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Not even Scalia should be sent away from the table

Jamie Manson | Oct. 5, 2011 Grace on the Margins

Last week on the NCR Today blog, I asked whether Justice Scalia should be denied communion because of his support of the death penalty [1].

I put forth this question in response to a statement at Duquesne University Law School in which he said: "If I thought that Catholic doctrine held the death penalty to be immoral, I would resign. I could not be a part of a system that imposes it."

Of the responses I received to that blog, the most intriguing were from those defending Scalia for "following his conscience."

But did Scalia follow his conscience or did he completely misrepresent the teaching of the church?

Like many Catholics in the US, I follow my conscience in my objections to church teachings banning the use of contraception, the ordination of women, and a woman's right to choose. But none of us pretends that our beliefs are justified by the teachings of the church.

Many have supported Scalia by pointing out that the Catechism of the Catholic Church states, "the traditional teaching of the church does not exclude recourse to the death penalty, if this is the only possible way of effectively defending human lives against the unjust aggressor."

With his vast knowledge of the criminal justice system, Scalia surely understands that our prison system can very effectively protect society from unjust aggressors through non-lethal means.

Because our prison system can render a criminal "incapable of doing harm," the Catechism states that the cases in which "the execution of the offender is an absolute necessity 'are very rare, if not practically nonexistent.'"

Scalia turns this small, irrelevant loophole into an enormous gateway that accommodates his unqualified support of the death penalty. The Catechism's supposed loophole certainly never would have applied to Troy Davis, whom Scalia and his co-justices refused to grant a last minute stay of execution.

And yet, conservative Catholics will rush to Scalia's defense and hard-liner bishops will refrain from condemnation, even though the Supreme Court Justice blatantly disregards the teaching of the magisterium -- an authority that he and his defenders claim to hold so dear.

Somehow, even though he acts in conflict with a teaching about the sanctity of human life reinforced by Blessed John Paul II and Pope Benedict XVI, Scalia gets a pass. He gets to sit in the most prized seats at the exclusive Red Mass in Washington, D.C. without any pro-life Catholic questioning his worthiness to receive Communion.

This latest incident shines a harsh light on the Catholic church's double standard when it comes to judging someone's fidelity to the church. Perhaps no U.S. hierarch has been as outspoken about what makes or breaks a

Catholic as the newly consecrated Archbishop of Philadelphia, Charles Chaput.

In his book, *Render Unto Ceasar*, Chaput clearly states, "The church always expects Catholics who are living in grave sin or who deny the teachings of the church -- whether they're highly visible officials or anonymous parishioners -- to have the integrity to respect both the Eucharist and the faithful, and to refrain from receiving."

More recently, in the days leading up to his installation in Philadelphia, Chaput proudly reasserted his belief that "cafeteria Catholics" have no place in the Roman Catholic church: "If they don't believe what the church teaches, they're not really Catholic."

Surely Chaput, who is as passionately committed to the pro-life movement as he is committed to having his faithful voice heard in government and the public square, wouldn't he want to inform the Supreme Court justice that he has gone astray from the church?

Apparently not, since no one who attended the Red Mass reported seeing Scalia refrain from taking communion. Here lies the double standard: when a public figure fails to honor crucial church teachings other than those concerning abortion and same-sex marriage, they are still in communion with the church. But when someone, who is pro-choice or wearing a gay pride ribbon comes to the table, they can be sent away empty-handed.

But there is an even graver double standard at work here. Many of those who support Scalia insist that it is far worse to abort a fetus than it is to execute a criminal. The reason is simple: an unborn baby is innocent and a criminal has committed grave offenses.

If only Jesus' message were so simple. Jesus shatters the old "eye for an eye" law. He tells us that by visiting those in prison, we are actually visiting God. The church's view of the sanctity of all human life is founded on the gospel message that every human person is a beloved creation of God, regardless of his or her sins.

Through parables, miracles, and healings, Jesus constantly reminds us that God's mercy stretches well beyond any human conception of justice or fairness.

These gospel lessons about the mercy of God form the foundation of Christian opposition to the death penalty. Because God is the author of human life, no human should have the power to take life away, even in cases where humans have committed grievous acts.

As a Supreme Court Justice, Scalia has exceptional power to protect life, but also to take it away. We saw this play out vividly as he and his fellow justices let the life of Troy Davis slip through their hands. All the more reason, one would think, that he should join the others who have locked themselves out of communion with the church.

Yet, if we take the Gospel lessons on the mercy of God seriously, we must ask ourselves whether anyone should be denied access to the Eucharist. The mercy of God, realized most fully by Jesus' invitation to the table, is not bound by any human doctrine or religious authority. The table of the Eucharist is the gift of God, and no one should be able to deny another access to it.

Like human life, the communion table, too, ultimately belongs to God. No human person, whether a criminal, a saint, a powerful official looking for loopholes, or an ordinary layperson speaking her conscience, should ever be sent away from the table hungry.

[Jamie L. Manson received her Master of Divinity degree from Yale Divinity School where she studied Catholic theology and sexual ethics. Her columns for *NCR* earned her a first prize Catholic Press Association award for Best Column/Regular Commentary in 2010.]

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