

DID HARRIS COVER FOR THE CATHOLIC CHURCH?

This is Bill Donohue's reply to Peter Schweizer

In August, conservative author Peter Schweizer alleged that when Kamala Harris was the San Francisco District Attorney she failed to pursue allegations of sexual abuse by priests in the San Francisco Archdiocese. He says she did so because she was beholden to Catholic donors to her 2003 campaign; she took over that post in 2004. He also claims she destroyed Church documents.

The accusations that Schweizer made are based on his chapter on Harris in his recent book, *Profiles in Corruption*. I accessed the sources he cited in the book and matched them up with what he said to the media. As it turns out, there are important inconsistencies and omissions. Most important, what he says about the Church's response to law enforcement lacks context, providing the reader with a skewed account.

In an interview with Fox News host Tucker Carlson, Schweizer said that Harris did not prosecute a single case of sexual abuse involving Catholic Church priests. He is right: She did not prosecute priests. So? Did she prosecute teachers, or members of the clergy of other religions?

Harris' predecessor, Terence Hallinan, was hot on the trail of priests, and was able to secure Church documents on 40 former or current priests. It is true that Hallinan, who lost to Harris in 2003, was building criminal cases. It is also true that in June 2003, six months before Harris took over as D.A., the U.S. Supreme Court overturned a California law from 1994 that retroactively eliminated the statute of limitations for crimes involving the sexual abuse of minors.

Instead of asking why Harris did not pursue criminal cases

against molesting priests—when the high court said such offenses were time barred—perhaps Schweizer should ask why Hallinan was so aggressive in singling out priests for prosecution, even using a grand jury to bring indictments. He was on a tear, seeking 75 years of Church documents.

Why would a D.A. want to spend his resources seeking to obtain the files on priests extending back to the 1920s? The *San Francisco Chronicle*, not exactly a Catholic-friendly source, labeled Hallinan's pursuit "a fishing expedition." This was noted in several of the sources cited by Schweizer. His failure to mention this suggests he disagrees with the editorial.

Where did Hallinan get the documents on the 40 priests? The archdiocese *voluntarily* turned them over in May 2002. By the way, lay employees were among the 40 (this was not mentioned by Schweizer), and most of the priests were no doubt dead or out of ministry.

The fact that former California Governor Jerry Brown, and members of the Getty family, as well as Catholic lawyers, donated to Harris' campaign for District Attorney tells Schweizer that a quid pro quo was operative. He has no proof, of course, but the innuendo is palpable. Moreover, what if foes of the Catholic Church were supporting Hallinan? Why didn't Schweizer probe that issue?

While serving as San Francisco District Attorney, Harris was asked why she would not make public those documents she possessed on priests. Linda Klee, her chief of administration and spokeswoman, told a reporter, "If we did it for you, we would have to do it for everybody. Where do you stop, and where do you start?"

I would go further. Why stop with Church documents? Why not make public every document on everyone who has had an allegation of sexual abuse made against him? The reason no

district attorney does, of course, is because it is one thing to make public a conviction, quite another an allegation, and this is especially true of the deceased who cannot defend themselves.

In one of the articles cited by Schweizer, there is a quote from Elliot Beckelman, a former prosecutor in the San Francisco District Attorney's Office who dealt with clergy sexual abuse cases. Schweizer chose not to share it in his book. I will.

Beckelman defends Harris' decision not to release Church documents. "I don't think a district attorney should float that out there if a person can't defend themselves. It's a very serious charge, a sex crime. The Catholics, like other minorities, feel picked upon, and I thought for the integrity of the investigation that we don't have running press conferences to make out that the Catholics are worse than the Jews—which I am—or worse than the Hindus. There's always a balance that comes to sexual assault investigations."

Finally, Schweizer told Carlson that Harris "actually deep-sixed" the documents. That is not what he said in his book. "So what happened to these abuse records? It is unclear."

So are we to believe that in the last six months (his book was published in January), Schweizer now has proof that Harris destroyed the documents? Or is he now hyping his story to make a media splash?

What the Catholic Church did in not making public every accusation made against a member of the clergy in San Francisco was not only legal, it was commendable. If Schweizer can provide evidence that the Church's response was atypical, I would love to see it.

CYNICISM GROWING OVER COVID EDICTS

Ideally, the public should follow the advice of public health experts in times of a pandemic. They should also listen to news reports, and abide by what their elected officials have to say. Court decisions also merit respect. But when doctors, journalists, politicians and judges act inconsistently, evincing a political bias, cynicism is not only predictable, it is warranted.

On July 29, President Trump and his supporters gathered in Midland, Texas for an event. Most wore masks and practiced social distancing, but some did not. Dr. William Schaffner, a professor at Vanderbilt University School of Medicine, was upset with the few who ignored the advice of experts. "Why are they in that large group? They shouldn't be gathering in groups."

Schaffner should have been asked why some are not cooperating. Instead, he called them names, saying they were "dumb."

A more rational response to what is going on was given two months ago by William A. Jacobson, a Cornell University professor. "The riots have ripped the mask off the mainstream media politicized coronavirus hysteria. When it was politically convenient, the media shamed and attacked people who wanted to reopen their stores or even gather at the beach. Now that rioters and looters are gathering in large numbers, the media no longer cares about social distancing, because the media sympathizes with them."

Politicians also sympathize with the protesters. New Jersey Governor Phil Murphy was unhappy with store owners for

protesting his shutdown decree, however he said it was entirely legitimate to protest racism. He said it was “one thing to protest what day nail salons are opening, and it’s another to come out in peaceful protest.” In other words, if he likes the cause of the protest, people can take to the streets without following social distancing guidelines.

Murphy was outdone by New York City Mayor Bill de Blasio. He was asked why he was cracking down on religious gatherings while allowing anti-racism protesters the right to disregard social distancing norms. “We’re in the middle of a national crisis, a deep-seated national crisis. There is no comparison.” Again, it is not mass gatherings that matter, it is what the masses are gathering for that matters.

When asked if the spike in coronavirus cases following the protests was related to those who took to the streets, the mayor said, “I would be surprised if that’s what’s causing it.” He cited no evidence for his conviction. In any event, he instructed the contact-tracing task force not to ask those who tested positive for the virus if they recently attended a Black Lives Matter protest. But it was okay to ask if someone recently attended a church service.

Judges are looking just as bad. The U.S. Supreme Court recently said it was okay for Nevada to allow crowds to gather in the casinos but not the churches. Justice Neil Gorsuch called out the duplicity saying, “there is no world in which the Constitution permits Nevada to favor Caesars Palace over Calvary Chapel.”

Many in the media want the protests to continue, but not church gatherings. No one likes this outcome better than *New York Times* legal correspondent Linda Greenhouse. She loved the Supreme Court 5-4 decision, going into a fury over the dissenters. She accused them of engaging in a “religious crusade,” decrying what she said was “the ferocity of the main dissenting opinion.” After reading her boilerplate commentary,

it seems plain that she would not raise an eyebrow if the churches were ordered to shut down indefinitely.

Portland has been ravaged by left-wing activists for over two months. Obviously, social distancing does not apply to them. Oregonlive likes it that way. It ran a lengthy piece expressing great concern for outdoor gatherings in state parks, without ever mentioning the threat to public health caused by the anarchists.

Bars are being busted and shuttered all over the nation, and this is exactly what Dr. Anthony Fauci wants. At the end of June he said, "Congregation at a bar, inside, is bad news. We really got to stop that right now."

What if someone is seeking anonymous sex online? Would that be okay? Fauci said, "If you're willing to take the risk—and you know, everybody has their own tolerance for risks—you could figure out if you want to meet somebody." He concluded, "If you want to go a little bit more intimate, well, then that's your choice regarding risk." He did not explain how strangers can have sex while social distancing.

In other words, Fauci is telling those looking for online sex that the risk is on you, but when it comes to those who want to take the risk of going to their neighborhood bar for a beer, they need to be stopped.

We have come to this stage of cynicism precisely because of the "boy who cried wolf" syndrome. The politicians, judges, journalists, and doctors who send mixed messages are to blame. Only they can rectify the damage they have done to their reputations, never mind the damage they have done to public health.

THE SCOURGE OF WHITE LIBERAL RACISM

It is now considered a truth of the highest order that the United States is irredeemably racist. This has been the steady drumbeat of reporters and commentators for months on end. The villains, of course, are white people. However, thanks to Robert P. Jones, we can rest assured knowing white Christians are the real devil.

Jones, who is the CEO and founder of Public Religion Research Institute (PRRI), is not alone. It has become fashionable these days for white liberals to partake in public mea culpa exercises. These mass confessionals are designed to purge the mind and soul of any vestige of white guilt and white privilege. In the case of Jones, he has assumed a different posture. He has decided to put himself on a moral perch. Sitting high above the deplorables, he delights in chastising white Christians for inventing and sustaining racism.

Jones argues that white Christians are more racist than non-Christians. How does he come to this conclusion? He does so on the basis of his "Racism Index," a politically contrived measure predetermined to elicit the desired response. As it turns out, his formula is anything but scientific. Jones has a Ph.D. in religion. He should leave sociology to sociologists.

He cites research conducted by PRRI that convinces him that white Christians (evangelical Protestants, mainline Protestants and Catholics) "are nearly twice as likely as religiously unaffiliated whites to say the killings of Black men by police are isolated incidents rather than a pattern of how police treat African Americans."

Regrettably for Jones, the white Christians are right.

Michael Tonry, a researcher whom no one would consider a

conservative, came to a surprising conclusion in his book *Malign Neglect*. "Racial differences in patterns of offending, not racial bias by police and other officials, are the principal reason that such greater proportions of blacks than whites are arrested, prosecuted, convicted, and imprisoned."

Robert Sampson and Janet Lauritsen, who have sterling liberal credentials, found that "large racial differences in criminal offending," not racism, explained why more blacks were in prison proportionately than whites for longer terms.

In 2016, Harvard professor Roland G. Fryer Jr. led a team of researchers to study this issue. They examined more than 1,000 police shootings in 10 major police departments in three states. "On the most extreme use of force—officer-involved shootings—we find no racial differences in either the raw data or when contextual factors are taken into account." The black economist admitted, "It is the most surprising result of my career."

In 2019, social scientists from Michigan State University and Arizona State University reported on the results of their two-year study. "When adjusting for crime, we find no systemic evidence of anti-Black disparities in fatal shootings, fatal shootings of unarmed citizens, or fatal shootings involving misidentification of harmless objects."

In other words, the white Christians came to the right conclusion and the unaffiliated were wrong in their understanding of the way the police interact with blacks.

Here's another one of the measures used by Jones to indict white Christians. "Generations of slavery and discrimination have created conditions that make it difficult for Blacks to work their way out of the lower class." White Christians were more likely to disagree with this statement than the unaffiliated. This is considered to be further proof of their inherent racism.

The problem with this position—blaming slavery and discrimination for the existence of a large black lower class—is that it does not explain why, as far back as 1965, half of blacks in the United States had already made their way to the middle class. Those stuck at the bottom could not logically be explained by referencing slavery and discrimination when, in fact, the 1960s saw an explosion in civil rights legislation. Something else was going on.

That something else was the creation of the welfare state and the crackup of the black family. Dependency did more to harm blacks from becoming upwardly mobile than Jim Crow laws ever did. The refusal of white liberals to acknowledge this verity is alarming.

Why the reluctance to state the obvious? That's easy. White liberals are the ones who crafted the welfare laws and lobbied hard to get blacks on the welfare rolls.

The raw truth is that white liberals, not white Christians, are responsible for the white-black divide. As Thomas Sowell points out in his new book, white liberals have resisted every school choice initiative, including charter schools.

Yet it is precisely in charter schools and Catholic schools where lower-class blacks have found a lever to ascend to the middle class. Similarly, the sight of white liberals, who live in tony neighborhoods, leading the charge to defund the police, is nauseating. This is the kind of effort we might expect from the Ku Klux Klan.

Blaming white Christians for the problems of black Americans is not only unsupported by the empirical evidence, it is a dodge. It is white liberals who have worked overtime to keep blacks down. They need to get out of the street, repent, and undo the damage they have done.

NEW YORK TIMES LIES ABOUT ST. SERRA AGAIN

On September 23, 2015, Pope Francis canonized Junípero Serra, the 18th century Spanish priest who courageously defended the human rights of Indians in North America.

A week later the *New York Times* maligned St. Serra in a front-page story by Laura M. Holson, "Sainthood of Serra Reopens Wounds in Colonialism in California." She said that "Historians agree that he [Serra] forced Native Americans to abandon their tribal culture and convert to Christianity, and that he had them whipped and imprisoned and sometimes worked or tortured to death."

This was a bald-face lie. As we will show, the newspaper's response to Bill Donohue's criticism was astoundingly unconvincing. Now this same accusation appears in a *New York Times* online opinion column by Elizabeth Bruenig, "American Catholics and Black Lives Matter."

Bruenig writes that Serra's "eager participation in the conquest of North America" included "torture, enslavement and murder of some of the Native Americans he intended to convert." Note that she embellishes the lies that Holson told.

On the same day that Holson's news story was published in the newspaper, September 30, 2015, Donohue emailed her the following: "You said that 'Historians agree' that Fr. Serra had Indians 'tortured to death.' I have done research on Serra and written about him, yet I know of no historian who makes such a claim. Please name them. I can name many who never made such a claim."

When Holson did not respond, Donohue contacted the "Corrections" section on October 1 asking for a correction; He also contacted the public editor.

"This is a serious issue: when a reporter blithely says that 'Historians agree,' readers take it that there is at least a consensus among historians about the subject. But such is not the case on this issue. The only persons given to such an accusation are radical activists, not professional scholars." Donohue even emailed a list of "the most authoritative books on Fr. Serra" and pointed out that not one of the authors whom he cited ever accused Serra of torture.

After a week went by, with no response, Donohue wrote the newspaper again and asked if someone could "name the historians who say Fr. Serra tortured Indians." Finally, he received a response from Gregory E. Brock, Senior Editor for Standards at the *New York Times*.

Brock said the editors had discussed Donohue's complaint but were waiting for Holson to return from Oregon (she was doing a story about a shooting) before contacting him. Fine. Then Brock got specific. His response is a gem.

"Certainly you have very strong views on this issue and have written extensively about it. But after many discussions, a review of past Times coverage and other resources, I agree with Ms. Holson's editors that 'historians' is accurate, and therefore no correction is required.

"At one point you sent us a list of books you considered to be 'the authoritative books on Fr. Serra.' Ms. Holson had already reviewed the writings of some of the historians you cited in that list.

"If I thought having an extended conversation on this would help, I would be happy to. But after re-reading your correspondence, I cannot think of anything we could do or say that would convince you that our coverage was fair and

complete—or that the reference to ‘historians’ is accurate.”

Brock ended by saying, “rest assured that your points have been thoroughly reviewed and a great deal of time has been put into making this decision.”

Here is how Donohue responded.

“Thank you for taking my complaint seriously. I have just one question: Who are the ‘historians’ who claim that Fr. Serra tortured Indians?”

This was the end of the correspondence. They were caught in a lie and did not have the courage to admit it. And now they are smearing St. Serra again.

To read Donohue’s account of the saintly priest, “The Noble Legacy of Fr. Serra,” and the exchange that he had with the *Times* in 2015 visit our website, catholicleague.org.

We sent this news release to the paper’s news and opinion editors.

WE TOUCHED A NERVE AT THE NEW YORK TIMES

In the August 17 edition of the *New York Times*, Elizabeth Bruenig revisited the Serra controversy. Here is how she opened her piece.

“Last week, a few hours after publishing an essay about American Catholics’ reaction to the Black Lives Matter movement, I received a flood of ill tidings via email. My correspondents’ anger was unrelated to the subject of my

article, but was instead inflamed by a mention of Junipero Serra, a canonized Franciscan friar who founded Spanish missions throughout California in the 18th century.”

Bruenig cited the sentence where she accused Serra of torture, but nowhere in her 1754-word article did she even attempt to disprove what Bill Donohue said. In other words, she provided zero evidence that Serra tortured the Indians. While her piece this time was much more balanced than her initial one, her failure—and the failure of the newspaper—to come to grips with Donohue’s single complaint is as revealing as it is disturbing.

Father Serra never tortured the Indians. It is a lie. And even now, the *New York Times* cannot admit it was wrong in 2015 when it first made this charge, and is twice wrong in 2020 for repeating it.

It is a tribute to our email subscribers who contacted the paper that it was forced to run another article trying to wiggle their way out of the jam they created.

KAMALA HARRIS’ CATHOLIC PROBLEM

Once Catholic voters learn more about Kamala Harris’ positions on an array of moral issues, Joe Biden’s vice presidential pick will have a hard time winning them over.

To begin with, Harris has tainted herself with the brush of anti-Catholicism. In 2018, she sought to stop a Trump nominee for a seat on the federal bench simply because he was Catholic. In doing so, she invoked a religious test for the

bench, a patently unconstitutional act.

Here is how Bill Donohue characterized the Catholic League's effort to help the nominee for a federal district job; his remarks were published in the Catholic League's "2019 Year in Review." We were among the first to come to bat for [Brian] Buescher, and our effort paid off. After much haggling, he was seated on the court in August [2019]."

The day after Christmas, 2018, Donohue unloaded on Harris for questioning the suitability of Buescher for the job. His offense? His affiliation with the Knights of Columbus. She objected to his membership in the Knights because it is pro-life. Of course it is—it is a Catholic entity. In short, her real target was the Catholic Church.

Her craving for abortion rights is so strong that in 2019 she bludgeoned pro-life activist David Daleiden for his undercover video work showing how abortion operatives harvest and sell aborted fetal organs. Unlike the American people, the vast majority of whom want restrictions on abortion, Harris insists there should be none. She led the fight against a 20-week abortion ban.

Last September, following a Democratic presidential candidate debate, Harris criticized ABC panelists for not asking about abortion. The debate, she said, "was three hours long and not one question about abortion or reproductive rights." She is so pro-abortion that in 2015, in her capacity as California's Attorney General, she sought to cripple crisis pregnancy centers with draconian regulations. She was sued and lost in the Supreme Court three years later.

Catholics will be delighted to know that Harris is a co-sponsor of "The Equality Act," legislation that would effectively gut Catholic hospitals. As the United States Conference of Catholic Bishops said, it would put freedom of speech, belief, and thought "at risk," thus vitiating

conscience rights. It would also disable the 1993 Religious Freedom Restoration Act, making mince meat out of religious liberty.

Harris' passion for gay rights led her to become the keynote speaker at the 2017 Human Rights Campaign dinner, the prominent homosexual entity. She thrilled the crowd, saying, "Together we'll fight when Planned Parenthood clinics are being threatened to shut down." The audience was ecstatic when she boasted that she "felt patriotic when on Valentine's weekend in 2004, I performed marriages of gay couples at San Francisco Hall."

What about men who think they are women, and vice versa? She's fine with that. Do they belong in the military? Sure. What about biological males who think they are girls competing against real girls in girls' sports? She loves it.

Harris' persona is something to keep an eye on. She will fight to the end of the earth to keep black kids trapped in public schools, denying them the same school choice options she has exercised. Yet her stepchildren attended an elite private school in Los Angeles, Wildwood School, that costs about \$44,000 a year. She made sure not to stick them in a public school.

If this shows her classist streak, her penchant for believing any sexual allegation made against men shows her sexist side. When Supreme Court nominee Brett Kavanaugh testified before the Senate Judiciary Committee, Harris said about Christine Blasey Ford's accusations, "I believe her." That was *before* Kavanaugh testified. A year later, after Ford's tale was blown wide open, Harris tweeted that Kavanaugh "lied."

Virginia Lt. Gov. Justin Fairfax is another man whom Harris smeared. When he was charged with sexual assault, she immediately labeled it a "credible account." The accusation died on the vine. He still has his job.

More seriously, when her running mate was charged with sexual assault last year, Harris said of his accusers, “I believe them and I respect them being able to tell their story and having the courage to do it.” She has never taken that back. Does she still believe Biden is a predator? If she hasn’t changed her mind, what does that make her?

Finally, Harris supports reparations for African Americans. That would not include her: her father is Jamaican and her mother was born in India. So she wouldn’t get a dime. But she would have to fork up lots of cash. Why? As her father disclosed—he is a Stanford University professor—one of her ancestors, Hamilton Brown, was a slave owner.

In fairness, then, if the average American has to pay X amount for slavery, Harris should at least have to pay 10X. Isn’t this what redistributive justice is all about? Catholics need to know.

SCORING BIDEN AND TRUMP ON RELIGION

On August 6, President Trump accused Joe Biden of being “against God.” When Bill Donohue read this on August 7, he released the following tweet: “Trump has no business smearing Biden’s personal faith. What he said is indefensible. He should stick to policy matters, not personal ones.”

In a Politico/Morning Consult survey released in June, only 27% of registered voters said they believed Trump to be religious. That should have given Trump pause when he slammed Biden for being “against God.” The question for voters, however, is not whether a candidate is personally religious;

rather, it is whether his policies are religion-friendly. On this score, Trump wins hands down.

The Biden camp knows this to be true, which is why they are rolling out his personal faith credentials. It's all they have. Biden's surrogates, such as E.J. Dionne, are praising his devoutness, citing his remark that his faith is the "bedrock foundation of my life." That may be true. It is also true that Biden's lust for abortion rights—he is more extreme now than ever before—has led priests to deny him Communion.

"I think his own faith and values narrative allows us to have inroads into these [faith] communities in ways that Democrats might previously not have been able to do," says John McCarthy of the Biden team. Similarly, John K. White, a Catholic University professor, is impressed that Biden "carries a rosary with him."

Up to a point, symbolic speech matters, but the race for the White House is not a piety parade. If that were the case, there would be few candidates from either party. The race, for the faithful, is about who has the best record defending religious liberty. This is where Biden is in deep trouble. What specific legislation has he sponsored that would advance this end?

It won't do, as some have argued, to say that climate change is a pro-life issue (one that is embraced by Biden). This gambit—trying to jam matters unrelated to traditional life issues into the pro-life portfolio—has not worked in the past, and it is not going to work this time, either. Automobile safety is also a life issue, but no one seriously thinks it is a pro-life issue the way abortion, euthanasia and doctor-assisted suicide are.

Still, Trump's critics say that because his personal life is marred with moral failings, people of faith cannot be taken seriously when they say they will vote for him. This common

refrain deserves a serious response.

Let's say that in a presidential race, the Republican candidate is very generous in his charitable giving. He gives to organizations that help needy children, hospitals, and the like. He also has a good record hiring minorities. But his voting record on government assistance to the poor and affirmative action is almost non-existent.

Let's say the Democrat is extraordinarily stingy, giving practically nothing to charity. He also sports a lousy hiring record—his employees are almost exclusively white. But his voting record on government assistance to the poor and affirmative action is excellent.

Would it not be rational for Democrats to vote for the Democrat, in spite of the superior personal record of the Republican?

Al Gore is known to the public as a champion of the poor. But in 1997, the vice president and his wife Tipper contributed a whopping total of \$353 to charity. Their salary was \$197,729. To put it differently, their charitable giving was less than one-tenth the typical contribution for someone with their adjusted gross income.

Ruth Bader Ginsburg is known to the public as a champion of affirmative action. But in 1993, when being considered for a seat on the Supreme Court, she was asked by Sen. Orrin Hatch to explain why, in 13 years as a judge, not one of her 57 law clerks was black. "If you confirm me to this job," she said, "my attractiveness to black candidates is going to improve."

Would it make sense if someone supported government assistance to the poor not to vote for Gore because he is a miser? Would it make sense for someone who supports affirmative action not to support Ginsburg because she is a hypocrite?

Voting involves making tough decisions, weighing all sorts of

contrary variables, the conclusion of which is not always neat. But the mature voter will select the candidate who is best for the nation, notwithstanding his own personal shortcomings. It's the policies that should matter, not the persona.

RELIGIOUS LIBERTY IS IN A PRECARIOUS STATE

The U.S. Supreme Court decision on workplace discrimination against homosexuals and transgender persons leaves religious liberty matters in a precarious state. We stand with the president of the U.S. Conference of Catholic Bishops, Archbishop José Gomez of Los Angeles, who said that the Supreme Court “effectively redefined the legal meaning of ‘sex’ in our nation’s civil rights laws.” He also noted that this ruling “will have implications in many areas of life.”

Among those areas is the fate of religious liberty. Writing for the majority opinion, Justice Neil Gorsuch said he was “deeply concerned with preserving the promise of the free exercise of religion.” He then blithely indicated that such “worries” about how this ruling might negatively impact on religious liberty are “nothing new.”

Gorsuch’s response was not reassuring. This explains why Justice Samuel Alito, in his dissenting opinion (joined by Justice Clarence Thomas), raised a series of problems with it. Alito noted that a “wide range of religious groups—Christian, Jewish, and Muslim—express deep concern that the position now adopted by the Court ‘will trigger open conflict with faith-based employment practices of numerous churches, synagogues,

mosques, and other religious institutions.'"

Alito anticipates a realistic problem. What would happen if a religious school, one that teaches that "sex outside of marriage and sex reassignment procedures are immoral," were to employ a teacher who is in a homosexual relationship, or no longer identifies with the sex he or she was assigned at birth?

To keep such teachers on staff would be to undercut the credibility of the religious school's tenets, effectively neutering its doctrinal prerogatives. This is not a hypothetical.

Many Catholic schools have been targeted by homosexual activists to challenge the right of the school to discharge, or not renew the contract of, such teachers. How will matters play out in this new world where there is no legal difference between sex, sexual orientation, and gender identity?

What about religious hospitals? Will Catholic hospitals, for instance, be permitted to decline requests for sex reassignment surgery? Again, this is not a "maybe" issue—such lawsuits have already been filed.

Gorsuch opines that the high court will get to these issues when they are before it. This is unsatisfactory. His language is broad and his reach is wide. Surely he knows that the majority opinion is going to open the legal floodgates. Not to provide more assurance to religious institutions, as well as to other organizations touched by this decision (e.g., women's sports), is to entice agenda-ridden activists and lawyers to mobilize.

When it comes to controversial moral issues being settled by judges, prudence dictates that the rulings be narrowly focused. This is one of many areas where the majority opinion failed us.

GORSUCH'S FLAWED ANTHROPOLOGY

There are many problems with the majority opinion written by Justice Neil Gorsuch on workplace discrimination, sexual orientation and gender identity, but none is more important than the flawed anthropology upon which the ruling rests. In fact, it is pivotal.

"An individual's homosexuality or transgender status is not relevant to employment decisions." This sweeping statement, which will be cited in every lawsuit on this subject, is manifestly false.

If a man volunteers to be a Big Brother, working with fatherless boys, and decides to "transition" to a woman, he cannot reasonably be expected to do the job he was hired to do. He deliberately changed the required profile. This should clearly be grounds for termination.

The next sentence written by Gorsuch explains his anthropological flaw. "That's because it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex." He is wrong again.

Take the case just cited. The employee should be terminated not because of his assigned sex—indeed he was hired precisely because he was a man—but because he is no longer capable of offering the kind of paternal counseling that only a man can provide.

In other words, it is entirely possible to discriminate against a transgender person without discriminating against his sex, as assigned at birth.

Gorsuch concedes, as he must, that sex, sexual orientation, and gender identity are not the same. "We agree that homosexuality and transgender status are distinct concepts from sex." But he no sooner states the obvious when he falls back on his remarkable claim that to discriminate against a person based on his sexual orientation or gender identity is to discriminate against him on the basis of his sex. As Justice Samuel Alito aptly put it, "repetition of an assertion does not make it so, and the Court's repeated assertion is demonstrably untrue."

Gorsuch tries hard to persuade by offering several hypothetical examples, all of which Alito seizes upon to great effect. For example, he says that if a female staffer, who was rated a "model employee," were to bring her same-sex partner to a holiday party, and was subsequently fired because she is a homosexual, it would mean she was treated that way because of her sex, not just her sexual orientation.

Alito devastates Gorsuch's scenario. "This example disproves the Court's argument because it is perfectly clear that the employer's motivation in firing the female employee had nothing to do with that employee's sex. The employer presumably knew that this employee was a woman before she was invited to the fateful party. Yet the employer, far from holding her biological sex against her, rated her a 'model employee.' At the party, the employer learned something new, her sexual orientation, and it was this new information that motivated her discharge."

Here is where Gorsuch's problem lies. Sex is a biological attribute that is not identical to sexual orientation or gender identity. Let's start with sexual orientation.

The sex of a child can be known before he is born. But his sexual orientation cannot. The former requires no volition; the latter does. They are therefore not identical.

Being a male or a female is similar to being black or white: sex and race have no inherent normative content. That's because they are fixed properties and do not speak to behavior, which has moral consequences.

The key to understanding the difference between sex and sexual orientation is made plain by the word "orientation." Sex, or being male or female, is behaviorally neutral; it is not oriented toward anything. Sexual orientation is: it is oriented behaviorally towards either heterosexuality or homosexuality.

Notice that Gorsuch does not speak about homosexual persons, but about *homosexuality*, as being a distinct concept from sex. He is right about that. Homosexuality is a behavioral attribute: it speaks to men having sex with men or women having sex with women. It is therefore not behaviorally neutral. It is normative.

Indeed, it is precisely because homosexuality is not identical to sex that virtually all of the world's great religions, in western and eastern civilization, have passed judgment on its practice, without passing judgment on the sex of the participant. The two concepts are distinct and do not ineluctably bleed into each other, despite what Gorsuch claims.

Similarly, gender identity is a behavioral concept that is quite independent of one's sex. Anatomical surgery and hormone therapy are chosen, unlike one's sex. They are undertaken because the person elects to change his sex (which he cannot do in any real sense—no one can change his chromosomal makeup). It is done because the person does not like what nature has ordained, therefore making it erroneous to conflate sex with gender identity.

Consider the language chosen by Alito and Gorsuch to refer to a newborn's sex. The terminology is not only different—it

explains why their legal reasoning differs.

At four different junctures, Alito speaks about an individual's "sex assigned at birth." Gorsuch, on six occasions, speaks about an individual "who was identified" as male or female at birth.

Gorsuch refuses to employ "assigned at birth" because it would undercut his conviction that sex is a fluid concept. He wants to advance the notion that our sex is a matter of identity, which is a psychological construct, and not a matter of human nature, which of course it is. He is the one conflating sex, sexual orientation, and gender identity. This represents his personal conviction and in no way should be treated as if it were a truism.

Trying to minimize, if not deny, the existence of human nature necessarily yields bad outcomes, both in terms of law and public policy. Most Americans want separate sports teams and restroom facilities for men and women. They understand basic differences based on sex and do not appreciate elites who say they are wrong. They also understand how unjust and indecent it is for men to compete in women's sports and shower in women's locker rooms simply because they believe they are female.

It is never helpful when the courts seek to solve problems that barely exist, especially those that touch on the moral order. To cite one example, there are no known cases where a Catholic school has fired a teacher because he happens to be a homosexual. But there are many cases where a homosexual teacher has been fired after it was publicly disclosed—often by the teacher—that he is married to his boyfriend. Activist lawyers will now test the limits of this Supreme Court decision.

Gorsuch's majority opinion, which is based on bad anthropology, makes for bad law and will now make for bad

public policy. Had it been a more narrow ruling, tailored to specific instances of workplace discrimination, there would be no tidal wave of lawsuits. But now that the moral order has been further diced and spliced by the courts—thanks to this classic case of judicial overreach—it is a sure bet there will be.

SCURRILOUS ATTACKS ON BISHOP DIMARZIO

Brooklyn Bishop Nicholas DiMarzio was recently accused, for the second time, of abusing a minor. This is one of the most incredibly ugly smears ever endured by a Catholic priest.

Last November, attorney Mitchell Garabedian made a big public splash when he said he was going to file suit against DiMarzio for abusing Mark Matzek in the 1970s. But he never did. It was all for show: His goal was to smear DiMarzio's good reputation. Bill Donohue has dealt with Garabedian and found him to be unethical. Now this Boston lawyer claims he has found another victim, Samier Tadros.

Bishop DiMarzio categorically denies both accusations and his lawyer, Joseph Hayden, says, "We have uncovered conclusive evidence of Bishop DiMarzio's innocence." No lawyer, aside from those like Garabedian, would put his name on the line with such an unequivocal statement unless he knew his case was a slam dunk.

Some things just don't add up. Why would anyone wait a half century to bring a lawsuit? How is it possible that the parents of these boys never knew about it—Tadros says the abuse started when he was 6 years old and happened

“repeatedly”—especially given its alleged serial nature?

The Associated Press broke this latest story. What makes this interesting is that Garabedian chose Michael Rezendes of AP to go public. The two men are from Boston, and know each other well. Rezendes was a reporter who worked on the “Spotlight” team of the *Boston Globe* that found wrongdoing in the Boston archdiocese, and Garabedian’s role in it was featured in the movie by the same name; he was played by Stanley Tucci.

Rezendes showed his true colors by citing, as authoritative, the *National Catholic Reporter*. He called it “an independent Catholic newspaper.” In fact, the only thing independent about it is its independence from the teachings of the Catholic Church. Worse, its attack on the Church’s teachings on sexuality helped to foment the sexual abuse crisis that Rezendes covered.

Rezendes then offers a quote from BishopAccountability, a website known for leaving the names of accused priests found innocent on its list of accused priests. It has also smeared Cardinal Timothy Dolan, and has never accepted our challenge to provide evidence that he was hiding dozens of molesting priests.

Bishop DiMarzio is being singled out because he has fought unjust legislation that was targeted at the Catholic Church, bills that allowed the public schools to get off scot-free. New York State Assemblywoman Margaret Markey, who represented a district in the Brooklyn diocese, was the one who pushed for a suspension of the statute of limitations for sexual abuse crimes, permitting a free ride to the public sector.

In 2016, this former office holder accused DiMarzio of offering her a \$5,000 bribe. But it was all a lie. She admitted she was wrong about the date of their meeting—by three years—and wrong about the venue. She was also wrong about her accusation, which was undercut by witnesses at the

meeting.

There are some very vicious people out to destroy Bishop DiMarzio. He is a good man who has given his life to the Catholic Church.