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BEING CATHOLIC IN THE PUBLIC SQUARE

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The nature of our faith often places us at odds with established order, and the specificity of our values may cause us to run afoul of secular sensibilities. What follows is a collection of writings by National Catholic Bioethics Center president, Dr. Joseph Meaney, exploring our place in the public square, the proper way to respond to government driven injustice, and some specific instances in which the current administration has infringed or threatened to infringe upon the conscience and religious rights not just of faithful Catholics but of members of many other religions as well. Some parts of these essays have been edited to fit in the space allowed. Each appears in its entirety on the NCBC website.

The Ethics of Protesting

There are ethical rules for protesting, just as there are for everything else that one does. Resorting to violence and vandalism are two of the most unethical actions associated with modern protests. I have participated in many marches, life chains, and other public denunciations of abortion over the years. Peaceful protesting is a valid and even meritorious way to make one's concerns and beliefs known to the wider public in a free society. In fact, we have an ethical duty to not simply allow injustices to continue.

When we face deeply entrenched and gravely unjust laws, civil disobedience in the tradition of Mahatma Gandhi and Dr. Martin Luther King Jr. can be ethically acceptable. To nonviolently break a law as a form of protest of unjust laws and accept the arrest and punishment that follow can be a form of heroic witness. It signals to authorities that this situation is a crisis and will not simply go away if ignored. Pro-lifers in huge numbers peacefully used their bodies to block the entrances to abortion centers and were arrested and jailed in the rescue movement in the United States for many years, showing their deep commitment to ending the killing of abortion.

Sadly, what we have seen from extremely liberal groups in the United States in recent years is an alarming tendency to lash out violently. Black Lives Matter protests and similar protests/counter protests degenerated at times into the smashing and even stealing of property and attacks on people. Some, unhappy with the *Dobbs* US Supreme Court decision reversing *Roe v. Wade*'s declaration that abortion was a constitutional right, vandalized Catholic churches

and pro-life centers. Conservatives have at times fallen under the bad influence of this culture of violent protest, as happened on January 6, 2021, at the US Capitol building. It is of fundamental importance to the functioning of our institutions and civil society that political disagreements and protests happen peacefully and in ways that respect the rights of others.

Totalitarian and authoritarian regimes commonly use the police power of the state to unjustly prohibit political demonstrations and civil protests. The use of violence or tyrannical actions like making it illegal to march or rally peacefully were hallmarks of dictatorships on both ends of the political spectrum. When it is not possible to protest openly, there is a danger that anger and frustration can build up until they explode as mob violence or even insurrection.

Catholics know that one must use good means to a good end for our actions to be moral. Just because one is trying to end an injustice does not make it ethical to use unjust means to achieve that goal. Peaceful protests and civil disobedience are some of the tools we can use to move towards a better world. Destroying property or attacking people verbally or physically are not the Christian way to effect change in our societies. The use of violence tends to provoke retaliation in kind as well as escalation that can spiral out of control.

This all relates back strongly to abortion as Saint Mother Teresa of Calcutta commented prophetically, "Any country that accepts abortion is not teaching its people to love, but to use any violence to get what they want. This is why the greatest destroyer of love and peace is abortion." It is not surprising that many of those who passionately support abortion on demand react with violence to the banning or restricting of killing preborn babies. After all, to justify killing the most innocent humans of all at the request of their own mothers and fathers makes it very easy to accept other forms of violence. Mother Teresa summed it up succinctly when she said, "If abortion is not wrong, nothing is wrong."

Respect and even love for those who passionately disagree with us is the Christian and ethical path to follow. Allowing the rule of law to be violently undermined, however, is not "turning the other cheek" but rather sliding from civilization to chaos and barbarism. It only leads to worse problems, because order will eventually be restored but usually in a way that takes away fundamental freedoms. Violent protests are the way to anarchy or dictatorship. Those who embrace "Rules for Radicals" rather than our Judeo-Christian ethical tradition of never using evil to achieve what is right are a tremendous threat to the common good. We must firmly and steadfastly defend society against violent radicals. Almost a half century of peaceful protests and political engagement by pro-lifers yielded results. These results, as well as the rights of religious freedom that we are promised by the Constitution, must be defended against not only the fury of angry mobs and destroyers of peace and a just social order but also the growing overreach of our own government.

The Totalitarian Fiasco of the HHS 1557 Rule

One such overreach is the HHS 1557 Rule. It is hard to know where to begin to comment on the over 300-page proposed revised regulations recently published by the Department Health and Human Services (HHS) on Nondiscrimination in Health Programs and Activities.¹ The proposed federal rule would “force health care workers to perform gender transition procedures, require health insurance issuers to cover them, and entertain a mandate to perform elective abortions,” according to a statement by the United States Conference of Catholic Bishops.²

The Obama administration’s interpretation of section 1557 of the Affordable Care Act banned discrimination on the basis of various characteristics, including sexual orientation. The Trump administration replaced the Obama administration rule in 2020. Now the Biden administration wants to replace the 2020 rule and go much further than did President Obama. “The Department also proposes to address nondiscrimination on the basis of sex, including gender identity and sexual orientation, consistent with *Bostock* and related case law, as well as subsequent Federal agency interpretations.”

It is hard to overstate the radicalness of the change that the Biden administration wants to impose on our nation. If this rule went into effect, it would force health insurers to cover a myriad of surgical and pharmacological interventions based on a diagnosis of gender dysphoria and mandate the delusion that it is possible to change a person’s biological sex. Anyone who has a minimal grasp of genetics knows that every cell in our bodies reveals our biological sex, and no number of surgeries or cross-sex hormones can change more than someone’s exterior appearance. The cost and negative side effects of trying to help a man or a woman pass as a member of the opposite sex are nightmarish. According to traditional Judeo-Christian anthropology, it is profoundly immoral to reject God’s creation of our bodies.

Any health care worker who rejects gender ideology, denies that someone can change his or her sex, or disagrees that attempts to do so are therapeutic could be targeted for exclusion from the healing professions by Joe Biden and Xavier Becerra’s HHS. One of the most disturbing aspects of the proposed rule is its demand for compelled speech. It is profoundly evil to attempt to force people to say things they believe are lies. Alexander Solzhenitsyn pointed out how the communist regime in the Soviet Union habitually forced the population to affirm what they knew to be lies and imposed grave penalties on those who refused. How different is the current proposal to force people to use “preferred pronouns” that frequently mean calling a biological male “she” or a biological female “he”? Under this rule, if someone does not comply with the demand to use preferred pronouns, he could lose his job and even the ability to work in health care.

Fortunately, there are effective ways to block this outrageous attempt to impose an extreme agenda on the United States. Legal challenges can give judges an opportunity to review this rule or to enjoin HHS from implementing it.

Also outrageous is the flagrant attempt to impose abortion on health care just after the Supreme Court’s repudiation of *Roe v. Wade* in the *Dobbs* decision. The Biden administration wants the federal government to declare the refusal to perform an abortion a form of unlawful discrimination. Medical professionals and Catholic hospitals would not be allowed the right to reject abortion.

Religious liberty and conscience rights that are guaranteed by law in the US would be subject to review and rejection by the Office of Civil Rights of HHS. This would be laughable if it were not seriously proposed by bureaucrats in positions of power.

I am also struck by the hypocrisy of those who claim to stand for diversity and inclusion and yet do not hesitate to drive out of health care anyone who disagrees with them. Make no mistake, the targets of this attack are more than conservative Catholics or Christians. They include many Muslims, Jews, and other strong adherents of the world’s religions. It would also include liberals who simply cannot accept the nonsensical notion that a woman can become a man or a man a woman. If it goes forward, there will be no diversity of views on transgenderism or abortion in health care, and there will be tremendous discrimination against huge numbers of people who do not accept a radical modern ideology with totalitarian tendencies. How is that in conformity with the so-called ideal of “diversity and inclusion”?

Above all, we need to protect the most vulnerable. Our brothers and sisters who suffer anguish and despair from gender confusion deserve better than mutilating surgeries and dangerous drug regimens that leave them sterile and facing many other negative health consequences. Pregnant mothers in distress should receive compassionate care and real support, not abortion. The tragedy of transgender and abortion advocates is that they make bad situations worse. It is a medical and cultural challenge to provide positive solutions in these difficult circumstances, but there should be a clear consensus that vulnerable people are not helped by victimizing others or trampling on the religious liberty and conscience rights of so many.

The Manipulation of EMTALA

The Emergency Medical Treatment and Labor Act (EMTALA) was passed by Congress and signed into law by President Reagan in 1986. Its purpose was to ensure that Americans had access to emergency medical services even if they lacked financial means or health insurance. This is very much in conformity with the Catholic view that basic health care is a human right, especially in emergency situations. Now the Biden administration is using EMTALA to force an abortion mandate onto physicians.

Becerra issued guidelines that require physicians to provide abortion as “treatment” for pregnant patients in emergency medical situations.³ Furthermore, HHS declared that state abortion laws are now “preempted” by the new federal guidelines. This was a blatant attempt by the Biden administration to portray abortion as health care and to counter the pro-life state laws increasingly coming into effect across the country.

The NCBC signed a joint public statement with the Catholic Medical Association denouncing this action by the Biden administration. We also signed on to an *amicus curiae* brief in support of the state of Texas and several other plaintiffs’ legal challenges of these guidelines.⁴ Thankfully, this legal action was successful. The federal district court judge blocked the enforcement of these guidelines in Texas. The guidelines will likely work their way up to the Supreme Court through other cases and the appeals process. Please do keep in your prayer intentions that justice will prevail. Any fair reading of EMTALA’s text shows that it was meant to ensure that everyone can receive good emergency treatment, including preborn children. It was never meant to be used as a mandate for direct abortions.

We must have crystal clarity on the fundamental ethical principle that one may never commit an injustice in the service of a “greater good,” or any of the other justifications that one often finds in utilitarian or consequentialist ethical systems. Directly intended abortion is always a grave injustice and never health care or an ethical action. Two of our NCBC ethicists recently wrote on this topic for our newsletter, *Ethics and Medics*.⁵

What should physicians do in clinical cases where both the mother and the preborn child are at grave risk unless an intervention is done to save the life of the woman, but this same action could harm her baby? Thankfully, such ethically challenging cases are rare, but they do arise. This is a key instance where the Catholic moral and intellectual tradition makes a major contribution to health care ethics. The bedrock principles are that one may never directly will or commit an injustice and that both the mother and preborn child are patients who must receive effective treatment. It is also true that some situations do not have easy ethical solutions. There are tragedies where medical science is not able to save or cure gravely ill patients, including pregnant mothers.

The principle of double effect has been used by Catholic moral theologians and ethicists for centuries. It applies to these most difficult situations where the only effective treatment to prevent the mother’s death is gravely prejudicial to the life of the preborn baby. The key point in double effect reasoning is that one may tolerate an unwilled evil effect that results from a good action if the good that is intended and done is proportionately greater than the bad effect that also results. Directly killing a preborn child—an abortion—is never an ethical treatment to save the life of the child’s mother. One could, however, ethically perform a hysterectomy to save a mother’s life if that was the only good or effective treatment for her uterine cancer, even if she were pregnant and the child would not survive the operation. Clearly, however, this would have to come as a last resort after exploring all other options to save the preborn baby’s life via other medical interventions. In some cases, early induction of labor is possible once the preborn child has a chance of surviving outside the womb.

The key ethical point is that removing a cancer to save the woman’s life could be an acceptable treatment, and the loss of her child’s life would come as an unintended and indirect, even if foreseen, consequence of this good action. In some cases, pregnant mothers have made heroic sacrificial decisions to forego ethical treatments that could have saved their lives but that would have indirectly harmed their preborn children. St. Gianna Beretta Molla was a medical doctor who was canonized for her heroic virtues and exemplary life. She made this choice, but she was under no moral obligation to do so.

What the pro-abortion lobby and the Biden administration are trying to do is create ethical confusion and foster a key misunderstanding in the minds of the general public—that we must sometimes commit abortions to save the lives of mothers. There are rare situations where a pregnant mother’s life is at risk and the only effective medical interventions available can lead to the death of her child, but that is worlds apart from directly killing a preborn child as a treatment for the mother.

An integral part of the principle of double effect is that the good effect may never be brought about by the bad effect of the action; that is, killing the child may not be the means to saving the mother. The moral law is clear. We may never do evil even if motivated by a good intention or by hope that it will have a good result (Rom. 3:8).

Ethics and the Police Power of the State

Governments should exist to provide security and ensure justice for their citizens. These services necessitate high ethical standards because the lives and freedoms of the people are at stake. A basic assumption in democratic societies is that the police should serve and protect the people and the rule of law. We rightfully become upset when there are abuses of police power or similar injustices.

In the last few years groups on the left of the political spectrum have spearheaded radical calls to defund or even abolish police forces. The main critique has revolved around perceived racism in police actions. The video of the killing of George Floyd in 2020 by a white police officer in Minnesota set off protests around the United States and led to calls to reform or get rid of local police.

More recently, claims of abuse of government police power have grown among conservatives. A local case in Philadelphia, and several others elsewhere, have focused concerns on pro-life citizens who are arrested for minor infractions. This has coincided with a lack of police action as pregnancy help centers and Catholic churches are increasingly victims of vandalism or violence.

In the case of Mark Houck, pro-life advocates across the nation were shocked that a heavily armed force of up to twenty Federal Bureau of Investigation (FBI) agents carried out a raid on his home and took him into custody in full view of his terrified wife and seven young children.⁶ The federal arrest warrant was issued and carried out after a minor assault charge on an abortion center escort. The charge had been previously dismissed in Philadelphia.

As facts emerge from the altercation, it appears clear that it did not merit prosecution. A male abortion escort used insulting and abusive language when speaking to Mark Houck’s twelve-year-old son. That a father would interpose himself in such a case and have a heated exchange is quite understandable. The indictment claims that the escort needed medical attention afterwards, but according to the Houck family, that consisted of a BandAid for a finger.⁷ Many have come forward as character witnesses on behalf of Mark saying that he is a peaceful person who has prayed the rosary and sidewalk counselled at abortion centers for decades.

The federal Department of Justice (DOJ) elevated this small incident to a federal case under the FACE or Freedom of Access to Clinic Entrances Act, even though it happened at some distance from the clinic door. This is disturbing. Lawmakers in Washington, DC, wrote to the FBI, saying, “Overzealous prosecutions under the FACE Act weaponize the power of federal law enforcement against American citizens in what should firmly be state and local matters. Further, these abuses of federal power against pro-life Americans based solely on their beliefs undermine the American people’s trust in the FBI.”⁸ There is also concern that the nearly one hundred documented pro-abortion attacks on churches, pregnancy centers, and so forth since May 2022 have led to no DOJ prosecutions.⁹

It is not healthy when large segments of the public develop a deep-seated distrust in the impartiality of local and national policing or in their ability to receive just treatment from public institutions. Whether it is the fear of many African Americans that they are subject to racially motivated stops or excessive violence on the part of some police officers or the perception among pro-life citizens that this presidential administration is unfairly targeting them, a crisis of faith in key institutions follows. Being able to trust that those with official police power will act ethically is a key component for our system of government to function.



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Our country was founded on a promise in the Declaration of Independence: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” It is seen as the government’s responsibility to safeguard these rights in the United States. Our public institutions and officers are ethically bound to fulfill basic requirements of justice, such as not depriving people of life or liberty without due process of law.

The need for ethics, morally good actions, on the part of officials with police power is quite self-evident. What is much more difficult to see is a solution to the problem of distrust once abusive acts have disillusioned many. Ideological divisions and partisan attacks feed the crisis of credibility in our institutions. I think only a slow process of obtaining justice for those who were victimized and the conscientious effort to have a better functioning system going forward will rebuild trust. Also, use of the coercive power of the state often happens when what is legal goes against the natural law. It is a blessing to have public interest law firms like the Becket Fund for Religious Liberty, Alliance Defending Freedom, the Thomas More Society, and others that help to effectively defend our fundamental rights in our legal system.

I believe that the need for ethical integrity in our public officials and officers is of growing importance as our government institutions face heightened mistrust among the populace. Great vigilance on the part of citizens as to who they elect is more necessary than ever. When ethical abuses happen, they must be protested and acknowledged, and legal means used to set them right. Restraint, however, is also a virtue here. A backlash of violent protest only enflames and increases problems rather than resolving them. Faith in our public institutions must be safeguarded and patiently rebuilt over time.

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Notes

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