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Contra Fr. Sirico on Hobby Lobby

Michael Sean Winters | Aug. 7, 2014 Distinctly Catholic

There is so much wrong with Fr. Robert Sirico?s commentary [1] on the Hobby Lobby decision and the implications of President Obama?s LGBT non-discrimination rule, it is difficult to know where to start.

Fr. Sirico?s most obnoxious argument, which he relates to the non-discrimination rule for federal contractors, and the USCCB response to that rule (he deplores the rule and applauds the response) is this:

I've been sounding [2] the alarm for more than two decades about the risks of church-based groups -- Catholic Charities comes immediately to mind -- becoming overly dependent on government contracts. What we should do is to "reprivatize" private charities. That's the only way these religious groups will be truly accountable and truly private.

First, I wonder if Fr. Sirico thinks that Catholic schools should be barred from receiving government aid? Certainly, the USCCB and, even more, the various state Catholic conferences, have spent a great deal of time arguing for vouchers and other forms of state aid to Catholic schools. Why is it only Catholic Charities that should be barred from receiving government assistance?

Some people question the extent of Fr. Sirico?s influence, and that of his Acton Institute. I will point out that at last year?s USCCB meeting, Auxiliary Bishop Michael Byrnes of Detroit raised the exact same concern in a pointed question to Dr. Carolyn Woo of Catholic Relief Services. She correctly replied that government money is our money as American taxpayers and why should we leave it on the table?

Second, why the concern to conceive of our charities as ?private?? The charitable activity of the Church is public, not private. They are not state-run and, like Fr. Sirico, I think the state is wrong to ignore the value of non-state actors in providing social services, and that the Obama administration should have been more solicitous of the opinions of the Catholic Church in crafting this latest rule. The category of social actors we call ?civil society? is a category largely populated by religious organizations and associations. The government should do everything in its power to give them assistance and grants and contracts, but should respect their institutional integrity. But, they are not private. The Church?s witness is public. Not for the first time, Fr. Sirico displays a more Protestant view of the Christian religion when it comes to the public/private distinctions. For example, he is much opposed to the mostly private, personal sins of the flesh, but rather indifferent to the mostly public, structural sins of the economy he worships. Christ?s ethical commands are not limited to matters sexual. Jesus quite explicitly commanded His followers to love their enemies. What does this command have to say to the fact of competition in the world of business? There is something Fr. Sirico should think about. I would be delighted to hear his thoughts.

Fr. Sirico writes:

One of the little noticed dimensions of the Hobby Lobby decision is the critical connection between the right of religious liberty and the freedom to live out one's moral and religious convictions as business owners and workers. The link is essential if our society is ever going to deal with the necessity of developing a culture that brings virtue and moral truth more deeply into our economic life?. what's at stake in this ruling is the religious liberty of the people who own Hobby Lobby and Mardel and Conestoga Wood Specialties, and the fact that they

did not surrender those rights when turn on the lights of their businesses every morning.

I do not know why he thinks this issue was ?little noticed? when it seems to have been the crux of the case. The issue is not whether the families that own Hobby Lobby and Conestoga wagon surrendered their religious liberty rights when they turned on the lights. The question is whether they surrendered rights we associate with persons when they formed a corporation. The whole point of forming a corporation is to protect the owners from personal liability. I do not know why corporations should be permitted to shield the persons who own them from liabilities but simultaneously guarantee that those corporations can enjoy the rights the owners possess as persons. It seems like a one way street to me.

There is a further problem here, one that Fr. Sirico does not recognize. In the past fifty years, one of the most dominant themes in Catholic ethics has been the unique dignity of the human person. I understand that our legal culture created a legal fiction in saying that, before the law, corporations were persons. It saved legislatures from having to enact a whole swath of new laws that would apply to corporations. But, we can?t forget that this is a fiction, that corporations are not, in fact, persons. Metaphors cut both ways. If we assign the attributes of personhood to corporations in our public, civic arguments, as opposed to our technical, legal arguments, do we not run the risk of diminishing the uniqueness of our claims about the dignity of human persons?

Fr. Sirico writes:

It is worth noting here that there is an important link between religious liberty and the right to private property. One of the traditional justifications for private property that one finds in, for instance, Roman Catholic teaching is that it provides the holder of that property and his dependents with a sphere of liberty that in turn limits the state's control over a society's resources. Hence, without ownership of these resources, it would have been hard if not impossible for Hobby Lobby to make its case against the full might of the most aggressively secularist administration in America's history.

Setting aside the dubious claim that the Obama administration is the ?most aggressively secularist administration in America?s history ? the Jefferson, Madison and Monroe administrations were each quite aggressively secularist in their day ? Sirico persistently fails to acknowledge the social mortgage on private property which Church teaching repeatedly and always insist upon. In the case at issue, the Obama administration argued that the provision of free contraceptive insurance coverage was a compelling government interest, an instance of the common good. We can argue with that point, to be sure, but that is not a religious liberty argument anymore or, better to say, there is a necessarily muddled discussion that involves both issues of religious liberty and the common good. Not to put too fine a point on it, but does Fr. Sirico think the Civil Rights Act infringed on private property (and religious liberty) by banning discrimination in public accommodations on the basis of race? Certainly, many business owners could cite chapter and verse of Scripture to justify their support for segregation. And, if so, how is that case different from the issue of non-discrimination against gays and lesbians? I think there are actually differences, but the discussion requires us to get away from the kind of ?drawn lines in the sand? argument that culture warriors like Sirico indulge. I suppose complicatedness is bad for fundraising purposes. But, the issues are messy because human life is messy. His detachment from these issues is more than a little interesting. The sloganeering superficiality with which he addresses the Hobby Lobby case is baffling.

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