pay for practices they recognize as morally reprehensible.

Matthew Franck offers this penetrating conclusion:

"[I]n the present circumstances we have something different — not taxing and spending on an evil, but bureaucratically coerced *personal and institutional involvement* in the commission of an evil. This is an affront to every American, religious or non-religious, pro-life or pro-choice... For no one can be rightly coerced by the state to be directly complicit himself in the commission of a wrong. This goes for any businessman, employer, insurance company, or individual implicated in this complex web of coercion."

Rev. Tadeusz Pacholczyk, Ph.D. earned his doctorate in neuroscience from Yale and did post-doctoral work at Harvard. He is a priest of the diocese of Fall River, MA, and serves as the Director of Education at The National Catholic Bioethics Center in Philadelphia. Father Tad writes a monthly column on timely life issues. From stem cell research to organ donation, abortion to euthanasia, he offers a clear and compelling analysis of modern bioethical questions, addressing issues we may confront at one time or another in our daily living. His column, entitled "Making Sense of Bioethics" is nationally syndicated in the U.S. to numerous diocesan newspapers, and has been reprinted by newspapers in England, Canada, Poland and Australia.

