

## RELIGION, LAW AND COVID-19 EMERGENCY

# Pandemic and religious liberty in the USA: between privatization of the Church and neo-integralism

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The relationship between scientists, politicians, and the churches/religious groups could take on a particular dimension in the United States, and not just because of a very plural and polarized religious landscape even within one same religious tradition. The reception by religious groups of ordinances and decrees that prevent meetings in places of worship here in the USA already provides us with a very interesting panorama. On the one hand, there are pastors of evangelical and Pentecostal megachurches who are publicly challenging the prohibitions: it is one of the effects of the “prosperity Gospel” according to which some would be sheltered from the pandemic by divine decree. But there is also the pressure of the “market of religions” in the USA, where the shutdown will have a financial impact on entrepreneurial religious businesses – but also on Catholic parishes - counting on a constant [flow of cash](#). On the other hand,

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governors in some states have granted churches and religious groups exemptions from the ban on meeting for [public health reasons](#).

It would be wrong to see this as an issue only for evangelical Christian denominations or other sectarian religious groups with little or no appreciation for the secular nature of public institutions and for everyone's responsibility toward everyone else during this pandemic. In the United States, the Catholic Church itself shows signs of reluctance to obey the guidelines aimed at the prevention of the spread of the virus, meaning a suspension of the celebration of the Masses with the people. Militant Catholics have submitted petitions to Church authorities requesting access to the sacraments, in defiance of both public and ecclesiastical ordinances prohibiting religious gatherings due to the [pandemic](#). Catholic media conglomerates with a large national audience like EWTN and intellectual magazines like *First Things* have sent messages to the bishops asking them to ask exemptions for religious rites as “essential services”. This is not only because of the tendencies towards an “evangelicalization” of Catholicism in the United States and what this theological turn entails for the understanding of the relationship between church and state, religion and the common good. The demand is that civil authorities recognize religious services as essential services and therefore let the churches continue with their activities, under the thin proviso “with due precautions”. The argument is not about asking church leaders more creativity in providing access to the sacraments; it is about the Church being a service comparable to other essential businesses.

This more vigorous reaction of US Catholics, compared, for example, to European Catholics, is not a surprise and it's not just a consequence of different degrees in the secularization of the two continents. If one looks at the last decade of activity of the United States Conference of Catholic Bishops

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(USCCB), it is evident that the initiative that characterized the most important public mobilization of bishops was the issue of religious freedom, with the “Fortnight for Freedom” which began in [July 2012](#). That mobilization of the bishops was a response to a more aggressive secularism in legislation at the federal and state level, and more generally to the secularization of the country: in this respect, it would be instructive to re-read the historical and political narratives of modernity and secularization in the speeches delivered by Benedict XVI to the bishops of the United States during their *ad limina* visit between 2011 and 2012. But from an historical point of view, the US Catholic bishops’ emphasis on religious freedom was also a response to the Obama administration’s major policy achievement, namely the law that extended health coverage in America thanks to the “Affordable Care Act” (ACA, also called “Obamacare”). That law created a system of access for low-income citizens without private insurance, but at the same time created a mandate for health care facilities to provide benefits in conflict with the magisterium of the Catholic church (included contraception and abortion).

Now, there is no denying the ideological blindness behind some of the politics of the mandate in Obamacare. There is also no denying the ideological stultification of important parts of the ecclesial landscape in the USA in their fight against the health care reform in the name of religious freedom. It is evident that the opposition against mandated coverage of contraception and abortion was just one part of the motive, the other motive being the growing inability of some bishops and circles of Catholic conservative intellectuals to see the role of state/government in the protection of the common good.

It must be said that the gist of the bishops’ conference argument was shaped and provided by law firms and legal thinkers, and not by theologians. This is

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one of the deeply problematic effects of running a church like a business. The last decade has provided evidence of a stunning turn in the culture of civic responsibilities of the Catholic Church: from the Catholic social teaching of *Rerum Novarum* to an idea of a privatized religious business – but with the presumption of a higher moral legitimacy of the Catholic Church, founded in natural law. It's not only the product of the reliance of some of the most important think tanks and intellectual circles (but also of the diocesan and parish system) in the US Catholic Church on wealthy donors. It has become the corruption of an intellectual and magisterial tradition of the Catholic Church.

This crisis of legitimacy of public institutions in the eyes of the Catholic clerical leadership and intelligentsia represents evidently a serious issue in a pandemic emergency. As one of the most insightful analysts of all things Catholic in the USA, Michael Sean Winters, noted lately, the Church's response to the pandemic has revealed an impoverished understanding of [solidarity](#).

The attempt to make an argument about the role of the Church in public life as private businesses in the last few years produced embarrassing alliances in the fight against health care reform. For example, the big retailer chain “Hobby Lobby” fought against some of the mandates of [“Obamacare”](#), and now, unsurprisingly, it is fighting against the [stay-at-home orders](#). (“Hobby Lobby” is owned by evangelicals also known for having amassed one of the world's largest private collections of [biblical antiquities](#)).

The pandemic represents a test for recent turns in the relations between Church and State in the USA. It is also a particular kind of test for the Catholic Church, part of its hierarchies and their tendency to argue for religious freedom on the basis of a privatistic idea of its activities. It is a mentality that is not very

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different from other kinds of religious entrepreneurship, but that is clearly at odds with the intellectual and magisterial tradition of the Catholic Church.

Another issue that should require a separate and longer analysis is a growing intellectual movement, coming in large part from the upcoming generation of lawyers and legal scholars in major law schools in American universities, that proposes a new constitutional philosophy. In the background of this intellectual movement, partly identified with the so-called “integralists” lies the rejection of the secular state and government as a space maintaining a possible neutrality between different religious claims, in favor of a new moral consensus which these authors identify with the higher moral authority guaranteed by the magisterium of the [Catholic Church](#).

The integralists’ attempt to interpret the conciliar and post-conciliar magisterium in light of a religious ideology of political supremacy of the church on the temporal order, in a sort of post-modern neo-temporalism, represents a challenge to the legitimacy of the state, government, and public authorities – and a problem for the intellectual tradition of Catholicism. The starting point, in the context of the “culture wars”, was the controversy against the radical individualization of the idea of freedom, especially on issues of defense of life. Today the point of arrival is the delegitimization of every instance that is not referable or attributable to public powers embodying the teaching of neo-integralist Catholicism - the only one that can provide moral legitimacy to political authorities. These are not isolated positions of some bloggers: they are expressed by [well-known professors](#) in important universities such as Harvard University, the University of Notre Dame, and the Catholic University of America.

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It is clear that the response to the pandemic provides, on a global scale, the states and national governments with a pre-eminent role in the defense of health and public order – a role with which religious groups, included the Catholic Church, cannot and should not compete. But the reception of this new balance between Church and State will depend on the widely different juridical, political and intellectual situations, even within the same Western world. This perversion of the Catholic intellectual tradition comes mostly from legal scholars and political theorists, and not from theologians, but has theological consequences as it tries to fill the theological vacuum created by the crisis in the authority of the institutional church. In the USA the roots of the culture of freedom have produced fruits of anti-liberal but essentially libertarian ideology, even in those intellectual and clerical circles that appeal to the authority of the magisterium of the church.