

Vatican, courts wrestle over who controls bishops

Francis X. Rocca Religion News Service | May. 21, 2010

VATICAN CITY -- Is Pope Benedict XVI legally responsible for the actions of U.S. Catholic bishops who mishandled cases of pedophile priests, allowing them to sexually abuse more children?

Some plaintiffs' lawyers are arguing that victims of clerical sex abuse should be able to sue the Vatican itself for damages, in large part because they say bishops are effectively employees or officials of the Holy See. The pope appoints and disciplines bishops, they note, and he can force them to step down if he deems them unfit.

The Vatican, meanwhile, argues that bishops are not agents of the pope. In a motion to dismiss a federal lawsuit in Kentucky on Monday, May 17, Vatican lawyer Jeffrey Lena pointed out, among other distinctions, that bishops do not receive their salaries from Rome, nor work on Vatican property.

An advocate for American abuse victims called the Vatican's claims "disingenuous."

"The church isn't some loosely-knit hippie commune with diffuse authority," said Barbara Dorris, outreach director for the Survivors Network of those Abused by Priests. "It's an ancient, rigid, crystal-clear hierarchy in which bishops ordain, transfer and supervise priests and in which the pope selects, transfers and supervises bishops."

The question of just how much autonomy bishops exercise in matters of clerical sex abuse hinges on the interpretation of specific Vatican policies in that area.

But generally speaking, the working relationship between the bishop of Rome -- the pope -- and the heads of the world's other 3,154 Catholic dioceses is a complex one, which cannot be easily translated into the terms of a modern corporate flow chart.

Once a bishop is assigned to lead a diocese, church law assigns him the primary authority over pastoral, educational, liturgical and administrative life there.

"The bishop exercises this authority in his own name, not as the vicar of the pope," writes Fr. James A. Coriden in "An Introduction to Canon Law."

Yet Coriden admits that the pope is "much more than a first among equals" in the worldwide College of Bishops.

"[The doctrine of] primacy gives the pope the power to intervene in the life of the local church when exceptional circumstances make it necessary," Coriden writes. "In this sense it implies a 'reserve power' to be used in emergency situations."

As Jesuit Fr. Thomas J. Reese notes in his book *Inside the Vatican*, canon law requires bishops to obtain the Vatican's permission before making certain decisions, such as selling or ceding diocesan property valued at \$3

million or more.

And the Vatican does occasionally overrule bishops on a range of matters, including marriage annulments, parish closings and the approval of textbooks for religious instruction. But as Reese recounts, such interventions typically come after clergy or laity in a diocese choose to contest their bishop's actions through a lengthy appeals process.

The most routine example of Vatican supervision takes place once every five years, when every bishop must file a lengthy questionnaire and make a visit to Rome, which includes a 15-minute meeting with the pope.

In between those meetings, the vast share of a bishop's actions is left to his discretion and responsibility.

That organizational reality is consistent with the Catholic doctrine of subsidiarity, which posits (as a matter of moral principle) that decisions should be made at the level closest to the people affected by them.

But the high degree of decentralization that characterizes church administration also reflects a more mundane consideration: work flow.

As the headquarters of a worldwide organization with more than 1.1 billion members, the Vatican must make do with a professional staff of fewer than 2,000 people. If the church's day-to-day operations depended on decisions from Rome -- whose slowness has become a major target of the controversy over clerical sex abuse -- it seems likely that the church itself would have long ago gone out of business.

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