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Pope's reluctance to impose American way not a shocker

John L. Allen Jr. | Jul. 16, 2010 All Things Catholic

A July 9 editorial in *The New York Times* called upon Pope Benedict XVI to make the American bishops? ?zero tolerance? approach to sexual abuse binding on the worldwide Catholic church. In principle that?s a perfectly reasonable idea, especially since Vatican spokespersons routinely invoke the pope?s defense of the tough American rules as proof that he gets it.

Yet the editorial also used the word ?shocking? to describe the fact that eight years after the American policies were developed, the pontiff has not yet imposed them on the rest of the world. That?s where people who know the lay of the land in the church will probably balk, because aside from the fact that Rome has an evolutionary sense of time (in which eight years seems a nanosecond), there are three other reasons why this is hardly a shocker.

Unpacking those reasons may shed light not only on the sexual abuse crisis, but also the complexities of setting policy in a global church -- one in which the 67 million Catholics in the United States represent just six percent of the total Catholic population of almost 1.2 billion, meaning that 94 percent of Catholics in the world don?t automatically see things through American eyes.

First, it?s a well-known fact of Catholic life that the ?one strike and you?re out? rule at the heart of the American norms -- automatic removal from ministry for life for even one act of sexual abuse against a minor -- plays to mixed reviews, at best, around the global church. That?s not because the rest of the Catholic world is necessarily soft on abuse, but because some bishops and canon lawyers regard the ?one strike? policy as a distortion of the church?s legal tradition. Over the centuries, they argue, canon law has resisted ?one size fits all? penalties, preferring to leave discretion in the hands of judges to make the punishment fit the crime.

To illustrate the point, critics sometimes put things this way: There?s a world of difference between a priest who?s a serial rapist of pre-pubescent children, and a priest who had a consensual encounter with a teenager 20 years ago. Policies that ignore or downplay such distinctions, they argue, risk remedying one injustice with another.

The statute of limitations is another bone of contention. Canonists debate what it used to be, but everyone knows that today, the Vatican?s willingness to waive any time limit is heavily influenced by the American experience. That, too, draws fire from critics, who see it as a violation of due process of law. Statutes of limitations are there for a reason, they argue -- to protect the integrity of evidence, to ensure that justice is swift, and so on.

One can debate those points, but they reflect the views of many canon lawyers, religious superiors and bishops around the world. It?s not clear how effective it would be for the pope to impose a policy by fiat, when the officials who would have to enforce it harbor such reservations. In ecclesiological terms, one could also argue that it would violate the principle of collegiality, or shared decision-making, for the pope to decree a new law in the absence of a consensus among bishops and canonists. (As a footnote, critics these days sometimes seem to be demanding an imperial papacy ... calling to mind the old bit of advice, ?Be careful what you wish for.?)

Second, there are aspects of what?s come to be known as the ?American approach? which might not translate well in every corner of the world. Take, for example, cooperation with the police and other civil authorities. For Americans and Western Europeans -- where the rule of law holds, and the police play fair -- such a policy seems like a no-brainer, not to mention a long-overdue correction to the notion that the church is above the law.

Things look different, however, in a place such as Ukraine. There, a new pro-Russian government is reviving Soviet methods for pressuring the Greek Catholic Church, the largest Eastern rite Catholic church in the world and arguably Ukraine?s most important engine for democratic reform. Among other things, the successor to the KGB has recently been sniffing around the Catholic University in Lviv, dropping in on the rector and making ominous calls to staff on their cell phones (calls of the ?we know where you live? variety).

Recently I asked a few figures in the Greek Catholic church what a requirement of automatic compliance with every police probe would mean in their environment today. Typically, I got a one-word answer: ?Suicide.?

Ukraine?s situation illustrates a broader point. Policies which seem self-evident in one part of the world, and under one set of historical circumstances, can look very different when the context changes. (Recall that Benedict XVI?s choice in 2007 to become the Archbishop of Warsaw, Stanislaw Wielgus, was forced to quit in disgrace when it emerged that he had collaborated with Poland?s Soviet-era secret police. In that milieu, the guys who refused to play ball are now seen as heroes, while those who cooperated are pariahs.)

Third, anyone who has spent much time travelling around the Catholic world knows the love/hate dynamic that often defines reactions to the American church. On the one hand, Catholics elsewhere admire the dynamism, the entrepreneurial spirit, and the resources of American Catholicism; on the other, they often sense that Americans are a bit too eager to swoop in and tell the rest of the world how things ought to be done, sometimes with little understanding of the local situation.

In that context, anything that looks like shoving the ?American way? down the throat of the rest of the church is destined to stir resistance. The Vatican has to be conscious of that bit of baggage too, to avoid making things worse in the name of making them better.

None of this, of course, disqualifies the approach worked out in the United States from informing new global rules on sex abuse, a process which to some extent is already underway. In a conference call with reporters on Thursday, Bishop Blase Cupich of Spokane, who serves as chair of the U.S. bishops? Committee on the Protection of Children and Young People, argued that recent adjustments to canon law adopted by the Vatican not only build on the American norms, but in some respects go beyond them.

Even so, it?s worth remembering that setting policy for a global church is almost always more complicated than it might seem -- including, of course, how it might seem from a newsroom in New York.

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As expected, the Vatican released a long-awaited set of revisions to church law governing sexual abuse cases this week. My news story on the revisions, which in general simply codify what was already existing practice, can be found here: http://ncronline.org/news/vatican/vatican-revises-church-law-sex-abuse

One point which raised eyebrows around the world is that in addition to tweaking the rules on sex abuse, the Vatican also added several offenses against the sacraments to the church?s list of ?grave crimes,? including the attempted ordination of women.

Critics charged that the Vatican was thereby equating women?s ordination with pedophilia. For the record,

however, the logic seemed mostly bureaucratic.

As it happens, the Congregation for the Doctrine of the Faith is responsible both for the canonical dimension of the sexual abuse crisis and for serious offenses against the sacraments, including Holy Orders. Since the congregation was revising its rules on sex abuse, it used the occasion to bring the law up to date on matters pertaining to the sacraments as well ? not only women?s ordination, but also crimes such as taping and/or broadcasting the sacrament of penance. For the most part, this was housecleaning which didn?t introduce anything new; the bit on women?s ordination, for example, codifies a decree the congregation issued back in 2007, warning that anyone who tries to ordain a woman, or any woman who proclaims herself ordained, is automatically excommunicated.

Msgr. Charles Scicluna, a Maltese priest who serves as Promoter of Justice in the congregation, gave a press briefing in Rome on Thursday, and he insisted that the Vatican is not actually comparing women?s ordination to sexual abuse. Ordaining a woman, Scicluna said, is a ?sacramental? crime, while sex abuse is a ?moral? crime.

Be that as it may, many observers couldn?t help feeling that at the very least, the appearance of lumping women?s ordination in with the sexual abuse crisis underscored the Vatican?s on-going PR problems. On a day when it should have had a clear PR win -- ?Church tightens rules on sex abuse? -- the Vatican managed, according to many media-watchers, to step on its own story once again. Surely, such observers said, the Vatican could have rolled out the new rules on sex abuse separately, then waited a few days before quietly promulgating the other changes.

On that front, this week?s prize for taking lemons and making lemonade probably should go to Cupich. Pressed on what the Vatican was saying by putting these two matters together, Cupich went for the two-point reversal: The important point, he suggested, is not that women?s ordination is being taken as seriously as sex abuse, but rather that sex abuse is being taken as seriously as women?s ordination and other crimes against the sacraments.

During Thursday?s conference call, Cupich argued that by inserting sex abuse on its register of grave crimes against the sacraments, the Vatican is saying that the sexual abuse of children is ?a violation of our core values of faith and worship? -- comparable, therefore, to profanation of the Holy Eucharist or breaking the seal of the confessional. Such a level of seriousness, Cupich argued, illustrates a ?strong resolve to do everything possible to see that children are protected and safe.?

If nothing else, the ability to sidestep a PR landmine like that suggests that American bishops have picked up a thing or two about spin over the last decade.

(On the subject of PR, kudos are also due to the Vatican for at least making Scicluna available to the press on Thursday. He knows the canonical dimension of the sex abuse crisis as well as anyone on the planet, he?s Maltese and thus fluent in English, and he?s an engaging and media-savvy character. Yet since the most recent wave of the crisis erupted in January, Scicluna has been largely silent. If Thursday signals that he?s finally been taken ?off the leash,? it could bode well for public understanding of the church?s response to the crisis, especially in the Anglophone world.)

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