*COMPLETE PRESENTATION OF PR KMIEC*

**“’Who Am I to Judge,’ Francis *trumps* the Bishops and Simultaneously Makes ‘The Catholic Vote’ disappear and more important”**

The question put by the organizers of this symposium is whether or not the Catholic vote is a “game changer” in the 2016 election in the United States?

The road to the White House has a number of different possible paths, but one of the most prominent involves capturing the Catholic vote in states like Ohio, Pennsylvania, and Michigan. In winning these states in 2008, Barack Obama had social justice inclinations and a disposition against war that coincided well with the Catholic point of view. However, the Obama position on matters of life – abortion, stem cell research, assisted suicide – did not fully coincide with what St. John Paul II denominated matters of intrinsic, objective evil. Nonetheless, Obama won the Catholic vote by 14% in 2008 and by 9% in 2012, and these Catholic totals were necessary to prevail in the battleground states.

But does that mean that the Catholic vote was a game changer in these earlier elections? Or does a ballot cast by a Catholic voter contrary to the moral teaching of the church indicate instead that Catholics have now joined the ranks of other believers for whom the fact of religious affiliation does not in the end actually determine how they will vote? In 2008, there were loud and strident demands for orthodoxy made by highly conservative members of the hierarchy of the Catholic Church in America. Some of these demands included the threat of denial of communion if one supported Senator Obama.

Enter Pope Francis and the five words heard around the world: “who am I to judge?” In the 2016 election what is the significance of these words for the formation of conscience and its proper reflection in a Catholic vote? Will this gentler, more inclusionary, more merciful means of instruction yield by virtue of conversion of heart greater conformity with the fullness of the Catholic instruction? And insofar as pastoral counseling occurs not on the front pages but quietly in one-on-one instruction and in prayer, does that mean that the Holy Father will be succeeding one soul at a time even as he’s losing the ratings battle by damping down the pitched controversies between the conservative hierarchy and prominent candidates and their supporters who frequently argue for an appreciation of more than one way to advance Catholic social teaching? With an approach more sensitive to the dignity of the human person, and more inclusionary, has Pope Francis facilitated the disappearance of the Catholic vote from the larger political discussion? Who benefits from this more inward-looking instruction -- Mrs. Clinton or Mr. Trump?

While my presentation is focused on 2008 and 2016, my talk explores the historical divide between religion and politics, from that which must be “given to Caesar” to the “two swords” of Pope Gelasius to Al Smith and John Kennedy.

An effort will be made to keep the speculations grounded in political reality, and in particular, the belief that the 2016 election is presently too close to call and will likely remain so until its conclusion.

From a Catholic standpoint, Mrs. Clinton will be pressed to explain her and her “Catholic” running mate’s advocacy of a pro-choice position that portrays abortion as an individual right securing a routine medical procedure at taxpayer’s expense. The Clinton-Kaine position differs profoundly from that of then-Senator Obama who while pro-choice nevertheless characterized the termination of unborn life as tragic and something to be made less likely through the provision of proper prenatal care.

Ironically, even though not Catholic, Pres. Obama serves as a proxy Catholic standard by which to measure and evaluate Mrs. Clinton’s posture on critical issues. Consider, for example, Mrs. Clinton’s perspective on matters of war and peace. This is a difficult area for Mrs. Clinton insofar as she supported the Iraqi occupation and was the principal advocate for the widespread intervention into Libya for “regime change.” These policies reduced Libya to a failed state and cost thousands of lives and trillions of dollars.

By contrast, Mr. Trump, who nominally holds a pro-life position more protective of unborn life than even that articulated by the conservative hierarchy of the U.S. church will have to persuade the Catholic voter that he grasps the implications of criminal liability for the mother, or if he no longer holds that position, what view he does presently maintain.

Other issues from the unequal distribution of wealth to the fragility of the economic recovery to the workability of the Obama health care reform structure to climate change will all be briefly touched upon. As these issues are discussed, a recurring question is how the blunt-edged, coarsely presented manner of Mr. Trump keeps attracting voters. A strong case can be made that Mr. Trump, whether or not consciously, has come to represent to average working families the antidote to their modern frustrations. These families perceive that they have often met, without complaint, the needs of others, but that their thanks has been to be looked down upon or worse denominated as bigots. In a kind of “enough is enough” sentiment, the unpolished, but formidable, Mr. Trump appears on the political horizon seemingly ready to tell these ungrateful special interests to back off. Unwittingly (but perhaps revealing of her true feelings), Mrs. Clinton labeled these families “deplorable,” a statement that may well shape the electoral outcome. From a Catholic standpoint, Mrs. Clinton will need to address the needs of the working family by showing that what she offers is not only a promise to materially enrich a broader portion of the American workforce, but also to advance a more meaningful – and faith sensitive -- understanding of the dignity of the working class family.

**II**

**How trying to influence the Catholic Vote, for me, has not merely been a “game changer,” but a “life-changer,” and what lesson that delivers to the participation of other Catholic voters.**

In 2008, as a Catholic and a Republican who had served as Ronald Reagan's legal counsel, I endorsed Barack Obama for president.

Life thereafter irrevocably changed.  Catholic men and women of ostensibly good character shunned me and agitated for public denunciations of my Obama apostasy. Conservative bishops of the church (Burke; Rigali; Chaput) rebuked my impertinence for endorsing a candidate not completely aligned with the magisterium. The Catholic News Service was pressured to drop my long-running syndicated column in Catholic papers. When a national Catholic organization invited me to keynote an event aimed at a better understanding of the intersection of religion and politics, I was publicly humiliated, denounced in sermon and denied receipt of communion.

The pressure and hatreds traceable to my Obama endorsement ended my previously tranquil academic life (20 years at the University of Notre Dame as a tenured professor of law; director of the Center on Law & Government; founder of the *Journal of Law, Ethics & Public Policy*; and subsequently dean of the Catholic University of America Law School in Washington D.C.). It is very likely that the constant and ugly targeting of me on the internet by conservative Catholic organizations aided and abetted by bishops who barred me from Catholic campuses, or invited my presentations to be demonstrated against contributed to the loss of my marriage of 38 years, alienated me from my children, and even today leaves me in solitude and prayerful wonderment of God's plan.

In 2009-2011, I served in the State Department as the US ambassador to the Republic of Malta. In that role: I facilitated the establishment of sea rescue training program that today assists thousands of migrants as they cross the Mediterranean; during the “Arab Spring,” I directed the land and sea rescue from Tripoli of over 100 American personnel and several hundred foreign national; and I successfully applied, at President Obama’s direction, the Iranian sanctions against the headquarters of Iranian shipping. I was unable to achieve the President’s inter-faith diplomacy initiative because secular forces within the State Department scuttled the effort.

Upon my return to the U.S., I returned to teaching human rights and constitutional law at a non-denominational Christian university, while writing the usual academic books and articles together with columns for the [Huffington Post](http://www.huffingtonpost.com/author/dkmiec-240). Insofar as these essays have generally been supportive of Mrs. Clinton and her candidacy and insofar as Mrs. Clinton's position on matters of life is far more antagonistic to the Catholic view than that of Pres. Obama, it has been something of a pleasant surprise not to be subjected to more of the derision of 2008. That I have not been so targeted may say something about my declining influence and/or in this election the less visible influence of Catholic thinking in public discourse. I choose instead to trace the less confrontational response to  the pastoral character of my local parish, which has been blessed with pastors who, even before Francis, witnessed Christ’s love in the non-judgmental extension of mercy.

In September 2016, it is apparent that Mr. Trump is closing the polling gap with Mrs. Clinton, but it is not at all clear that he is making any headway with the Catholic vote generally. With variation, of course, but the current polling pattern generally finds Mrs. Clinton to be headed downward, but curiously, her loss has not shown up as Mr. Trump’s gain – that is, in abandoning Mrs. Clinton, some voters may be abandoning democratic participation altogether.

In his travels, the Holy Father mentioned in passing that Christians do not build walls, and this was interpreted as a Pontifical slap on the Trump wrist. Mr. Trump took it that way and it prompted from him a relatively mild rejoinder that it is unfortunate when one person publicly criticizes another’s religious practice. If one ponders this colloquy, it is fair to say that the often crudely spoken Mr. Trump managed on this occasion to rather insightfully turn the Pope’s non-judgmental teaching into Trump’s own personal defense. Perhaps realizing this and being circumspect about any foreign interference with another country’s national election (we have enough of that from Russia), the Pontiff has said nothing further. In fact, while the media tried to stir the pot a bit more and provoke additional comments, neither the Holy Father nor Trump has said anything further which is prudent.

The brief back-and-forth, however does add a footnote to the Holy Father’s nonjudgmental posture and it is this: the fact that we do not publicly chastise another individually for failings in matters of faith, neither means that such failings do not exist nor that there are not standards of objective truth by which those failings can be identified, especially as we work to form our conscience. Standards of moral judgment can be witnessed and taught, but ultimately to matter in our everyday life, they must be embraced by each individual as a matter of freedom.

As a matter of politics, the indirect back-and-forth between the Holy Father and Mr. Trump, in my view, explains very little about who will prevail in the election. The spirited colloquy has thus far had no meaningful impact on whether or not Mr. Trump ultimately makes gains in the Catholic column generally. The Latino Catholic population will be harder to win over because of the unflattering generalizations attributable to Mr. Trump that Mexican migrants are rapists or entering irregularly to take jobs from Americans. It is of course possible to see Mr. Trump’s statement as not quite as ridiculous as it is made usually to sound, for it is certainly true, albeit unfortunate, that some members of the migrant community have engaged in criminal activity including physical assaults; it is also true that some of the jobs that might otherwise be available especially to the American citizen lacking a high school education have been filled by migrant populations, but this nuance is lost in the shouting – as might be expected given the manner of delivery of the original comments.

Once again the U.S. Catholics bishops have put out a voter's guide which explains the Catholic Church’s participation in political matters and outlines the scope of that participation. The document is readily available online and in hard copy in some parishes, but it would not seem to be widely read or studied, with some exception. So too, voter guides prepared by individual religious orders like the Paulist’s are quite excellent in substance, but the materials are little-known or discussed as part of the campaign effort of either side. Perhaps one does not hear of these documents from the pulpit lest the church be accused of participating in politics, thereby jeopardizing its tax exemption, or simply increasing the likelihood of becoming an object of obloquy and likened to “deplorable” service providers, for example, who declined to make wedding cakes for same-sex couples etc.

As noted above, in 2008, my endorsement of Barack Obama unleashed vast amounts of hatred and harsh commentary from conservative Catholics, including those prelates who can be counted among the rightward leaning leadership of the church in America.

In 2016, as a counter-point thought experiment, I put out in my Huffington Post column a [realistic-looking (but pretend or only hypothetical)](http://www.huffingtonpost.com/entry/why-i-am-not-endorsing-donald-trump-at-least-not_us_57d981e3e4b0a5cd12d74494) Catholic endorsement of Mr. Trump. In the brief time that I allowed this experimental endorsement to be posted, it unleashed significant amounts of hatred this time emanating from the left side of the political spectrum, though not including liberal bishops or other progressive leadership voices in the Church. It would unfortunately seem to indicate that in matters of politics, civility and non-judgmentalism remain more exception than the rule.

For more insight into considerations shaping the Catholic vote, interested readers can find a closer examination of the 2008 election in Kmiec*,* [*Can a Catholic Support Him*](https://www.amazon.com/mn/search/?encoding=UTF8?&tag=inline3-20&linkCode=ur2&camp=1789&field-keywords=kmiec+can+a+catholic+support+him%3F) (Obama)? (2008), and for additional commentary leading up to the 2016 election that advocates inter-faith diplomacy as well as a theology of kindness prior to the election of Pope Francis, see Kmiec, [*Lift up your Hearts*](https://www.amazon.com/Lift-Up-Your-Hearts-Tragically/dp/0615610579/ref=sr_1_1?ie=UTF8&qid=1474152840&sr=8-1&keywords=kmiec+lift+up+your+hearts) (2012).