

The Voice of the Church in Public Affairs

There are, generally speaking, two opinions about the church voicing her opinion on public matters. They both favor it, but in differing ways. This position guide will explore these two positions, and, attempt to align them with the biblical spokespersons, Paul and James. In this position guide, however, the identification will be less clearly established than in previous guides.

We use the images of these two prominent men from our early Christian tradition to remind us that although we are one community we will have disagreement. The example of the interaction between Paul, James and Peter serve as a model for moving ahead as a community when we are confronted with issues that divide us. In the books of Act and Galatians we here about the argument with regard to the reception of gentiles to the early Christian community, in this case James took the more traditional approach to the matter while Paul advocated for a more progressive policy. Peter is a figure that also has a prominent role in the midst of this debate; Peter served as the accepted authority to help find a compromise on this issue. While we do not intend to use prepared arguments from both camps we will resurface their names in recognition of the legitimate disagreement we can have as a Catholic community.

On this particular issue there have been a number of issues, largely life-related, that has received church attention these past several years. Many of them concern familiar areas of public life: war, the economy, the environment, health care, housing, education, immigration, etc. All these fall under the umbrella term: public.

Benedict XVI, especially in his recent encyclical *CARITAS IN VERITATE*, has employed three sets of terms to describe the layers or levels of life we lead: private, social, public. The significant one to note here is “social”, since, till now, it has not received as much attention as the other two in appreciating the activity of the church. It is not new, with Benedict XVI. As he acknowledges, it dates back to Pius XI and his encyclical, *QUADREGISIMO ANNO*. It is there where the concerns of society, addressed by the principle of subsidiarity, were first clearly articulated.

This trifold distinction is not exclusively church language. Hannah Arendt, among others, has deployed it as well, (in her book, *HUMAN CONDITION*) and, together with both Popes, has paid special attention to their deployment in her analysis of human life.

The upshot of this language seems to be that an institution like the church more properly belongs to the category of the social than it would to either of the other two. This would realign, somewhat, the discussion about the church’s engagement in the “public” sphere of life. It faintly resembles the distinction employed in the U.S. between a non-profit entity and a for-profit organization, though this observation specifically pertains to the economic sphere.

There has been a long-standing debate in the U.S. over church-state relations. While this sounds adversarial, it has been a helpful exchange that has better served both church and

state than arrangements that, till fairly recently, prevailed in other parts of the world, such as Europe, where, at various times, the church possessed temporal power and was much involved in affairs of state, while the state had its finger immersed in church activities. In that era the church was a public entity, not just a social one. Even today we note, especially in certain Islamic countries, the powerful influence of Imans in the public conduct of the nation. Nor can we overlook how, even in our country, some “churches” have taken outspoken political positions on public issues, as, for instance, the black churches in matters of racial discrimination, or the Religious Right in matters of politics. But, for that matter, so has the USCCB, on issues mentioned above.

There have been debates centering around the first Amendment to the U.S. Constitution: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;...” Till recently, the most common venue for discussing this amendment has been education, especially for the Catholic church, which has sought financial aid from the public sector to support its own school system, arguing that this aid would come from tax monies supplied by Catholics, as well as adherents of other or no religions. Catholics have not been significantly successful in these efforts, though incremental financial aids have been gained over time. This is an instance of the church’s insertion into the body politic.

Since 1973, and the *Rose vs. Wade* decision of the Supreme Court, the church has again addressed its “public” role aggressively. She disapproves of the court decision that abortion is the law of the land. She also disapproves of the allocation of federal money, gathered from tax-payers, Catholics included, to support abortion practice. In this, at least, she has prevailed. Thanks to the Hyde amendment, under Medicaid, with certain exceptions, no federal tax dollars may be allocated to abortion procedures. But the church also formulates arguments in the public square, attempting to delegitimize abortion, that is, to criminalize it

There has been repeated use of the term “church”, in the past few paragraphs. This needs clarification, not only by specifying that the Catholic church is at issue here, but also that the very word “church” admits of different meanings. The church is the hierarchy, the clergy, the laity, but: separately, or all together? Sometimes we combine the clergy with the hierarchy, and understand the church as the hierarchy in this sense. But usually, in saying the church holds this position, or prohibits that activity, we mean the bishops. When we ask: who speaks for the church, we think of the bishops rather than the clergy or the laity.

However, apart from speaking in the name of the church, bishops can also speak in their own name, as citizens, in the private forum. This is their prerogative along with every other citizen. But it is really the social forum where the bishop is best situated to speak on behalf of the church. His primary constituency is in his diocese. From that vantage point, public impact can accrue to his voice when he speaks to his own constituents.

What are we to think about the “church” (the bishop) speaking on issues extending beyond the church, that is, publicly? A Paul and James difference may emerge here.

James may question the efficacy and/or the legitimacy of the “church” addressing public issues that do not concern the internal affairs of the church. Paul likely supports the “church” in extending itself, given his record of appealing to secular authority when it suited his purpose.

The hierarchy cannot address the public realm, as it formerly did, from an official position it holds within the public realm. It no longer has status or recognition there, though the Vatican enjoys the status of permanent observer at the UN, with a spokesperson representing its interests and viewpoint. But its role is one of dialogue and persuasion—exactly the position it holds within the public sphere throughout the world, including the U.S. It can teach, but it cannot legislate. But this is no small opportunity. In recent times the church has gained recognition and respect as a moral voice. When the church speaks, people listen.

On the other hand, when it comes to the social realm, where the church, together with other ecclesial bodies, synagogues, mosques and temples are properly located, the (Catholic) church speaks with authority. The bishop, as the Ordinary of the diocese, has the last word, not only on spiritual issues within his territory, but also on such “temporalities” as church properties, financial affairs, personnel and buildings. Within his own diocese, the bishop enjoys the last word, and can excommunicate those violating official church teaching in important areas, such as abortion. Thereby, he declares them in violation of church law/teaching, and so ineligible to receive her sacramental ministrations. This is not equivalent to declaring them “in sin”, but it does mean they are placed beyond the pale of the church, prohibited from approaching the sacraments. Excommunication has been threatened against pro-choice Catholic legislators. This would be an instance of the bishop influencing, though indirectly, the public realm, where legislators operate, especially if they heed the bishop’s mandate.

This injunction does not apply to the Catholic electorate in the diocese, such as their pattern of voting, unless the solitary issue being voted is abortion (some state-wide referendums are single issue ones). The more frequent situation, however, is that of a Catholic voting for a candidate who represents a variety of issues, including Pro-Choice ones. In this instance, the Catholic electorate may vote for him in view of his supporting other significant issues, but not precisely because of his Pro-Choice position. But if there are legislators, supporting these other issues as well as Pro-Life ones, then they should receive the Catholic vote. In this latter case, the bishop can prohibit Catholic voters from casting their vote for any Pro-Choice candidate, but this could place him in the stance of moving beyond his legitimate jurisdiction.

The bishop most effectively acts his part as a spiritual leader and teacher of his people when he addresses public issues from the vantage point of Catholic doctrine. While he is free to voice his opinion on issues unrelated to church teaching, as a concerned citizen, he does not then have a Catholic audience before him, and his influence will be that of a private person expressing his position on something that is not religious in nature.

The bishop's position is primarily within the church, which is an important unit within society. This is where he exercises his influence and authority over those under his jurisdiction, who, on occasion, are both legislators and electorate. While they exercise these roles within the public (political) realm, which is beyond the bishop's control, it is not beyond his influence.

While the bishop can address issues as a concerned citizen, along with everyone else, he can also do so as a churchman. Abortion is one of these, but there are many others: divorce, sexual conduct, war, violence, economics and finance, immigration, health care, education, etc. He is more effective in doing this by way of natural law reasoning than of specifically Christian resources, such as the scriptures. The natural law is congenial to everyone, regardless of religious (or non-religious) affiliation. Opposition to abortion, for example, can be based on the humanity of the fetus, verifiable by a natural law type of reflection, and often substantiated scientifically by embryology and biology. One does not have to be a believer to accept this.

Admittedly, and the church recognizes this, the natural law is not crystal clear in its many ramifications. There is legitimate room to argue its meaning. This can take place in the public forum, as it does, and the bishops, as concerned citizens, can take part in these debates, as they do. But they can also do so as representatives of the church, exercising not authority but influence, by their teaching. The USCCB has multiple committees that address all of the issues just mentioned, providing position papers that reflect their opinions. It would be comforting to think that, as church, they bring to bear clarifications, precisions and illumination on murky topics, that contribute to the quality, accuracy and persuasiveness of given arguments. Indeed, the church's position is that, at some point, only the church can illuminate and clarify certain imprecisions in appreciating the natural law. Of course, this is not accepted by all parties relying upon natural law to corroborate their positions. And this causes problems.

It is evident in the abortion issue, and the current U.S. practice in its regard, where the Roe-Wade decision defended its interpretation of the right to life provided by the U.S. Constitution, in noting the precise wording of Amendments 5 and 14, both of which use the word "person" when speaking of the right to life:

5-"No person...shall be deprived of life, liberty or property without due process of law..."

14-"...nor shall any State deprive any person of life, liberty or property, without due process of law..."

The Supreme Court does not acknowledge the status of the fetus from the first moment of conception as a "person". Natural law can establish its status as "human" but not as person, with the same clarity, at that precise moment. However, the church understands the humanity in question at this point in time to be oriented to and open for personhood in the immediate future, in view of which she recognizes the fetus as possessing the fullness of rights and respect that any person enjoys. This is an instance of the church interpreting the natural law in her own special way, by virtue of her spiritual gift of discernment. Such precision is not available to others arguing only from natural law. It is interesting to note that the Supreme Court, in the Roe-Wade decision, specifically remarked that,

should the time come when the personhood of the fetus at the moment of conception was established, then at that point its Roe-Wade interpretation would have to cede to the wording of Amendments 5 and 14 above.

Given the importance of such a possibility, there have been, since Roe-Wade, numerous attempts in the U.S. congress to do that very thing, and even now legislation is pending to affirm this, but the process of amending the U.S. Constitution is a tortuous one, and very time-consuming. However, short of this achievement, pro-life groups in society, both Catholic and otherwise, have been successful at the incremental process, underway in both federal and state levels, of gaining legal protection for the unborn fetus, so that gradually the tide of public opinion is turning Pro-Life. Perhaps this is the better legal way to go, as, for instance, Senator Robert Casey Jr.'s (PA) efforts to gain congressional support for funding maternity and prenatal care. With access to financial support for children in the womb, one of the reasons for women to seek abortion would be eliminated. The Pro-Life movement, which is largely lay operated, deserves much credit for these incremental successes.

The denial of the right-to-life of the fetus has been compared to a comparable denial regarding the slave in this country, coterminous with the adoption of this nation's Constitution. In Article 1, section 2, at [3], where there is question of calculating membership in the House of Representatives, it was done on the basis of the whole number of free persons in geographical districts, to which were added non-free persons, who were calculated as only three-fifths of a person. In this instance, a slave was but a partial person. With the elimination of slavery, of course, this arrangement no longer prevailed. Hopefully, a similar development will ensue to the benefit of the fetus.

The bishop can witness in the public forum, often quite effectively, to the truths of natural law, since, despite their availability to everyone, they frequently stand in need of the clarification he can provide from the vantage point of the church as a social institution. The public arena, however, lies outside his effective control. Much of the controversy surrounding Pius XII during WW II concerns the effectiveness of his influence over the Nazi persecution of the Jews. It is beginning to emerge that it was greater than thought. In this, the Christian church differs from some instances of Islam, where the union of religion and government gives effective public control to Islamic clerics, as in Iran.

In the trial of Jesus, during His Passion, we see Him subjected to a double jurisdiction: that of Jewish religious law, effectively controlled by the priests and the Sanhedrin, and that of secular law, represented by Pilate. This was an example of the confluence of a social and a public institution (synagogue and Roman law), where the religious factor exercised a decisive influence in determining what the public authority (Pilate) did: execute Jesus. A somewhat similar situation prevailed later in the case of the apostle Paul, imprisoned by the civil authorities at the instigation of religious leaders, who ultimately consigned himself to the jurisdiction of the public forum to escape the constrictions of the social arena represented by the Jewish religious leadership.

The interaction of church and state works both ways. To this point, most of the interface between them has been described in terms of the church, in the person of the bishop, exerting influence (but not control) on the affairs of the state, as in the currently outstanding issue of abortion. However, it can work the other way around: the inroads of the public/political into the social sphere of the church. An instance of this concerns the teaching/preaching ministry of the church, and the potential for government interference in its exercise of the preaching ministry by legitimating a doctrine of civil rights for those in homosexual marriages, for instance, making church opposition to this arrangement a violation of the law. An earlier version of differing views on marriage concerned state sanctioning of civil divorce in opposition to Catholic church teaching on the indissolubility of marriage. Another current conflict concerns the threat of public withdrawal of licensing from Catholic institutions refusing to allow foster parents of the same sex to assume care for children currently in the custody of church-run programs.

Much of this entanglement between the social force of the church and the public square where the state exercises power came to the fore in the invitation issued by Notre Dame University to President Obama, to deliver the baccalaureate address to the graduating class, and to receive an honorary doctorate of laws. Two bishops recently addressed this situation in AMERICA magazine, largely in terms of the discussion presented here in this position guide. There may be a possible alignment with James and Paul in this matter. The one bishop is the ordinary of the diocese of Fort Wayne-South Bend, the other is retired. The current ordinary is the ecclesiastical superior of Notre Dame University. He exercises effective jurisdiction over it in all church matters. He judged the invitation to the President to be out of order (in view of a position adopted by the USCCB regarding invitations extended by Catholic institutions to public speakers and honorees who promote positions contrary to Catholic doctrine).

The Catholic community and Catholic institutions should not honor those who act in defiance of our fundamental moral principles. They should not be given awards, honors, or platforms which would suggest support for their actions. "Catholics in Political Life," June, 2004.

He publicly voiced his disagreement with the invitation and joined in a candle-light service protesting it. In all of this he was acting strictly within his rights as a Catholic authority addressing a Catholic issue in the appropriate venue. Understandably, there was a spillover effect into the public realm, even though it occurred in the social area, proper to the church. It is difficult to confine a situation such as this, taking place in the social sphere, without seepage into the public arena. A biblical basis used by this bishop for his action was witnessing one's faith commitment to the world at large. (Mt 5.13) He judged this an apt situation in which to show that what bishops do in their area of competence has influence in the public arena.

By way of contrast, the other bishop did not confine his reflection to the role of the bishop acting within the boundaries of his own diocese. Rather, he concentrated his reflection on the public realm, where a bishop operates more by example than by jurisdiction. He was more concerned about the public impact than the social

consequences, and worried that the public witness that was offered was more harmful than beneficial, proving counter-productive, and harmful even to the social sphere proper to the church. Witness may have a downside as well as an upside. Some of the undesirable results he cited included the adequacy of the witness given, in this instance, to the church's moral tradition, which extends beyond abortion to a level he described as "comprehensive and transcendent" (somewhat comparable to Cardinal Bernardins' consistent ethic of life), and so offsets any appearance on the part of the bishops as partisan to one political party and its issues while neglecting the other political party and its agenda. He also feared aggravating the culture wars with their tendency to "label" rather than teach, and inciting to racism, by comparison with the church's witness in recent times to issues that she has expressed less vehemently in the case of other public officials whose positions on various issues do not coincide with those of the church. This bishop favors a policy of engagement with a President whose position on life issues counters those of the church, rather than one of sanction for his opposing a particular church teaching. Engagement allows the speaking of truth to power without necessarily diminishing the integrity of Catholic truth, and, indeed, possibly persuading the opposition, at some later time. It's a matter of Paul's "veritas in caritate" (Eph 4.15), an inversion of which was adopted by Benedict XVI in his recent CARITAS IN VERITATE. Does engagement prove more efficacious in the public realm than confrontation? This bishop takes his inspiration from Vatican II's GAUDIUM ET SPES.

Witnessing adequately to the spectrum of church positions, while honoring the distinct spheres of influence, is difficult for someone so clearly identified as the bishop, with the social arena where the church is embedded, when his proper activity there so readily affects the public square, which is the proper jurisdiction of the state.

Given this problem, it might be helpful to reformulate what we mean when we refer to the "church" relative to the public sphere. While it is true that only the bishop can officially speak for the (local) church, it is also true that this can present him certain difficulties, as just presented. Given this, might it not be wise for competent laity to assume a more assertive role on behalf of the church in the public square? In so doing, the layperson has less to fear about trespassing the boundary between the social and the public, which can arouse harmful suspicions and fears. The value of this is amply corroborated in the several Pro-Life organizations, operating only loosely under church auspices, and largely lay run. These groups have proven adept at presenting their arguments on behalf of life, effectively and persuasively. They are not as subject to attack as the bishop for unduly bringing to bear the power and influence of the church on public issues, even as they capably argue the church's positions on the value of the life of the embryo. Perhaps they can prove to be the more efficacious witnesses of the faith of the church, in this day and age.

But, whoever speaks in the name of the church about public affairs, should reflect James' concern that the message proves effective only because it wells up from the inner riches of the church, and Paul's conviction that its effectiveness is measured by the impact it makes on the ways that public affairs are carried out. Both these mindsets come together in the Passion of Christ that, at one and the same time, witnessed to the greatest sign of

God's love for the world that had ever been seen, representing both the flowering of God's revelation to Israel, and the birth of a new movement out into a hostile but vulnerable world.