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Still We Remain: Living Religious Liberty Consciously and Unconsciously

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Here, Dr. Daniels-Sykes explores the principle of religious liberty, which has become one of the focal points in the current health care debate. She considers how one should 'live' religious liberty from the perspective those parishioners who live on the margins – those whose parishes have been closed, and the victims of individual and institutional racism.

The principle of religious liberty has been discussed widely and heavily in the U.S. public media recently. Called today to reflect locally and globally as new insights and pedagogies evolve, I ponder how living religious liberty today impacts the traditional notion of this concept. In ongoing discussions, it is important for us to consider the lacunae in the debates, especially as the Catholic Church points to outside or external forces (i.e., the Health and Human Services Contraceptive Mandate included in the 2010 Patient Protection Affordable Care Act) that threaten religious liberty.¹ These forces are evaluated in conjunction with, I

¹Permanent Council of the Canadian Conference of Catholic Bishops and the United States Conference of Catholic Bishops *ad hoc* Committee on Religious Liberty, “*Our First, Most Cherished Liberty: A Statement on Religious Liberty, Pastoral Letter on Freedom of Conscience and Religion*” *The Journal of the Black Catholic Theological Symposium* VI (2012): 77-99.

would surmise, many of the faithful who earnestly and authentically seek to get their minds and hearts around the vastness of Catholic Church teachings through prayer, reflection, dialogue, discernment, and action. Essentially, how does one live out religious liberty, especially as Catholic Christians called to live in truth and honesty in a complex and complicated world? Perhaps as challenging as this might sound, we must also ask, what have members of Holy Mother Church done to either violate or suppress the religious liberty of its own members? In other words, I believe that a vital aspect of our reflection on religious liberty requires that Catholic Church leaders and members engage in their own self-reflection and self-evaluation. We embrace the fact that the Church is a Divine institution, comprised of the people of God.² It is also an evolving human institution persisting in a post-modern pluralistic society.

For this paper, I focus on the principle of religious liberty and how it is conceptualized from the perspective of those living on the margins of the Church and society. In other words, as a result of socioeconomics, cultural histories, ethnic and racial pluralism in the Catholic Church in the United States, there exist numerous members of the Church who remain on its fringes. Hence, as much as these leaders and members of the Church want to proclaim, many members have not been informed by nor are they formed by Catholic

(Washington, D.C: United States Conference of Catholic Bishops, March 2012).

² Austin Flannery, ed., "The Church" in *Vatican II: The Basic Seventeen Documents* (Northport, New York: Costello Publishing Company, 1996), no. 32.

Church teaching on religious liberty; the Catholic Church in the United States has ignored religious liberty for many who are not a part of the *status quo*.

First, I will discuss and critique an excerpt from a recent pastoral letter imbued with the traditional understanding of religious liberty composed and published by Archbishop Jerome Listekki in conjunction with the United States Bishops and the Bishops of the State of Wisconsin. Second, I propose that parishioners' religious liberty is adversely affected, for example, when their parishes are closed and have been found to be disassembled and transported to a suburban area. In many neighborhoods, little to no significant programs of evangelization have been put into place to fill the theological, ecclesial, or educational vacuum/gap. It is no secret that for many years archdioceses throughout the country have closed parishes and/or schools in our urban centers where the economically poor, vulnerable, and marginalized are left behind to fend for themselves, especially in their desire to practice their Catholic faith – a fundamental right, for them, of religious liberty.

I conclude this paper by responding to the question, “where do we go from here?” on religious liberty and the inner workings of the Catholic Church and its members. As I move forward with this paper, these two questions act as backdrops for reflections: 1) Has the Catholic Church forcibly constrained parishioners to act against their consciences?; 2) Has the Catholic Church forcibly restrained parishioners from acting according to their consciences?

Traditional Understanding of Religious Liberty

According to the late John Courtney Murray, religious liberty contains an immunity in a two-fold sense. First, for religious liberty, “no one is to be forcibly constrained to act against her/his conscience; second, no one is to be forcibly restrained from acting according to her/his conscience.”³ In order for religious liberty to flourish and persist, external enforced constraints or restraints that violate it and conscience must be prohibited. One must be able to worship freely; one must be able to make contributions to the common good for everyone to benefit. As a key principle of Catholic Social Teaching, the *common good* is defined as: “the way that [we] organize our society—in economics and politics, in law and policy—directly affects human dignity and the capacity of individuals to grow in community. Our Church teaches that the role of government and other institutions is to protect human life and human dignity and to promote the

³ See for example, John Courtney Murray, *This Matter of Freedom*, *America Magazine*, 112 (January 9, 1965): 40. For him, “religious freedom [religious liberty] is the sense of immunity from coercive constraints that came to be recognized as a human right even during the post-Reformation Era of confessional absolutism, as it is called. The principle was gradually established that even the absolutist prince may not compel a man [*sic*] to act against his [or her] conscience or punish him [or her] for reasons of conscience. The doctrine of religious freedom [religious liberty] as an immunity from coercive restraints was, however, first effectively proclaimed in the First Amendment of the Constitution of the United States. It was considered to be an integral element of the doctrine of limited constitutional government. The declaration affirmed religious freedom in both of these senses.”

common good.”⁴ It is important to note, however, that without religious liberty properly understood in the context of the common good many would be adversely affected – many would suffer, deprived of the essential contributions in education, health care, housing, food and drink, employment, civil rights, and social services that the Church and society make available to others every day, both locally and globally. Unfortunately, the reality of deprivation and struggle exist for far too many people in the world, including those who reside in the United States of America.

A New Debate on Religious Liberty

As previously noted, recently the principle of religious liberty has become a highly charged contentious issue that has entered into the public square. We hear and read about “the Contraceptive Mandate, State Immigration Laws, Christian students on campus, discrimination against humanitarian services from the U.S. Department of Health and Human Services, and Catholic Charities with its foster care and adoption services where religious liberty in each of these instances is attacked.”⁵ For example, the issue of the

⁴ Catholic Charities Office for Social Justice, Minneapolis and St. Paul, Minnesota, “*Key Principles of Catholic Social Teaching*,” revised July 2006, <http://www.osjspm.org/document.doc?id=12> (accessed June 10, 2009).

⁵ Permanent Council of the Canadian Conference of Catholic Bishops and the United States Conference of Catholic Bishops, “*Our First, Most Cherished Liberty: A Statement on Religious Liberty*.” Washington, DC: United States Conference of Catholic Bishops, 2012).

Contraceptive Mandate impacted religious liberty and the Catholic Church most significantly in August 2011 when:

Secretary Kathleen Sebelius issued an interim final rule that required most health insurance plans cover preventive services for women including recommended contraceptive services without charging a co-pay, co-insurance, or a deductible. The rule allows certain non-profit religious employers that offer insurance to their employees the choice of whether or not to cover contraceptive services. This final rule on preventive services will ensure that women with health insurance coverage have the full range of the Institute of Medicine's recommended preventive services, including all FDA-approved forms of contraception.⁶

Provoking massive controversy among the members of the United States Conference of Catholic Bishops (USCCB), they moved into a robust and vigorous public protest against this ruling, noting that the President Barack Obama Administration's Mandate negatively impacts the Church in the United States directly, as it smacks against the fundamental right to religious liberty for all citizens of any faith tradition. In essence, to mandate that Catholic employers offer contraception as part of the health insurance package denies Catholics their first and most fundamental

⁶ U.S Department of Health and Human Services, "Statement by U.S. Department of Health and Human Services Secretary Kathleen Sebelius," January 20, 2012, <http://www.hhs.gov/news/press/2012pres/01/20120120a.html> (accessed June 27, 2012).

freedom, that of religious liberty.⁷ It is important to insert here, that protest against the Obama Administration by members of the USCCB appears contrary to the conspicuous silence when, under the George W. Bush Administration in December 2000, Title VII of the 1964 Civil Rights Acts required covered employers to provide contraceptive coverage.⁸ Nevertheless, members of the USCCB assert that what is at stake in the first aforementioned instance is whether Americans will continue to have a free, creative, and robust civil society—or whether the federal or local government alone will determine who gets to contribute to the common good. These bishops worry that religious liberty and conscience will be disregarded.

One important way that religious liberty has been suppressed for marginalized members of the Catholic Church presents when secular society makes its way into the sacred body of the Church. Take the ethical issue of racism. The 1979 Pastoral Letter *Brothers and Sisters to Us*⁹ proclaims that, “racism is an evil which endures in our society and in our church. Despite apparent advances and even significant changes in the last two decades, the reality of racism

⁷ It is important to note, that no one is forcing Catholics to use contraception, even though Catholic or religious institutions must provide this option for its employees in their health care insurance plans.

⁸ National Women’s Law Center, “Title VII Requires Covered Employers to Provide Contraceptive Coverage,” (February 9, 2012), http://www.nwlc.org/sites/default/files/pdfs/title_vii_and_contraceptive_coverage_final.pdf (accessed March 15, 2012).

⁹ National Conference of Catholic Bishops, *Brothers and Sisters to Us: U.S. Bishops’ Pastoral Plan on the Sin of Racism* (Washington, D.C: United States Conference of Catholic Bishops, 1979).

remains.”¹⁰ I maintain that wherever and whenever the sin of racism wears its ugly head, religious liberty is also threatened. A dominant institutional mindset of individual(s) with enough power to enforce prejudice and privilege has the ability to perpetuate a cycle of racism and oppression, providing certain people access to the Catholic Church, while restricting others. As the Church has an obligation of faith to participate in shaping the moral character of society, we must also look inward to evaluate what we are doing or have done to others by participating—even unwittingly – in the guise of institutional or individual racism.

An Archbishop’s Pastoral Letter on the HHS Mandate and Religious Liberty

On January 31, 2012, Archbishop Jerome Listecky conveyed his consternation about the Health and Human Services Contraceptive Mandate. He called it an “alarming and serious matter that negatively impacts the Church.”¹¹ Vehemently arguing against this Mandate because of the government’s impositions on Catholics and all people of good will, he went on to assert that “[i]t poses a real threat to religious liberty, Catholic teaching on this issue, and conscience.”¹² I begin this section of the paper discussing the

¹⁰ Bryan Massingale, *Racial Justice and the Catholic Church* (Maryknoll, New York: Orbis Books, 2010).

¹¹ Archbishop Jerome Listecky, Pastoral Letter dated January 31, 2012, http://www.chnonline.org/images/stories/documents/ListeckyLetters/HH_Sletter.pdf (accessed March 12, 2012).

¹² *ibid.* 1

Archbishop's opposition to the Mandate, however, it is actually about what message is conveyed here. As he protested against this violation of religious liberty, he simultaneously ignored the meaning of religious liberty for members of the Church who were excluded in his pastoral letter. For example, he argued that:

[w]e cannot—we will not—comply with this unjust law. People of faith cannot be made second class citizens...Our parents and grandparents did not come to these shores to help build America's cities and towns, its infrastructure and institutions, its enterprises and culture, only to have their posterity stripped of their God-given rights. In generations past, the Church has always been able to count on the faithful to stand up and protect her sacred rights and duties...¹³

This serves to remind us that the struggle for religious liberty, especially within the institution of the Roman Catholic Church, has many varied dimensions. It becomes clear that many are excluded from the archbishop's pastoral reflections and thoughts. In his example, he points directly to the plight of European-Americans/Caucasians or for that matter the descendants of the European immigrant Catholic Church in the United States in the Church today. His statement confirms what moral theologian Bryan Massingale observes: "[t]he U.S. Catholic Church is a white church not only by numbers (though that is changing) but also by cultural self-identity."¹⁴

¹³ *ibid.*

¹⁴ Bryan Massingale, p. 81.

In essence, by excluding those who are not European-American/Caucasian, Archbishop Listecki by default threatens their religious liberty.

Furthermore, for Archbishop Listecki, the protection of religious liberty requires objections against governmental impositions that counter Catholic Church teachings on contraception, abortion, and sterilization. He draws on the efforts of 'our parents and grandparents who came to these shores to help build America's cities and towns, etc.' to further champion his argument. Yet by focusing on parents and grandparents of European descent, the archbishop promotes religious liberty for a certain group of people of faith. He ignores the fact that millions and millions of our ancestors also came to the United States as African chattel slaves. Forced against their will to build this country without any acknowledgement and mandated to submit to a white oppressive racially charged ideology, many of our own ancestors were lynched and killed if they refused to comply.

Essentially, historian Cyprian Davis points out that: "in 1839 when Pope Gregory XVI condemned the slave trade, the attitude of Catholics in the United States was somewhat different. Many bishops were slave-owners. [S]lavery was not simply an evil condition that had to be endured; they considered themselves as apologists for slavery, obligated to defend it on the basis of Catholic tradition and Scripture."¹⁵ Actually, this apologist disposition catalyzed and sustained a second-class status of Black Catholics; their struggle for

¹⁵ Cyprian Davis, *The History of Black Catholics in the United States*, (New York: Crossroad Publishing Company, 1990), 39-40.

religious liberty has persisted for centuries and extends even to this day, although the archbishop claims that ‘people of faith cannot be made second class citizens.’ Religious liberty for them, nevertheless, has been forcibly and seriously constrained and restrained.

Moreover, to whom is the archbishop referring in his claim that, “the Church has always been able to count on the faithful to stand up and protect her sacred rights and duties”? For centuries, Black people were considered property, held in bondage, raped and mutilated, excluded from religious life and the priesthood, muted, and relegated to the back or the balcony of the Church. Systematic theologian Jamie T. Phelps echoes this when she notes, “Black members were subjected to the same segregation, marginalization, and devaluation within the Church as they were accorded in society. The Church uncritically adopted the prevailing racist ideology and relegated the Christian principle of the unity of humankind exclusively to the spiritual realm.”¹⁶ This racist ideology remains today, in some ways more covert and in other ways more overt. An example of covert racism in the Church is depicted in the devaluation of and dismissive responses that I received from Bishop Richard Sklba when, in 1991, I confronted him with allegations that had been shared with me about sexual abuse of young Black boys by a pastor in an inner city Milwaukee parish. Only after two long years, however, was the pastor finally relieved of his duties at the parish. Those impacted by the allegations of sexual abuse

¹⁶ Jamie T. Phelps, “Communion Ecclesiology and Black Liberation Theology,” *Theological Studies* 61 (2000): 680.

could have been forcibly constrained to act against their consciences, hence violating their religious liberty. Another instance of overt racism occurred when I attended a Catholic Bioethics Conference at the University of Notre Dame in May 2009. I was the only Black person in the crowd of about 250 people. Suddenly, a White woman marched up to me from the far left side of the conference hall. Standing in front of me, she demanded that I tell her what pedigrees I had to be able to attend this conference. Responding that I had a Ph.D. in Theological Ethics, I asked her the same question. She blushed, said, “the same” and marched back to her place. Why were only my credentials questioned? In this example of overt racism, why was my presence not embraced as opposed to receiving the implicit message that I did not belong? Here is another example of religious liberty being constrained. Black Catholics still, in too many places in the United States, remain on the fringes of the Church, which includes an enduring struggle for religious liberty. It is important to insert here that, although the recent 2011 University of Notre Dame study revealed that, “[b]lack Catholics are more engaged in the Catholic Church, in light of their high level of religious engagement, African American Catholics are not completely satisfied with the scope of racial inclusiveness in the Church.”¹⁷ The Church remains morally culpable for a lack of criticism about the sin of racism and that lack of criticism violates religious liberty, conscience, and

¹⁷ Darren W. Davis, Donald B. Pope-Davis, and The National Black Catholic Congress, The Institute for Church Life at the University of Notre Dame, Office of the President, *National Black Catholic Survey* (South Bend, Indiana: University of Notre Press, 2011), p. 29.

the common good. As a result of racism in the Church, religious liberty continues to be forcibly constrained and restrained for these affected members of the Church.

Whether consciously or inadvertently, Archbishop ListECKI violated the religious liberty and the common good of those whom he left out of his reflections by using culturally exclusive examples geared toward White Catholics. Ethicist Bryan Massingale observes, “a white church will not—indeed cannot—be responsive to the existential concerns of African Americans and other groups of color, if by “white church” we mean a church identified with and complicitous in racial privilege and dominance.”¹⁸ In order for the archbishop to make his case for the push to protest against the Contraceptive Mandate more complete, he must be more racially inclusive and integrative in his reflections on religious liberty. I maintain that his biased statements undermine and overshadow the main point of his argument.

The Closing of Catholic Parishes and Schools: What about Religious Liberty?

Are not religious liberties disregarded within the Church by its closing of parishes and schools? Demographic changes, the movement of Catholics to growing suburbs, and the changing attitudes of Catholic clergy and lay people alike, are major concerns driving the trends in parish and school mergers, especially in the inner cities in this country. Here is one vivid illustration of what that trend looks like:

¹⁸ Bryan Massingale, p. 81.

[I]n an architectural first for Chicago, the exterior of a shuttered South Side Church, and the interior of a near Northwest Side Church will be disassembled and combined to form an entirely new religious edifice in north central Lake County, according to Chicago Roman Catholic Archdiocese officials. The limestone façade, towers, and other significant architectural details of Saint John of God Roman Catholic Church and the marble interior of Saint Peter Canisius will be combined. Saint John's exterior would essentially reclud the back and front of a larger new building, with Saint Canisius' insides composing a portion of the interior. The result is a 900-member re-named Saint Raphael the Archangel Roman Catholic Church near the Wisconsin boarder.¹⁹

These edifices were closed, disassembled, and transported miles away leaving behind those in the poorest city neighborhoods, including those parishioners who perhaps did not have an opportunity to discover ways to reuse this brick and mortar ecclesial material as assets for the worshipping community left behind. Here, one can argue that religious liberty is affirmed for those who can financially afford the reconstruction of an ecclesial structure that will be used for liturgy, worship, catechesis, etc. The ecclesial material is readily transported north to support the privileged members of this new parish. While it may be true that no one has been

¹⁹Lee Bey, "St. Raphael (Traveler's Patron) Calls a Pair of Closed Chicago Churches 50 Miles North," WBEZ 91.5, posted June 24, 2010, <http://www.wbez.org/blog/lee-bey/st-raphael-travelers-patron-calls-pair-closed-chicago-churches-50-miles-north> (accessed June 3, 2012).

forcibly constrained to act against his/her conscience, and no one has been forcibly restrained from acting according to her/his conscience, still religious liberty is diminished and disregarded for those who are left behind to fend for themselves. That is, the closures of parishes create a theological vacuum; they place huge gaps in neighborhoods. This also applies to the closure of Catholic schools in poor neighborhoods. If the presence of the Catholic Church serves to remind people of the presence of God and the God-fearing people who worship in these institutions, instead this vacuum paints a dim, disparaging, and bleak picture for the possibility of religious liberty to be embraced and comprehended.

Richard W. Gamett posits a nurturing function for Churches:

[i]n American cities, it has long been true that neighborhood Churches and schools have provided and nurtured healthy cities that are sacred, safe, and busy. Also known as “social capital,” these ecclesial attributes have a positive influence on the larger society; they are needed to help stabilize the local neighborhoods; they affect the common good; they can be the ingredients for religious liberty in action to continue to build beloved communities, making present the reign of God.²⁰

²⁰ Richard W. Gamett, “Downsizing and the Catholic Church,” *USA Today* (July 16, 2006)

http://usatoday30.usatoday.com/news/opinion/editorials/2006-07-16-religion-edit_x.htm (accessed June 3, 2012).

Ideally, those left behind have been stripped of Catholic parishes and schools in their neighborhoods and may want to find: 1) a number of pastoral staff members who are not afraid to actively minister in the inner city, 2) social concerns or peace and justice committees, 3) sacramental opportunities, 4) a Saint Vincent de Paul Society, and 5) vibrant child and adult formation programs and activities, where the shaping of religious liberty and conscience formation happens. In order to participate in the weekly bible study, sacramental preparations, adult faith formation programs, and/or social justice presentations, they might require transportation and a meal in order to attend. With the gaps created from the closure of Catholic parishes and schools, how can Catholic Church teachings be taught and conveyed to the next generation of Catholics? Parishioners might feel betrayed, marginalized, uncared for, second-class citizen believers, and/or hopeless as they have been forced to do without ecclesial and pastoral care and concern.

As noted in *Our Most Cherished Liberty: A Statement on Religious Liberty*, “everyone must be able to freely exercise the right to choose, profess, disseminate, and to practice her or his own religion in private and in public. This includes the freedom for parents to educate their children in their religious convictions and to choose schools which provide for that formation.”²¹ What does this mean for the former parishioners of Saint Peter Canisius and Saint John of God? Might parishioners begin to doubt the seriousness of the

²¹ The Permanent Council of the Canadian Conference of Catholic Bishops and the United States Conference of Catholic Bishops, *Our Most Cherished Liberty: A Statement on Religious Liberty* (accessed May 20, 2012).

Catholic Church in its proclamations regarding the poor, vulnerable, and marginalized? Might these messages of religion usurped by the secular society feel like the poor are less deserving of evangelization? Even a Church in the inner city or in economically distressed areas provides ample funds, brick and mortar, and other reusable expensive furnishings to be transported miles away only to re-open into a 900 member parish in the suburb. Would the more powerful elite in the Church prefer to embrace a cultural identity that supports the normativity of whiteness and dominance, as it caters to the rich over the economically poor? To this end, one can argue that the Catholic Church has leveraged a severe attack on the religious liberty of its own members left behind in urban cities, in these economically distressed situations.

I worked in the Archdiocese of Milwaukee as the Director of the African American Ministry Office from 1993-1998, when a number of Churches were closed and merged with others. I remember having a personal conversation with an elderly Black Catholic woman who had been an active member of one of the neighborhood parishes for nearly 55 years. It closed and merged with another parish about 12 miles away from where she resided. She was told that she would be picked in a van every Sunday morning at a particular time to attend mass at another parish across town. For her, that was totally unacceptable. Abruptly, she exclaimed, that she would join the Baptist Church on the corner, because the Catholic Church had abandoned the central city of Milwaukee; she felt passionately that those in power really did not care about those left behind. She deeply

bemoaned the fact that the Catholic Church caused her to change denomination. There was nothing else available nearby that would continue to nurture her in the Catholic faith; so she felt forced away from her beloved Catholic faith community to become a member of another denomination. She knew nothing about this religion, its ecclesial structure, its traditions, or its pastoral staff.

This scenario is very telling. The Church claims that it is a violation of freedom of conscience for anyone to attempt to impose his or her own understanding of truth on others. But what does it mean when the Church disappears, because of financial problems, decreased parish membership, lack of pastoral ministers, and dilapidated buildings that need to be razed? No one imposed her or his own understanding of truth on this woman. But through the decisions and actions of the Catholic Church in her neighborhood, she was forced to leave the Church merely because the Church left her. In other words, arguably, one can say that the Church violated her religious liberty, invoking a serious constraint and restraint on this longtime practicing Catholic. Essentially, the Catholic Archdiocese made a decision that would ultimately inconvenience not only this one parishioner, but many others parishioners who have found different religious denominations to join. Leaving people, like this elderly woman, behind to fend for themselves to get their ecclesial and spiritual needs met somewhere else is problematic.

Where do we go from here?

Called to reflect locally and globally as new pedagogies evolve, it is important to examine and critique the traditional ways of defining religious liberty as freedom from external religious coercion. However, religious liberty has not been always nice, tidy, and neat. Unfortunately, religious liberty is far from being effectively guaranteed everywhere. This is especially true when we focus inward to an examine the Catholic Church and religious liberty, discovering that to a degree it supports the *status quo*, while ignoring the needs of the less fortunate faithful. Struggles for religious liberty within the Catholic Church have an extensive history that involves neglect, disrespect, marginalization, and exclusion of its parishioners. Indeed Church leaders might employ Eurocentric perspectives in their written and spoken words to protect external threats to religious liberty related to Catholic Church teachings. However, it is important to be mindful that many Catholic parishioners, who reside in economically distressed neighborhoods, whose parishes and schools were closed, in turn, were left behind to fend for themselves. Their religious liberty has been attacked as well.

Finally, as we reflect locally and globally as new pedagogies evolve, they reveal that religious liberty has a serious constraint and restraint as the Church leans toward the normativity of whiteness and dominance. Still Black Catholics, for example, remain faithful to the Church despite the fact that, “the history of Black Catholics in the United States has been marked by frustration and marginalization,

by struggles and disappointments.”²² Still Black Catholics remain in light of conscious and unconscious exclusion, even when one’s religious liberty is adversely affected or even suppressed.

²² For further reading on this statement, please see Cyprian Davis, *The History of Black Catholic in the United States* and see also Bryan Massingale, *Racial Justice and the Catholic Church*.

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