

The difference between sin and crime

Theologian analyzes the issue of denying Communion to certain politicians — drawing on the distinction between the role of the Church and of government

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As election time approaches, we will hear reports of priests refusing [Communion](#) to Democratic politicians who won't vote to make abortion a crime.

And we could (but won't) hear of priests refusing Communion to Republicans who won't vote to make it a crime to own handguns or sell genetically-altered food (GMO's).

So this article could be called political, but it is not partisan.

Its point is that no one seems to be addressing the fundamental issue: the difference between sin and crime.

This is an essential distinction, ignored by priests and bishops alike who distort Catholic doctrine by insisting that politicians should conform in their voting to what these clerics think is Catholic teaching.

The plain truth is, it is the right and duty of the Church to determine what is a sin. It is the right and duty of the government to determine what is a crime.

The government cannot tell anybody what is a sin. And the Church has no authority to tell anybody what sins should be punished as crimes. If we allow the Church that right, we are back to the Spanish Inquisition.

There are all sorts of sins that are not punished as crimes in our country, from adultery to exploitation of the poor. And the Church has no right to rule that they should be. Nor has the Church any right to rule that the sin of abortion—or any other sin—should be punished as a crime.

Catholic judges are not denied Communion because they enforce civil laws instead of the Ten Commandments.

And Catholic legislators should not be denied Communion because they make laws to promote the common good—as best they can under actual circumstances—instead of Christian morality.

By distinguishing between sin and crime, the Church affirms the Catholic belief that people have the right to go to hell without going to jail first.

The religious affirmation that something is a sin should be guided by a judgment of conscience about right and wrong. It is a moral decision.

The political decision to make something a crime should be guided by a practical judgment about what is for the common good. It is a pragmatic decision.

While we might argue that all sins are detrimental to the common good, punishing them all as crimes might not be. The founding fathers decided not to make slavery a crime because it would have kept some colonies from voting for independence.

Later, when the Protestant conscience brought about Prohibition, the lawlessness that followed convinced the country that making what some believed was the "sin" of drinking a crime was not for the common good.

And it is quite likely that to make anything a crime that a large segment of the population does not see as wrong is going to do more harm than good.

For that reason, a politician who deeply believes that abortion is a sin might nevertheless be convinced that in today's society it would be a mistake to make it a crime.

Sometimes the only good choice is the lesser of two evils

It is also possible that a politician might believe there is no real likelihood of overturning *Roe vs. Wade* in the foreseeable future.

So for that politician to publicly oppose legalized abortion could be to throw away an election just for the sake of making a moral declaration that would have no beneficial consequences whatsoever—except to proclaim Catholic doctrine, which is not the primary purpose of politics.

On the other hand, it might really be more for the common good to support legalized abortion in order to get elected and be able to vote for other issues that could actually pass into law than to pointlessly proclaim the immorality of abortion and cancel oneself out as a legislator.

A vote in Congress is not a profession of faith or of religious values, but an effort to do the most good one can do in the actual circumstances that exist here and now.

Politics has been defined as "the art of compromise." It is also the art of the possible. What won't work cannot contribute to the common good. Sometimes the only good choice is the lesser of two evils. And on that point a politician may be a better judge than a priest.

Suppose you were a voter just before the Civil War, when Lincoln and Douglas were running against each other for president. And let us suppose, taking some liberties with actual history, that you knew

Lincoln would abolish slavery, and Douglas would not. Suppose you were morally opposed to slavery as a sin. But suppose you were also convinced that to abolish slavery at that time would bring on a disastrous civil war.

Suppose you believed that in a few years slavery would die a natural death anyway, as it already had in most countries of the world.

Could you not in conscience vote for Douglas in order to avoid civil war, because you saw that as more for the common good at that moment? And if you did, would your pastor be justified in refusing you Communion?

It is worth noting that Catholic teaching against abortion is not based on any church doctrine that a fetus in the womb is a live human being.

There is nothing in divine revelation that tells us when God infuses the soul into the body. The bible doesn't teach biology. And medical science cannot tell us either.

But since there is every reason to think this happens at the moment of conception, the Church teaches that we cannot take a chance.

To kill a fetus in the womb is like firing blindly at a moving target in the bush during deer season. It may be a human being, and if so, one would be guilty of murder.

Nor did Roe vs. Wade presume to declare when a fetus becomes a human being. The Supreme Court's decision was based on what the people in the country believed, and therefore would have intended, at the time the Constitution was written.

That is clear to anyone who googles and reads the actual words of the text.

And if Roe vs. Wade is ever going to be beneficially reversed, the good it does will depend on what people actually believe at that time, and on whether they are right or wrong.

This means the Church should do her own job, which is not to make the practical judgment about what should or should not be made a crime, but to enlighten people's conscience about what is and is not a sin.

The common good

There are cases, of course, when a law itself can be positively sinful.

Examples are Hitler's persecution of Jews (about which the German bishops were significantly silent), England's law requiring people to renounce the Catholic faith by taking the Oath of Supremacy (by virtue of which St. Thomas More was martyred), or the American law against selective conscientious objection (conscientious objection to particular wars; or, as it is sometimes called, discretionary armed service), which would force individuals to engage in a particular war they personally believe to be unjust.

But these laws do not just permit sin, they explicitly mandate concrete actions that are immoral, which is a different issue.

It is within the Church's competence to denounce them as sinful.

But the Church cannot denounce as sinful a law that requires no one to do an immoral act, but simply refuses to punish those who do. One must argue for or against civil laws on grounds of what is conducive to the common good.

If something can be proven with certitude to be against the common good (by reasonable arguments, not arguments appealing to the authority of Church doctrine), then ecclesiastics might refuse Communion to a politician for sinning against what is a political, not a specifically Catholic, obligation.

But certitude in such cases is very hard to establish.

This said, we have to maintain that every bishop, like every citizen, has the right and duty to speak out and even lobby for whatever laws appear most conducive to the common good.

But they do this as citizens, and sometimes as spokesmen for a significant segment of the population, but not as ecclesiastics.

I personally believe both that abortion is a sin and that it should be declared a crime. It is my personal, practical opinion that legalized abortion is detrimental to the common good.

But no Catholic is obliged to follow my opinion on this, just because I am a priest. Nor does any Catholic have to follow a bishop's opinion about whether or not abortion, or any other sin, should be declared a crime.

This is an essential distinction, one which, for some reason, many people seem unable to grasp.

The Church has authority to tell us what is a sin but no authority whatsoever to declare what should be a crime—understanding, as explained above, that she has the right to denounce laws that do not just permit, but positively require people to do what is evil.

The Church cannot condemn laws that allow doctors to perform abortions, but she can and must condemn laws that require them to.

To decide what sins should be punished by law is the function of government, and it is ruled, not by morality, but by a practical, pragmatic concern for the common good—which, in turn, is determined as much by circumstances, and by what is possible, as it is by abstract morality.

Whatever is legal is not necessarily moral

My experience, through many discussions with intelligent Catholics, including lawyers, is that, clear and obvious though it be, many simply cannot grasp the distinction between sin and crime.

In this they are reacting like the general public, who, although they claim not to learn their morality from the government, nevertheless tend to assume in practice that whatever is legal is moral.

That is one reason why I believe legalized abortion is against the common good.

It is because, in actual fact, regardless of what should be, if the government declares abortion legal, it influences the thinking and corrupts the conscience of a huge percentage of our citizens.

Consciously or not, deliberately or not, intentionally or not, but inevitably, the government is doing the work of the Church. The government is forming our conscience about what is and is not a sin.

The solution is for the Church to do her own job and teach so convincingly the evil of abortion that no one who believes in reason and in God would ever have one.

When Ireland, on May 25, 2018, voted two to one to open the door to legalized abortion, the comments and public rejoicing showed pretty clearly that they were voting, not for the common good, but in favour of abortion as such.

In other words, the Church had failed to keep the Irish Catholic.

In this country, the Church should focus more on persuading the people not to commit the sin of abortion than on pressuring politicians to put them in jail if they do.

Someone should explain this in simple language to the first bishop or pastor who refuses to give Communion to Joseph Biden.

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