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Bishops' conscience model makes light of practical reason

David DeCosse | Jan. 23, 2012

Thomas More (Paul Scofield) tells his daughter Meg (Susannah York) that " Man [God] made to serve Him wittily, in the tangle of his mind." Photo from the 1966 film "A Man for All Seasons"

COMMENTARY

What if the clashes over conscience between the American Catholic bishops and the Obama Administration are driven in great measure not by anti-Catholicism nor by creeping totalitarianism but by the very model of conscience used by the bishops themselves?

The next year may provide a decisive answer to this question.

On Friday, the Federal Department of Health and Human Services announced that religious institutions would have a year before they would be required to make contraception available at no cost to all female employees. In response, the Catholic Health Association both criticized the HHS statement and called for an ?effective national conversation on the appropriate conscience protections in our pluralistic country.? Will the Church in the next year enter into such a conversation and possibly find solutions that balance the concerns of religious freedom with the respect for democratic equality? How this question is finally answered may well depend on what conceptual model of the Catholic conscience the Church brings to the table.

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At present, the model of conscience used by most bishops is problematic in two ways. First, it emphasizes

obedience, law, and hierarchical authority and thus departs from the Catholic tradition?s close linkage of conscience, practical reason, and freedom. Second, on account of this departure, these bishops needlessly lapse into using a sectarian model of the Catholic conscience ill-suited to the Church?s mission in a democratic pluralist society like the United States.

When the Catholic bishops today defend conscience, they are defending the idea that within human beings is an uncompromising witness to the universal, objective, exceptionless moral law. ?Law? -- moral, natural, and divine law are all different aspects of the same thing -- is a crucial category here. The given, ineradicable quality of the moral law derived from reflection on the purposes of human nature is a sign of God?s providential ordering of the world. The bishops? close link of moral and divine law informs their conviction -- and the conviction of the broader Catholic right in the United States -- that these current battles over conscience are part of the larger war that secularism has launched against religion. ?Law? is also crucial as a specific ethical category corresponding to what is obligatory in a universal, objective way.

With this emphasis on law, the distinctiveness of the bishops' model of conscience comes into view. Where a theologian like Thomas Aquinas speaks of conscience combining obedience to moral law and the exercise of practical reason, the bishops heavily favor the former over the latter. On the one hand, this means that conscience is best understood as the way by which we adhere to the moral laws requiring respect always and everywhere -- in the bishops? eyes especially meaning turning from what they call the ?intrinsic evils? at stake in the use of the artificial means of birth control; in gay marriage; and in taking innocent human life from conception onward. On the other hand, the bishops? emphasis on law as the pre-eminent category of conscience means that they leave little room for practical reasoning to help the conscience figure out what to do in the face of complexity. Practical reasoning, in this view, is wishy-washy, feckless, diluting the clear demands of the moral law. Or, as Bishop Thomas Paprocki of Springfield, Ill., said when explaining why Illinois bishops did not seek an exemption from a state law legalizing civil unions for same-sex couples that could have required Catholic Charities to place foster children with such couples: ?It would have been seen as, ?We?re going to compromise on the principle as long as we get our exception.? We didn?t want it to be seen as buying our support.?

What has led to the diminished role for practical reason in the way the bishops understand conscience? Two key conceptual matters come to mind, both taken from concerns laid down by Pope John Paul II and Pope Benedict XVI. One is the sharp opposition to the ?creative conscience? outlined by John Paul II in the 1993 papal encyclical called ?Veritatis Splendor.? In that document, John Paul criticized any number of developments in Catholic moral theology including one that argued that conscience?s use of practical reason in the face of a host of particulars could lay the basis for claiming occasional exceptions to the otherwise universal mandate of the moral law. But the pope said that this view of the ?creative? possibilities of conscience had things precisely backwards. It?s not the creative use of practical reason that should determine what is morally required in a particular situation. Rather, it?s the moral law -- ?requiring meticulous observance,? as John Paul put it -- that determines what reason should conclude that a particular situation demands. In ?Veritatis Splendor,? John Paul was taking aim at theologians working in the area of interpersonal and, especially, sexual morality. But, I believe, his powerful views have shaped the position of the bishops on the current matters of conscience, which pertain primarily to issues of sexual morality in a political, not interpersonal, context.

Along with the ?creative conscience,? John Paul also condemned what he called the belief that complex situations could yield a ?double status of moral truth.? In fact, the issue of ?double status? is another way of articulating what is at stake with the use of the ?creative conscience.? The notion of ?double status? holds that while there may be one truth at a doctrinal or abstract level, there may be another truth -- even one proclaiming an exception to a doctrinal truth -- that emerges in the face of the complexity of concrete conditions. As with the ?creative conscience,? John Paul dismissed this notion outright. Moral truth is not divisible and, anyhow, the clarifying truth of the moral law holding always and everywhere tells us pretty much everything we need to

know about what any concrete situation requires.

But the issue of the ?double status of truth? is not only an intra-Catholic matter of moral theology. Instead it also must be considered in light of the overwhelming emphasis of John Paul and Benedict on the threat to truth spawned by what they regard as the runaway relativism of Western democracies. And this brings us to the second conceptual factor behind the bishops? reduced emphasis on practical reason in the exercise of conscience: The fear that human reason in a democracy like the United States is so damaged by relativism and sin that it is all but incapable of attaining moral truth on its own via an exercise of practical reason. John Paul argued that this dismal tendency of human reason was at the heart of the contemporary ?culture of death? at work in a place like the United States. Benedict has similarly decried what he has called the way that human reason all too often does not accept truth because it does not really want to know it. Faced with such a negative judgment about the capacities of human reason, what is the Catholic conscience to do? Among other things, not assume it has the rightful freedom to exercise too much practical reason in the face of the complex circumstances of democratic life. In the eyes of the Catholic right, this was the downfall of those Catholic Democrats in Congress in 2009 who invoked their own prudential judgment to cast the decisive votes in favor of federal health care reform -- and who, in doing so, defied the official opposition of the American Catholic bishops to the bill on the grounds that it would violate the moral law against abortion.

It is important to note that the close link of conscience and the moral law speaks poignantly to the transcendence of the human spirit. The Arab Spring in 2011; Poland in the 1980s; Selma and Birmingham in the American South in the 1950s and ?60s: The people in the streets in these times and places moved the conscience of the world because they witnessed to a demand for justice that always and everywhere surpasses the claim of oppressive power. By contrast, the problems of conscience now facing American Catholic bishops have nowhere near such stark dimensions. And this is true no matter how often some bishops and their allies on the religious right liken contemporary gay activists to the Ku Klux Klan (as did Cardinal Francis George of Chicago) or see in President Obama the alien spearhead of a war against Catholics (as did columnist Michael Gerson writing in the Washington Post).

In any case, the Catholic Church in the United States is not without help in having a model of conscience more suited to the complex challenges of living the Gospel in a democratic, pluralist society. The great 13th century Dominican theologian Thomas Aquinas allows for the pre-eminence of the moral law in the act of conscience but, unlike many bishops, he doesn't collapse the reasoning capacity of conscience into the recognition of the obligation to obey the moral law. Instead, he includes a robust role for practical reason in the process by which conscience judges what is required in a particular situation. Thus Aquinas speaks of conscience in light of practical reason's use of higher (more speculative) and lower (more factual) knowledge; of wisdom; and of the testimony of the senses. The playwright Robert Bolt beautifully captured this tensive view of conscience caught between the demands of the moral law and the potential of practical reason when, in ?A Man for All Seasons,? he has the English Catholic Thomas More say: "God made the angels to show Him splendor, as He made animals for innocence and plants for their simplicity. But Man He made to serve Him wittily, in the tangle of his mind. If He suffers us to come to such a case that there is no escaping, then we may stand to our tackle as best we can, and, yes...then we can clamor like champions, if we have the spittle for it. But it's God part, not our own, to bring ourselves to such a pass. Our natural business lies in escaping."

For Robert Bolt?s Thomas More, the acceptance of the possibilities of practical reason reflects an acceptance of our status as creatures before God. To dismiss practical reason en route to being a martyr before its time is to commit spiritual pride, getting ahead of what divine love may in fact be asking us to do. And there is a lot of good to be done today in such places as Catholic universities and Catholic hospitals. Take the central case in the current conscience struggles: the regulations requiring contraceptive coverage at Catholic institutions. The cries of protest against this regulation often have an assumed air of violation, as if it?s self-evident that the regulations will be imposing a direct burden on the Catholic conscience. In fact, though, the moral complicity at

issue is at a remove: Catholic institutions would be providing payments for choices that female employees of these institutions may or may not make. Even if we?re troubled by the proximity of such payments -- aren?t they enabling an evil action? -- we should recall how the tradition of Catholic practical reasoning provides ways of dealing with such challenges. For instance, what is called the ?principle of cooperation? is used to determine when a Catholic may be involved in a morally acceptable manner in the evil action of another person. The core test of the principle is that one person may not share the intention of the person doing the evil action. Obviously, in the case of the regulations and contraception, this core test is met: The bishops as a matter of conviction do not share the intention of those female employees availing themselves of the health care benefit of birth control.

An openness to practical reason here -- and to facts like huge majorities of Catholic and American women rejecting the Church?s doctrine on birth control -- might also offer a welcome dose of humility to the Church in its reflections on this matter: Is this a prudent place to make a stand? The principle of cooperation also asks whether there is a ?proportionate reason? to justify involvement with the moral evil at hand. Here comparison and scaling of values are unavoidable. What may be a sufficient reason to justify cooperation with artificial birth control may not be a sufficient reason to justify involvement with abortion. Here also attention to the full range of goods at stake in a situation is crucial. So we might ask with an eye toward the fundamental purpose of the institution: ?Would the failure to provide insurance coverage for birth control impair the morale of female employees and hence inhibit the good to be accomplished by the institution in question?? And we might also ask, with an eye toward the values of citizenship: ?Does the moral ideal of equality before the law mean that if an insurance policy provides prescription coverage to men for Viagra the policy ought also to provide prescription coverage to women for birth control?? In any case, it?s neither relativism nor radical secularism that inspires consideration of such matters. Instead, it?s an imperative of the close link of practical reason and conscience long part of the Catholic tradition.

I would like to conclude with one other consequence of the bishops? constrained view of practical reason: The constriction of the freedom of conscience. This is a paradox. After all, the bishops have raised a hue and cry because they are defending the rights of conscience. But, for them, the conscience should be free to adhere to the truth of the universal moral law articulated by the hierarchical teaching office of the Church. Moreover, for them, there really aren?t many good excuses for not knowing of the need for such adherence. In this, they are following John Paul II, who asserted in ?Veritatis Splendor? that the hierarchical magisterium of the Church ?in no way undermines the freedom of conscience? of Christians because ?the Magisterium does not bring to the Christian conscience truths which are extraneous to it; rather, it brings to light the truths which it ought already to possess, developing them from the starting point of the primordial act of faith.? But what about the freedom of conscience to adhere to a truth not identical with the moral law defined by the hierarchical authority of the Church? And what about the freedom to allow one?s practical reason to consult empirical data and a wide range of values in determining what conscience should do in a complex matter? Especially if that determination differs from one put forward by the bishops? The model of conscience favored by the bishops in the current disputes has little room for such obvious and significant scenarios. By contrast, it?s helpful here to recall another aspect of Thomas Aquinas? theory of conscience that factors squarely into such concerns for freedom: his claim that it is sinful not to follow the subjectively right but objectively wrong conscience. Or, in other words, a person is obliged to follow one?s conscience if one believes the judgment of one?s conscience is true, even if that judgment is objectively speaking incorrect.

Thomas? claim has posed a problem for Catholics who insist that an erroneous conscience must be the consequence of a person?s culpability. Given that culpability, this line of thinking goes, a person is obliged precisely not to adhere to an erroneous conscience. Beyond this general wariness of the freedom of the erroneous conscience, conservative Catholics can also point to limits that Thomas himself imposes on the freedom of such a conscience. For instance, Thomas says that no one may rightfully pursue such a freedom while claiming not to know that certain egregious actions are always and everywhere against the moral law. Here we encounter a variation on what I noted earlier: That those who claim freedom of conscience to act

contrary to intrinsic evils must not know of the moral laws against such evils because they do not want to know of such laws. Then-theologian Joseph Ratzinger (now Benedict XVI) said as much when he dismissed liberal Catholic post-Vatican II appeals to Thomas? notion of freedom of conscience as being misinformed about Aquinas and regrettably and wholly inspired by modern thought. Here also we can surmise that, for many of the bishops, the crucial moral laws of which every conscience cannot claim ignorance include those proscriptions against the great intrinsic evils at stake in contemporary American democratic culture -- artificial birth control, abortion, and gay marriage. These are the moral laws, as John Paul II noted, that the Magisterium has declared and that every Christian conscience ?ought already to possess.?

So we have a perfect closed circle of conscience. The moral laws against intrinsic evils that every Catholic conscience ought to know are specified by the hierarchical teaching office of the Church. Moreover, the correct application or policies related to these moral laws against intrinsic evils -- for instance, legislation or regulations related to abortion or gay marriage -- are also specified by the hierarchical teaching office. So the Catholic conscience may neither claim freedom from the hierarchically-identified intrinsic evils nor from the hierarchically-specified policies that best combat such evils. If at some point on this circle you need to break out, you have a free conscience to do so -- just not a Catholic, free conscience.

There are decisive times and places when the truth of such a closed circle of conscience is necessary. In the face of Hitler?s murderous leadership, would that the Catholic hierarchy had spoken out unambiguously in defense of the binding nature of the universal moral law on all Catholic consciences. But today this closed circle of conscience founders on its hierarchical hubris, the greatest measure of which is its identification of the Magisterium with the very voice of God. In any case, for purposes of this essay, it is important to note that such a closed circle is only possible by relying on a model of conscience shorn of the capacity of practical reason. And here we can see the enduring relevance of Thomas? model of conscience and of his claim that the erroneous conscience is free. For Thomas, what is at stake in any morally complex situation is not only made evident by the clarifying truth of the moral law. Instead, practical reason in all its variety -- as wisdom, prudence, science, common sense, knowledge gained from the senses, etc. -- must also be brought to bear to determine what is morally obliged. Men and women ought to have the freedom to use such practical reason. Moreover, for Thomas, what provides the basis for the freedom of the erroneous conscience is the great value of practical reason -- and not only of obedience to law -- in the very constitution of our personhood. As one scholar of Aquinas put it: ?To act morally is not merely to grasp a material good in order to become morally good. To grasp the good in the first place is also to grasp oneself as a being that determines itself freely through reason in order to become such a [morally good] being.? Or to paraphrase the plain English of one of the Church?s great martyrs of conscience: We are to serve God wittily, in the tangle of our minds.

It?s time for too many Catholic bishops to stop heading for the barricades and start making for the negotiating table to try to figure this thing out. The Catholic conscience demands it.

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