Biden’s Justice Department Adopts Mengele Model

Chris Manion / August 16, 2021

On August 28, 2019, the Office for Civil Rights at the U.S. Department of Health and Human Services (HHS) issued a notice of violation against the University of Vermont Medical Center (UVMMC) after it violated federal law by forcing a nurse to assist in an elective abortion, despite her well-known objections to taking the life of an innocent child.

HHS declared that UVMMC’s actions violated the Church Amendments passed unanimously by Congress in 1973, which have been a component of federal conscience protections ever since. The Amendments, sponsored by Idaho’s Democrat Senator Frank Church, prohibit HHS grant recipients from discriminating against healthcare personnel who “refused to perform or assist in the performance of...[an] abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions.”

According to the 2019 HHS report, “UVMMC not only violated one nurse’s conscience rights, but it kept policies in place that explicitly required members with conscience objections to participate in procedures to ‘ensure that patient care is not negatively impacted.’” HHS found that the hospital scheduled approximately 10 nurses who had registered conscience objections to assist with approximately 20 abortion procedures.

In UVMMC’s case, the “violation” was as monstrous as it was oppressive. “Don’t hate me,” the abortionist told the nurse as he forced her to assist in dismembering an unborn child. Had she refused to comply, she risked losing her job and potentially her license.

“The Office for Civil Rights (OCR) at HHS is responsible for enforcing our nation’s many conscience-protection laws” writes Roger Severino, who was director of OCR at the time. He “ordered an investigation by the office’s Conscience and Religious Freedom Division which was founded precisely to handle cases such as these.

“Although the nurse victim of UVMMC’s malfeasance was deeply traumatized, she mustered
the courage to file a complaint with the Office for Civil Rights (OCR) at HHS,” Severino says. “The UVMMC matter was the most open and shut conscience case in over a decade,” he continued.

UVMMC refused HHS’s demand to comply with the law, remaining “entirely callous and unrepentant,” Severino writes. So, on December 16, 2020, the Department of Justice (DOJ) sued UVMMC for violating the Church Amendments.

Biden Administration Drops the Ball

However, last month Xavier Becerra, Biden’s appointee to run HHS, quietly revoked its notice of violation, withdrew the referral, and requested that DOJ dismiss the lawsuit against UVMMC.

“The DOJ did in fact voluntarily dismiss the case on Friday, July 30, 2021,” according to an August 11th letter demanding an explanation. 92 Senators and Members of Congress signed the letter addressed to Merrick Garland, Biden’s Attorney General, who was responsible for withdrawing the case.

Announcing the withdrawal on a Friday afternoon in July placed the story in ground zero of the news cycle’s “dead zone.” That period, known as the TGIF time slot, is a favorite target of PR departments attempting to bury bad news. Garland chose to make his move at that time because he didn’t want the public to notice his defiance of existing law or his zeal in forcing unwilling medical professionals to kill innocent children or face the real threat of losing their jobs.

And HHS figures equally in the pro-abortion scheme. An outraged Severino cites instance after instance when Becerra previously promised to uphold the law. He was repeatedly questioned on the matter during his confirmation hearings because, as Attorney General of California, he had repeatedly defied U.S. law to advance the interests of the abortionist lobby.

In one example, Becerra testified that “We’re going to continue to move forward in protecting people’s rights and have an Office of Civil Rights that will continue to protect those. We have a number of cases that are coming before us. All of those, if they deal with Constitutional and Civil rights, we, under the Office of Civil Rights will be protecting those
“It was a lie,” says Severino. “All of it. And Congress must hold him accountable for it. I cannot understate how unusual it is for DOJ and HHS to drop a duly authorized lawsuit after it has been investigated and filed, while getting literally nothing in return.”

There was “no admission of guilt, no injunction, no corrective action, no settlement, no nothing,” he continued. The Biden administration is effectively giving UVMMC a full pardon and will continue to give it federal funds, despite it having been found by HHS to have violated the law.”

Of course, the Biden Administration has also made no “admission of guilt.” In fact, the list of its similar offenses is long indeed: its disastrous border policy, recently declared illegal by a federal court; its betrayal of consumers by cheering Russian and Middle Eastern oil production while illegally canceling contracts designed to protect America’s own oil supply; its casual spying on millions of Americans that the Departments of Justice and Homeland Security allege are “domestic terrorists”; its threats to inhibit interstate travel, or demand masks, or vaccinations, or all three, to “keep us safe” from the China Virus.

In 1903, New York Governor Charles Evans Hughes told the Elmira, New York, Chamber of Commerce that “We are under a Constitution, but the Constitution is what the judges say it is” (Hughes later became the Chief Justice of the Supreme Court).

Barack Obama introduced a corollary some ten years ago, issuing diktats to legalize illegal aliens with DACA (Deferred Action for Childhood Arrivals) and the notorious HHS Contraceptive Mandate, a historic violation of conscience rights. (DACA has since been ruled unconstitutional; as a candidate, Joe Biden promised to reinstate the HHS Mandate).

The Obama Corollary to Governor Hughes’ dictum reads. “We are a nation of laws, but the law is what we say it is.”

The Biden Administration has embraced the principle wholeheartedly.

When doing so, neither Obama or Biden mentions the Constitution, a vital point both theoretically and historically.

Theoretically, consider the text: The first Section of Article One of the U.S. Constitution reads, “All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Period. No bureaucratic agencies need apply.
And historically? For decades, at least since the era that saw the adoption of the Civil Rights Acts in the 1960s, millions of Americans have advocated various legislative proposals affirming a wide array of rights guaranteed by the First Amendment to the Constitution. Many have devoted their lives and a good bit of their fortunes to these noble efforts, and have celebrated when Congress wrote their proposals into law.

Are we supposed to sit alone in the cheap seats and watch as unelected officials brazenly defy those laws and pretend that their bureaucratic titles confer upon them the right to have the last word on the subject?

Washington’s New Mengele Project

In making its case, The University of Vermont Medical Center’s abortionists can cite at least one legal precedent for its belligerent policy. During the Second World War, German Doctor Josef Mengele, the zealous “Angel of Death” who killed countless Jewish victims at Auschwitz, also forced prisoners with medical credentials to help him in his grisly experiments.

Wait a minute – that was legal?

Charles Rice, longtime Professor of Constitutional Law, recounts how Hans Kelsen, the founder of legal positivism a century ago, rejected what he called “philosophical absolutism,” espousing instead “philosophical relativism.”

“What is right today may be wrong tomorrow,” Kelsen wrote. “This is the true meaning of the political system which we call democracy, in which we may oppose to political absolutism only because it is political relativism.”

Put bluntly, whoever attains power has no limits on what he might declare is “legal.” Call it the Mengele Mandate.

Of course, Kelsen followed his own logic to the end. After surviving both world wars, he could not condemn either the Nazi or the Soviet regime. “The legal order of totalitarian states authorizes their governments to confine in concentration camps persons whose opinions religion or race they do not like, to force them to perform any kind of labor, even to kill them. So its measures may be morally or violently condemned; But they cannot be considered as taking place outside the legal order of those states.... We may regret it, but
we cannot deny that it was the law.”

Officials in the Biden Administration have not only adopted the Mengele Model, they have taken it to a new level. “What is right today may be wrong tomorrow,” to be sure; but now any bureaucrat can change the law overnight without even bothering to check with “the legal order of those states.”

Mr. Severino writes that the Department of Justice “quietly, and voluntarily, dismissed the [UVMMC] case. No admission of guilt, no injunction, no corrective action, no settlement, no nothing. Worse yet, because the victim has few to no options to sue on her own (due to nuances around private rights of action), the Biden administration is effectively giving UVMMC a full pardon and will continue to give it federal funds, despite it having been found by HHS to have violated the law.”

Mengele was designated as a war criminal in 1945, but he escaped from U.S. custody and spent 34 years eluding an international manhunt. He died a peaceful death in Brazil.

So far, today’s emulators of the “Angel of Death” have eluded punishment as well.

Will Becerra and Garland follow Mengele into a comfortable and peaceful retirement?