The Role of the Rule of Law

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Studying canon law in 1978 was an immersion into the ecclesiastical square of anarchy. We had no textbook since there was no law. Well, technically, insofar as the “letter,” there was. The 1917 Code of Canon Law was still in effect. But we were not given a copy of the old law since the new law was coming any day (in Church time 1983 was only days away). So in class we were given an outline of what were the proposed chapters in the new code and given broad outlines of what areas the law would govern. We students were walking between the columns of history.

As a national consciousness snowbirds to the “sunshine state” earlier than usual this year, the legal events in Florida heat up emotions in television programs, news and talk radio, newspaper and websites, supermarket and bar conversations over the 2000 presidential election. When taking a moment and stepping into the shade of cool reason, we look out on a revealing picture of the highest ideals and lowest limitations of the rule of law. In the end the law will save our democratic republic but not before it shakes the very foundations of our nation. Law is reasoned discourse at its human best. But human it is.

Back to the court of ecclesiastical law in 1978. My hunch is that we canon law students learned more about the law by not having a book of laws in front of us. On some deeper level of learning we glimpsed the true nature of law in its origin, function, purpose, capability, and limitation. Canon law in 1978 was reasoned discourse still in the making. Like all good law making, discourse continues in the ongoing reasoning and disclosing of our deepest held values in the context of the signs of the times. With the extraordinary Council of Vatican II, this discourse led to a major legislative overhaul of the Church’s law.

But to live in the middle of this change was a lesson of living in the middle. As professional pastoral caregivers we live in the middle of people’s lives spun chaotic in the maelstrom of the crisis of illness. For some, the event of illness at the age of 30, 50, or 60 can be as historically significant in an individual life as the event of a Council in the life of a community nearly 2000 years old. And so as people grapple with the meaning of their particular illnesses, they look to us their spiritual companions for help and guidance as they interpret this event of illness in their lives.

And sometimes their lives (as indeed our own) are in conflict with the
law of the community. We are spiritual caregivers who by endorsement, certification, and commissioning represent the Church community. So the questions that often emerge in these privileged conversations are not an inquiry into our own personal opinion, but rather a desire to know the voice and thinking of the Church community to which these people have some level of attachment.

The pastoral challenge then becomes how do I represent the Church, and in this instance, the law of the Church, in an authentic way respectful of the Church, the person in question, and myself. I would like to suggest that we do this best in precisely that manner, namely staying right there in the middle. In continuing the reasoned discourse of the law (at its best this law is the wisdom of the community), there are three areas where we need to function as skilled professionals.

First, we need knowledge of the law. Presumably, this is attained in theological study preparing for public ministry. Knowledge is more than memorization. Knowledge is an understanding of the history, the context, the rationale, and in this instance, the value that is being protected by the particular law.

I learned the value and integrity of representing Church law by a young woman during my first year as a priest in one of the most heart wrenching encounters I have ever experienced. Sitting in my office, this 22-year-old woman accompanied by her mother began to painfully tell the horrendous story of a horrible gang rape to which she was victim and the resultant pregnancy. I remember my own tears and my head shaking as I listened to this nightmare.

At one point she stopped and said, “Father, what is the Church teaching with regard to my situation?” I paused—and thank God, the grace was in the pause—and in the midst of my inner wrestle with my own conscience (perhaps this is the exception!), I answered her question. I will never forget my exact words: “What the Church teaches is that what you are carrying within you is a living, breathing, human being loved by God.” She said, “Thank you, that is what I wanted to know.”

Much more happened as we walked through the many issues surrounding this ethical dilemma including my own consultation with a theologian and ethicist. But she later told me that the priest chaplain on the campus where the rape occurred was compassionate in his listening, but moved her in the direction of seeking “forgiveness” later for an abortion that he presumed she would choose as the solution.

We begin with knowledge of the law and respect for the community that we represent in public ministry.
Second, we need to develop the skill of prudential judgment. By judgment I do not mean judging another person or his or her actions. By judgment I mean the call of when and how to intervene in a pastoral encounter. We all catch this wisdom at the valuable price of error. One of the wonderful aspects of CPE, I believe, is the opportunity to be in a learning community where our judgment is scrutinized regularly in hopefully the context of a loving community of peers and supervisors.

Unlike a court justice standing in judgment, we sit under the judgment of a God who is Justice, and this justice—right relationship—is Love. I believe Jesus answered the question of standing in judgment many times over the course of his life and ministry, but none more so than in the scene with the woman caught in adultery: Go judge, even throw your stones, but only if you are sin free.

Take the difficult example of a gay or lesbian person who is so angry and alienated from a Church that has in its teaching called him or her “disordered” and his or her orientation “intrinsically evil.” Regardless of my personal assessment of that part of Church teaching (perhaps an example of “reasoned discourse” that is less reasonable and more in need of discourse), I still represent that Church community. Judgment here is the call of how to represent the Church in this instance. Do I review this particular “teaching” with the person who is raging against the injustice of it all? How do I respond when he tells me that he and his partner love each in a wonderfully blessed committed relationship, even without the blessing of “the Church”?

How do I stay in the middle (my presumption)? Or, as in the case of the woman above, if I am asked a direct question about the Church’s teaching, then how do I respond? And then how do I present the teaching, in what light, and then what?

The last, surest, and soundest determinant of my judgment as a Church minister is almost embarrassingly too simple, some might even argue simplistic: “What would Jesus do?” A question that comes in the final analysis—sometimes with only minutes, even seconds in the time of judgment in my intervention—a question that comes out of a “reasoned discourse” of my life in prayer in getting to know and love and adopt the mind and heart of Jesus. And it is a human judgment all the same.

And this question brings us to the third area of skilled listening and intervention, namely the application of the law in the particular life situation. This I believe is the decision of the individual person in the sanctuary of her or his conscience. If I, as a spiritual companion, have
knowledge of the law, exercise the best judgment in my professional intervention in helping to present or interpret the law, it is the person who applies the law to her or his life.

A freedom exists here for the chaplain in the midst of his or her struggle to grapple with the difficult issue confronting the patient, inmate, client, family member, staff person—whomever God crosses in my path that particular day. The freedom is in the letting go of my need to take responsibility for either the Church or the person in his or her own conscience. I do the best I can with the utmost integrity. But I let the person be the person that God created, and not the image or the likeness that either I or the Church community might want to create. And in their freedom will lay their responsibility before God, as indeed the case for us all.

We live in the middle every day in our ministry. Second marriages, reception of the Eucharist, intercommunion, ethical dilemmas in every area of human living and loving—social justice, sexual ethics, life/death ethics—just plain living and loving, making and following good laws and not so good laws, sinning and forgiving, getting up each day—where?—in the middle of all of this.