What should be one's moral response to the HHS "contraceptive mandate"?

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This article asks how one should morally respond to the HHS contraceptive mandate which is now law and part of the Patient Protection and Affordable Care Act. This article first presents the historical background of the Obama Administration altering the government's 'final rule' for providing health services and protecting conscience rights. The mandate compels individuals and religious groups to provide insurance coverage for contraceptive, abortifacient, and sterilization services even though they are contrary to their values, and it narrowly defines what constitutes a religious group so fewer of them can claim exemption. Hence, the question is: Can individuals and religious groups obey the law without acting against their moral values or denying their religious identity? Using Church documents, the article answers that one cannot formally cooperate in evil but under certain conditions one can materially cooperate. The article uses the Summa Theologiae of Aquinas to explain what constitutes formal cooperation and how obeying the law can be material but not formal cooperation. It then examines whether the present conditions warrant material cooperation. It concludes that they do not and that religious groups are called to act as martyrs and give witness to their religious identity and moral values by resisting the law.

Keywords: mandate, religious liberty, formal and material cooperation

On 21 May 2012, forty-three Catholic institutions filed lawsuits in twelve federal district courts against the contraception-sterilization mandate issued by the Department of Health and Human Services' (HHS) implementation of the Patient Protection and Affordable Care Act (PPACA). The charge of these institutions is that the mandate, which has the force of law, is a violation of religious liberties guaranteed by the First Amendment, the Religious Freedom Restoration Act, and other federal laws.¹ Then on 1 August 2012, this mandate went into effect. It requires, under penalty

of fines for non-compliance, that non-exempt employers provide free of charge in their insurance plans women's preventive healthcare services and counseling regarding sterilization and contraceptives, including those that prevent implantation of the fertilized egg in the womb thus causing an abortion.²

"Religious Liberties" concern one's freedom to determine what are appropriate practices of one's religion and one's freedom to act accordingly. Unfortunately, in order to insure that as many women as possible get these sterilization and contraceptive services and

counseling, HHS has vastly limited who would be exempt from its mandate by narrowly defining what are religious practices and groups.

This two-edged approach of HHS has put the Catholic Church in a moral dilemma. On the one hand, the Catholic Church has advocated health care for all persons,³ and the Patient Protection and Affordable Care Act is seeking to accomplish some of this. On the other hand, the Catholic Church is asked to deny its inherent mission to bring the word and work of the Gospel not only to its own but to the general public and is asked to provide what *Humanae vitae*, n. 14, using natural law principles, says are gravely immoral methods of birth control, namely contraception, sterilization, and abortion.

The matter is serious. First, it would be a grave matter for the Church to deny its inherent dignity and public mission. Second, it would be a grave matter for its members to use these methods of birth control.⁴ To do either of these actions would be meeting the first condition for an act to be mortal sin. According to the *Catechism of the Catholic Church*, n. 1857, "Mortal sin is sin whose object is grave matter and which is also committed with full knowledge and deliberate consent."

Since this is the case, one must ask whether one's acceptance of HHS's definition of what constitutes a religious group and one's compliance with its mandate would be a matter of cooperating in grave moral evils. Would it be a matter of formally cooperating in evil, which is never allowed? Or would it be a material participation in evil, which is permissible under certain conditions? And if the latter, are the necessary conditions met? In order to answer these questions in the perspective in which they are raised, I will first present the historical background of this mandate and then seek to address the questions.

HISTORICAL BACKGROUND

The issues of religious freedom and freedom of conscience, which the lawsuits are addressing, are not new. They came to the fore in the 1970s, after the *Roe v Wade* decision on abortion, when it was perceived that freedom of conscience based on religious beliefs or moral convictions was being threatened. Consequently, Congress inserted conscience clauses into the bills known as the Church and Weldon Amendments. They were to reconcile "the conflict between religious healthcare providers who provide care in accordance with their religious beliefs and the patients who want access to medical care that their religious providers find objectionable" (White 1999).

When the previous administration sought to address certain health-related needs, it realized that many faith-based organizations were involved in providing various forms of health care. Consequently, following the principle of subsidiarity which places decision making to meet a person's needs at the lowest possible level, and in which the higher social groups should assist the lower ones when necessary (Ashley and O'Rourke 1994), the administration sought to work with these organizations. It had the Department of Health and Human Services establish rules for implementing the Church and Weldon Amendments, so that these institutions would be enabled to meet people's health needs within the parameters of their mission and ethical standards (Department of Health and Human Services 2008).

On 24 March 2010, during the present administration, the Patient Protection and Affordable Care Act was passed. It required that certain preventive healthcare measures be addressed by health insurance plans without any cost sharing by the recipients of these plans. According to HHS, it was given authority to implement this law (Department of Health and Human

Services 2011). It asked the Institute of Medicine, the health arm of the non-governmental organization, National Academy of Sciences, to propose what could be done to meet women's preventive healthcare needs.⁵ HHS adopted their eight recommendations. Although the first required provision was for annual wellness visits to the doctor, included in this visit could be counseling to use sterilization or contraceptives as a way of preventing a pregnancy. Furthermore, the seventh recommendation was a requirement that all individual and group health insurance plans—even self-insured plans—cover “all Food and Drug Administration (FDA) approved contraceptive methods, sterilization procedures and patient education and counseling for all women with reproductive capacity.”⁶ Among those approved methods of contraception, the FDA lists the “copper IUD.” To explain how this works, the FDA states that besides being able to stop the sperm from traveling to the egg, it “also changes the lining of the uterus, making it harder for an egg to attach.”⁷ In other words, even according to the FDA's description, the fertilized egg having become a human embryo can be aborted rather than be born as a fully developed infant.

Then, in order to extend the number of women who would receive these services, the department sought to shrink the number of religious institutions that would by law be exempt from this requirement. Hence, the department redefined what constitutes a religious organization. It is a non-profit organization which instructs its members about its beliefs and values, serves primarily its own members, and employs primarily its own members (Department of Health and Human Services 2011). Under this definition churches and possibly their grammar schools might be exempt but not soup kitchens, social service agencies, hospitals, colleges, and universities. In August 2011, HHS set forth this “final rule.”⁸

By its re-definition of religious groups, the department interferes with the liberty and right of these organizations to determine what constitutes their being and their mission. By mandating contraception and sterilization services it forces all non-exempt individuals and organizations to provide sterilization and contraception services, even though this is against their religious beliefs or moral convictions.

When religious groups argued that this would be forcing them to cooperate in doing what it considers evil, the president offered an accommodation. He judged that as long as these organizations were not paying for these services, they would not be guilty of violating their ethical standards, and so he ordered that these religious organizations would not pay for these services; the insurance companies would.⁹

Considering the premise that was given, various groups saw this as a solution to a moral dilemma—at least for those who are not self-insured. The argument was: If one pays for something, the use of these gravely wrong birth control methods, then one wills their use; but if one does not pay for these, then one is not willing their use. That is, one is not formally cooperating in evil. By accepting the president's accommodation of “not having to pay,” Catholic hospitals and schools, etc., could continue their good works of serving others and at the same time not formally cooperate in moral evil. This is what the head of the Catholic Health Association understood and, so initially, publicly accepted the accommodation.

But is this a correct understanding of what is and what is not a formal cooperation in evil?

MORAL COOPERATION IN EVIL

A helpful way to understand this notion is to analyze the terms “moral evil” and “cooperation.”

"Moral" refers to an act that is voluntary, one that comes from one's own understanding or judgment and command of conscience and one's choice. This act has both an objective side, its matter, and a subjective side, its knowledge and consent.

Subjectively, one's act is morally evil when one chooses to act in a way that is contrary to one's conscience. For instance, when a spouse judges in conscience that making one's reproductive system dysfunctional is wrong, but chooses to do this anyway, then the person is going against his or her conscience. When the head of a religious hospital judges in conscience that contraception, abortion, and sterilization are wrong and against church doctrine but provides these services to the public, the head of that institution is violating his conscience and the religious identity of the hospital.

A human act is said to be evil objectively when its end or means or circumstance is evil, i.e., defective of the good that should be there. When one's end is to violate some basic human need, for example, the generation or preservation of new life, the end is evil. When one's thought or word or deed causes that violation, the act's means is evil. For example, when one uses a contraceptive to space having children, one's means is evil, because it prevents the person's use of sexual intercourse from realizing its full unitive and procreative purposes. An act can also be objectively evil when it is done under the wrong circumstances. For example, when one has sexual intercourse with one's spouse, which is an intrinsically good act, but does this at the wrong time, i.e., at the time when they should not have a child and the woman is fertile, then the act is evil, "under the circumstances in which it is done."

The *Catechism of the Catholic Church*, n. 1857, puts the objective and subjective

notions together when it states what constitutes a mortal sin. Objectively, it is something gravely wrong; subjectively it is done with full knowledge, i.e., one's last best judgment of conscience says it is wrong, and it is done with full will, i.e., one's full consent is to the grave evil.

As for the word, "cooperation," the prefix "co" means "with" and the root "operation" refers to an action, i.e., a voluntary act. A voluntary act can refer to what one interiorly thinks and wills but also to what one commands one's self to do.¹⁰ So one can cooperate in another's act not only by doing it with him or assisting him in carrying out his proposed action, but also by influencing his thinking and willing of that act.

With this understanding, Thomas Aquinas observed that one is guilty of evil by causing another to do evil. He lists three ways this can be done, which correspond to what has been said immediately above.¹¹ First, one can cause another to do evil by affecting the person's thinking and willing. That is, one causes another to do evil by counseling him to do it, by commanding him to do it, by consenting to his evil act, or by commending the person for his action. Second, one can cause a person to do evil by giving him assistance in doing the evil act. This is what "Frankie Dunn," portrayed by Clint Eastwood, did in the movie *Million Dollar Baby*, when he supplied the means for the young boxing champion, "Maggie Fitzgerald," to kill herself so she would not suffer being paralyzed the rest of her life. Third, one can cause another to do evil by doing the evil with him, i.e., by becoming "a fellow evil-doer."¹²

While the HHS mandate does not require the members of a religious group to become fellow evil-doers, it does require cooperation in evil in the other two ways. By accepting the redefinition of what constitutes a religious group, a

religious group is simultaneously consenting to this attack on religious liberty and is denying the religious group's identity and public mission. By offering an insurance plan to its employees that is wholly directed to provide, free of charge, counseling about using sterilization or contraceptives, even abortifacients, the religious institution would be consenting to its employees being counseled to do these immoral things. Such counseling encourages them to think that sterilization and contraception are not wrong things to do.

Cooperation can also be by way of assistance, for the mandate requires that insurance policies provide these harmful birth control services and provide them freely. The religious group choosing to offer these birth control services in its employment package would be assisting its employees in carrying out gravely wrong actions. This would be formally cooperating in evil at the second level.

Consequently, the non-exempt—the hospitals, educational institutions, and social service agencies—in terms of formal cooperation in evil would still be participating in evil. This sets up a moral dilemma. Either they formally consent to evil by accepting a wrongful definition of their religious nature and by providing, if not paying for, an insurance policy that supports gravely wrong birth control methods or they do not offer this policy and take the consequences for doing so, by way of fines or lawsuits.¹³ The government could impose fines for not following the law, and employees could file lawsuits for the employer not providing medical insurance as part of compensation for the work done.

Nonetheless, one cannot formally cooperate in evil even when it leads to dire consequences. Given that an act's form is the interior act's end, and given that an act's matter is the exterior or commanded

act to attain one's end,¹⁴ formal cooperation would involve an act that "in itself or by intention" is evil. This would occur by one consenting to a wrongful understanding of one's religious nature and by one (a) preventing the conception of new life, or (b) having one's self sterilized, or (c) aborting the child already conceived.

THE ISSUE OF LAW AND MORAL COOPERATION

However, when it comes to law one is not dealing with a single means-end act, but any number of acts bundled together into a single law. So the question has to be about the law. Can one obey this law and not formally cooperate in evil? John Paul II, in *Evangelium vitae*, indicates where this is possible when he makes a distinction between an "intrinsically unjust law" and "legislation that overall is unjust." In regard to an "intrinsically unjust law," he writes that it is "never licit to obey it, or to take part in a propaganda campaign in favor of such a law, or vote for it." Regarding a law that is "overall unjust," the pope speaks of a possible act of cooperation or obedience to the law. On the one hand, he writes that persons "have a right to demand not to be forced to take part in morally evil actions" and says that such a choice can entail "the sacrifice of prestigious professional positions or the relinquishing of reasonable hopes of career advancement." But in "other cases, it can happen that carrying out certain actions, which are provided for by legislation that overall is unjust, but which in themselves are indifferent or even positive, can serve to protect human lives under threat." In this case, John Paul does not say it is illicit to obey such a law, rather he writes "There may be reason to fear, however, that willingness to carry out such actions will not only cause scandal and weaken

the necessary opposition to attacks on life, but will gradually lead to further capitulation to a mentality of permissiveness.”¹⁵

How then should one look at the HHS “final rule” which is now law? Is the legislation one that is “intrinsically unjust, such as a law permitting abortion or euthanasia” and that “is never licit to obey,” or is it legislation that is “overall ... unjust” but allows for cooperation because it “can serve to protect human lives under threat”? If the latter, can one in obeying it be able to not produce “scandal” nor “weaken the necessary oppositions to attacks on life,” nor “gradually lead to further capitulation to a mentality of permissiveness”?

FIRST QUESTION: IS THE LAW “INTRINSICALLY UNJUST” OR “OVERALL ... UNJUST”?

For answering the first question, Aquinas provides a helpful analysis of a moral act. Using metaphysical causality as his guide, in which there is an efficient cause, formal cause, material cause, and final cause of something, Aquinas views the human act in the following way. The willing of an act is its efficient cause or genus, the interior act’s end is the act’s formal cause, and the exterior or commanded act’s object is the act’s material cause. Thus, one’s intended end acts as the formal cause of one’s act and the commanded act which one does to attain that end is the material cause. Together they make up the species or essence of the act, i.e., what is intrinsic to it. What completes this act and gives it its individuality are its circumstances, such as, who is doing it, why it is being done, for what effect, etc.¹⁶

The moral goodness of the act, like the goodness of being itself, must have an efficient cause, the willing, related to a good final cause proposed by one’s reason, e.g., health. The act itself, moreover, must not

only have a good formal cause, i.e., the good end of the interior act, and a good material cause, i.e., a good object of the exterior or commanded act, but it must also have good accidental qualities coming from the circumstances of the act, e.g., a right motive, etc.¹⁷

Aquinas makes a further distinction when writing about the exterior or commanded act of the will. It can be “in itself,” i.e., essentially, related to the end, or it can be accidentally related to the end. That is, under particular circumstances it is related to the end, but not essentially.¹⁷ For instance, to fight well is in itself related to the end of obtaining victory; it is essential for victory.¹⁸ Fighting poorly is not. Giving alms to a poor man is essential to charity. However, giving alms to a poor man for one’s own glory is accidentally related to charity. It does the good work, but it is not charitable, neither an act of love for the poor man nor an act that makes the doer loving.

So, then, what of the HHS mandate and one’s obeying it? In the order of reason which moves the will, the end proposed is the preventive health care of women, certainly a good end to move one’s will. What HHS commands for that to be accomplished are eight distinct kinds of actions. There are six, such as “Counseling for sexually transmitted infections” and “Breast-feeding support, supplies and counseling” which are “in themselves” ordered to this good of reason, the preventive health care of women. The two remaining actions to be covered by insurance either directly or indirectly have to do with “Contraceptive methods and counseling.” They are not in themselves related to the good end, but only accidentally related to it, as they are evil actions contrary to reason bundled with good actions in accord with reason. There is basis, then, for one’s reason to take as one’s end, the preventive health care of women, and to

take as one's objective the six good commanded actions which are "in themselves" capable of achieving this end, and thus one can will what is an essentially good act, i.e., an intrinsically good act.

However, one's reason must also recognize that two of the commanded acts, though accidentally related to the mandate's good end, can make the individual legislation "overall unjust," just as an inappropriate circumstance, an accidental qualification of the act, can make an essentially good act evil overall.

Since the legislation is "overall unjust," one must ask if there is a way of obeying the HHS legislation without willing the evils connected with it. In other words, can one materially cooperate with this legislation by offering coverage for both the good and evil mandated actions? Can one so set up circumstances that counteract the evil circumstances of counseling and of providing contraception, sterilization and abortifacients? Or, to quote from "*Evangelium vitae*" n. 74, would there be "reason to fear ... that willingness to carry out such actions will not only cause scandal and weaken the necessary opposition to attacks on life, but will gradually lead to further capitulations to a mentality of permissiveness"?

SECOND QUESTION: IS COOPERATING WITH THE LAW MATERIALLY MORAL?

So this second question needs to be answered. First, let us consider the act in itself involving mind and will. One formally cooperates in an evil act by counseling and/or commanding the evil, to affect the other's mind, and by consenting to and/or commending the other's willing of evil. To do the opposite while providing coverage for all eight of the actions, the employer would need to provide instructions about how contraception,

sterilization, and use of abortifacients are harmful and urge his employees not to use the coverage for these purposes. The employer must make it clear that neither she nor the institution she represents consents to such actions and disapproves rather than commends them. To enable this to happen and to be creditable, she would have to devote some of the company's income to provide such instructions to its employees.

Next, consider the end of the insurance coverage law, namely, that of providing not only what is conducive to preventive health care of women but what is not. According to Aquinas, the circumstance that touches upon the end of the act is the motive. Hence, the employer would have to make clear that her motive for providing such coverage is that real preventive health care be provided, not what is harmful. Again, money would have to be set aside to see that employees actually receive this information.

Another reason the employer could give for following the law and providing this coverage is to avoid any fines from the government that would be incurred for not obeying the law or the cost of lawsuits from any employee for not providing such coverage. For instance, the air conditioning company, Hercules, argued that the fines it would incur would be about one hundred dollars per employee for every day the company failed to provide this coverage. In a year's time that would be more than nine and half million dollars, or \$9,599,500.00. This could cause serious harm to the company and could bankrupt others, causing a company's services to cease and its employees to lose their jobs.

The problem with this argument, however, is that it pits financial wellbeing against physical wellbeing and existence. Namely, the health insurance coverage enables persons to prevent their reproductive system, by contraception, from

achieving its purpose of giving birth to other human beings or to make their reproductive system dysfunctional by sterilization. In addition, whereas the company is being forced to provide the insurance coverage, the coverage is making it easier to abort a human being rather than give birth.

Hence, while forcing compliance with the mandate and making it easy to fulfill its worst purposes is enough to make the intrinsically good law “overall unjust,” one needs to consider two more circumstances that touch upon the morality of cooperating with evil. These are the effects of the law and who is implementing the law.

Considering the particular acts for which the mandate requires insurance coverage, one set of actions is productive of good effects and the other set productive of evil effects, with the evils of contraception, sterilization, and especially abortion far outweighing the good effects. This can be shown by examining the effects in detail.

The good effects would be that women would be able to get free of charge (1) an annual preventive healthcare visit; (2) screening for gestational diabetes; (3) human papilloma virus testing; (4) counseling for sexually transmitted infections; (5) counseling and screening for human immune-deficiency virus; (6) breast-feeding support, supplies, and counseling; and (7) screening and counseling for interpersonal and domestic violence. These are all things that either prevent the woman from being harmed or harmed further. The annual wellness visits, without the counseling for sterilization, contraception, and abortifacients, and the breast-feeding provisions could actually further the women’s and the infant’s health. On the other hand, however, there is not only the inhibition or destruction of the woman’s reproductive system but there is also the real prospect of human lives being taken through abortion.

In terms of the seriousness of evil and in terms of how often it is likely to occur, the abortion effect is greater than all the other good effects of the legislation combined. The good of providing the child with proper nourishment through breast feeding and of saving the mother from HIV, communicable diseases, and domestic violence in no way can compare with the evil of causing an abortion. Moreover, there is likelihood that this evil effect of abortion will occur more often than all the legislation’s good effects, since, according to the administration, 99 percent of women in their reproductive years use contraceptives, including abortifacients. The evil of abortion and its frequency make even material cooperation with the legislation morally and seriously wrong.

What then should one do? Implement the law? One option is to withdraw from offering any kind of insurance. For instance, this past 16 May 2012, the Franciscan University of Steubenville “decided to drop student health insurance rather than risk violating its passionately Catholic identity.” The student health center will still serve students for only five dollars, but students will have to be “responsible to decide how to provide for accidents or illnesses requiring visits to physicians, health clinics, or the hospital emergency room.”¹⁸ Fortunately, students under twenty-six can still be covered by their parents’ insurance. Unfortunately, Steubenville’s decision now and in the future regarding its employees, if it is to be consistent, puts the full burden of healthcare insurance on its employees. Will Steubenville itself not have to pay dearly for this witness to its Catholic identity?

There is another problem as well. Such a decision is also a withdrawal from the public sphere. And this means that the serious problem of scandal remains. According to the *Catechism of the Catholic Church*, “Scandal is an attitude or behavior

which leads another to do evil.”¹⁹ And giving scandal becomes an even more serious matter “when given by those who by nature or office are obliged to teach and educate others.”²⁰ Hence, the issue of scandal becomes a grave one for Catholic institutions which are by nature called upon to give public witness to the truth.

How is this so? The witness to Catholic truth that is called for is a twofold one. First, one must give witness that the identity of Catholic institutions does not wholly lie in its inner nature as a body of believers and worshippers of God, it also lies in its mission to give witness to the truth of Christ and his Gospel of salvation as it is directed to every one. Second, Catholic institutions are to give witness to the faith by practicing it no matter what the consequences. That is, by having policies and practices that are in accord with Catholic moral teaching.

Francisco University and other institutions have realized this and have taken action in both these regards. The Franciscan University of Steubenville, “Ave Maria University, EWTN, Catholic Social Services, St. Pius X Catholic School of Nebraska, and seven states are among those who have filed [costly] lawsuits against the Obama Administration over the contraception mandate.” Then in the matter of religious liberty and what constitutes a religious institution, “Legatus, a national organization of leading Catholic business CEOs and professional leaders, announced its lawsuit against the HHS mandate on the grounds of religious freedom.”²¹

As the document from the USCCB's Ad Hoc Committee for Religious Liberty, “Our First, Most Cherished Liberty” indicates, religious liberty is right now under attack both in our country and throughout the world.²² Hence, John Paul II's statement in *Evangelium vitae* is even more true today, 2012, than when he wrote it in 1995.

“There may be reason to fear, however, that willingness to carry out such actions of supporting laws that are overall unjust will not only cause scandal and weaken the necessary opposition to attacks on life, but will gradually lead to further capitulation to a mentality of permissiveness.” (n. 74)

In terms of morality then, one may not even materially cooperate with the HHS mandate because in obeying it there is no adequate way to ward off its attack on religious liberty and no adequate way to prevent its causing gravely serious harm to women and the children they abort. What is called for morally is not simply non-cooperation but active action to witness to the Gospel.

In *Veritatis splendor*, John Paul II indicates what needs to be done:

Although martyrdom represents the high point of the witness to moral truth, and one to which relatively few people are called, there is nonetheless a consistent witness which all Christians must daily be ready to make, even at the cost of suffering and grave sacrifice. Indeed, faced with the many difficulties which fidelity to the moral order can demand, even in the most ordinary circumstances, the Christian is called, with the grace of God invoked in prayer, to a sometimes heroic commitment. (n. 93)²³

ENDNOTES

1. Annabelle McGannon, Susan L. Rauscher and Bishop David A. Zubik. Why Catholics are suing the government. *Pittsburgh Post Gazette*, May 25, 2012, B-7. In giving the Statutory Background in its proposal to rescind parts of the 2008 Final Rule titled “Ensuring That Department of Health and Human Services Funds Do Not Support Coercive or Discriminatory Policies or Practices in Violation of Federal Law”, Health and Human Services explains each of the Church and Weldon Amendments.

- Federal Register*, 76(36). Wednesday, February 23, 2011: Rule and Regulations, 9969-9971.
2. Free of charge is more a matter of accounting than of reality, for either the one purchasing the insurance pays for these services specifically or these services are paid out of the premium, i.e., the insurance company raises the premium to pay for these services.
 3. *Catechism of the Catholic Church* n. 1908.
 4. "This right of the Church is at the same time a duty, because she cannot forsake this responsibility without denying herself and her fidelity to Christ ... The warning that St. Paul addresses to himself rings in the Church's conscience as a call to walk all paths of evangelization, not only those that lead to individual consciences but also those that wind their way into public institutions: on the one hand, religion must not be restricted "to the purely private sphere," on the other hand, the Christian message must not be relegated to a purely other-worldly salvation incapable of shedding light on our earthly existence of the *Compendium of the Social Doctrine of the Church*, n. 71.
 5. <http://www.iom.edu/reports/20>. The Institute of Medicine gave its recommendations in its July 19, 2012 report entitled "A Clinical Preventive Services for Women: Closing the Gaps." Nine of the committee members were MDs and the others had PhDs or other doctoral degrees. Twelve members were women. None were listed as ethicists. Among Penn State's Carol Weisman's numerous publications was, "The implications of affiliations between Catholic and non-Catholic health care organizations for Availability of reproductive health services." 1999. *Women's Health Issues* 9(3): 121-134; "A Contraceptive Counseling in Managed Care: Preventing Unintended Pregnancy in Adults." 2002. *Women's Health Issues* 12(2): 790-95.
 6. <http://www.hrsa.gov/womenguidelines/> [accessed April 28, 2012].
 7. <http://www.fda.gov/forconsumers/byaudience/forwomen/ucm118465.htm> [accessed May 31, 2012].
 8. The term "Final Rule" refers to a regulation that has gone through the review and public comment process and is published in official form in the *Federal Register*.
 9. <http://www.priestsforlife.org/government/12-03-21-obamacare-violates-hyde-amendment.pdf>. In this news release of March 21, 2012, "New Obamacare Regulation Violates Hyde Amendment," Congressman Chris Smith of NJ states: "At its core the Hyde amendment has TWO parts. It prohibits funding for abortion AND funding for insurance plans that include abortion. This is the fundamental reality of long-standing federal law. Taxpayer dollars DO NOT subsidize abortion plans that include elective abortions. Now, under Obamacare, taxpayers subsidies in the form of refundable, advanceable credits paid directly to the insurance company will subsidize insurance plans offered on the exchange that include abortion on demand even late-term abortion. Obamacare further breaks with longstanding law by establishing a new abortion surcharge and secrecy clause."
 10. Aquinas, *Summa theologiae*, I-II, q. 6, prologue; q. 17,
 11. *Ibid.*, II-II, q. 62, a. 7: Hence whoever is cause of an unjust taking is bound to restitution. This happens in two ways, directly and indirectly. Directly, when a man induces another to take, and this in three ways. First, on the part of the taking, by moving a man to take, either by express command, counsel, or consent, or by praising a man for his courage in thieving. Second, on the part of the taker, by giving him shelter or any other kind of assistance. Third, on the part of the thing taken, by taking part in the theft or robbery, as a fellow evil-doer. Indirectly, when a man does not prevent another from evil-doing (provided he be able and bound to prevent him), either by omitting the command or counsel which would hinder him from thieving or robbing, or by omitting to do what would have hindered him, or by sheltering him after the deed." (See also *Summa theologiae*, II-II, q. 71, a. 3. "I answer that, It is unlawful to cooperate in an evil deed, by counseling, helping, or in any way consenting, because to counsel or assist an action is, in a way, to do it, and the Apostle says (Romans 1:32) that 'they... are worthy of death, not only they that do' a sin, 'but they also that consent to them that do it.'")
 12. *Ibid.*, q. 62.

13. <http://www.newsmax.com/PrintTemplate.aspx?nodeid'457889>. "Obamacare Employer Mandate Tax (takes effect January 2014). If an employer does not offer health coverage, and at least one employee qualifies for a health tax credit, the employer must pay an additional non-deductible tax of two thousand dollars for all full-time employees. Applies to all employers with fifty or more employees. If any employee actually receives coverage through the exchange, the penalty on the employer for that employee rises to three thousand dollars. If the employer requires a waiting period to enroll in coverage of thirty to sixty days, there is a four hundred dollars tax per employee (six hundred dollars if the period is sixty days or longer). PPACA, 345–346.
14. Aquinas, *Summa theologiae*, I–II, q. 18, a. 7.
15. [www.vatican.va/.../hf_jp-ii_enc-25031995_evangelium-vitae_en.ht ... # 73–74](http://www.vatican.va/.../hf_jp-ii_enc-25031995_evangelium-vitae_en.ht...#73-74).
16. Aquinas, *Summa theologiae*, I–II, q. 18, a. 4.
17. *Ibid*, q. 18, a. 7.
18. <http://www.printfriendly.com/print?url'http%3A%2F%2Fwww.catholicnewsagency.com> [accessed October 15, 2012].
19. *Catechism of the Catholic Church*, n. 2284.
20. *Ibid*, n. 2285.
21. <http://www.catholicnewsagency.com/news/legatus-files-suit-against-hhs-mandate/>
22. <http://www.usccb.org/issues-and-action/religious-liberty/our-first-most-cherished-liberty.cfm>.
23. http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor_en.html. As of this date, 12/14/2012, the Becket Fund For Religious Liberty reports that there are 41 cases and over 110 individuals representing hospitals, universities, businesses, schools, and people all speaking with one voice to affirm the freedom of religion in the Constitution. <http://www.becketfund.org/hhsinformationcentral/>.

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