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### A Catholic's Right to Choose

The United States' legal system is thoroughly influenced by Christian values. From swearing on a Bible before testifying in court, to the reference to God in the pledge of allegiance, to the fact that Christmas is the only religious holiday that's also a federal holiday in the U.S., core tenets of Christianity have been so baked into American culture that many might not even realize how big a part of U.S. law they are (Leppert). Although throughout American history Catholicism has not had as much power as various Protestant denominations have, acceptance of Catholics has grown over time, and there have now been two Catholic presidents. There is visible Catholic representation at many levels of the United States federal government. The current president is a Catholic, two thirds of the Supreme Court is Catholic, and 27% of Congress is Catholic (Nadeem).

The Catholic Church has been an institution for more than 2,000 years, and the United States has existed as its own country for the past 250 of those years, so it is understandable that both have gone through profound changes since their inception. As both the US and the Catholic Church have evolved, the teachings of the Church have at different times been in accord and at odds with US laws. Church and law are often at a standstill regarding the definition, rights and responsibilities of life, particularly in regard to the death penalty and abortion. Before 1965, the Church viewed abortion as a sexual sin, not the taking of a life, and St. Augustine even declared that abortion was not murder, but was a sin if "it was intended to conceal fornication or adultery," (Abortion). In the early days of the United States, reproductive healthcare was not regulated and abortions were performed by midwives and nurses. But in the 1860s, a growing movement of anti-abortion advocates called for the abolishment of abortion, supported by Pope Pius IX's declaration that abortion was a sin "that automatically excommunicated those involved in its procurement from the Catholic Church," (King). In 1910, abortion was banned

across the U.S. However, the 1960s and the looser attitudes to premarital sex and the effects of it led to a more relaxed abortion laws, and eventually to the landmark 1973 case *Roe v. Wade* which established legal access to abortion nationwide (Parenthood). In July of 2022, *Roe v. Wade* was overturned by a predominantly Catholic Supreme Court.

For many years the Catholic Church also looked to St. Augustine and St. Thomas Aquinas for guidance on the issue of the death penalty. St. Thomas Aquinas and St. Augustine considered the death penalty moral if it was used by a society to protect its citizens (The Catholic Church). For that reason, the Church often defended limited usage of the death penalty. After the horrific events of the Holocaust, public opinion everywhere in Europe shifted away from capital punishment (The Catholic Church). The extremely popular Pope John Paul II considered the death penalty to be cruel and unusual punishment, and argued that it should only be used in the most extreme cases when it was absolutely necessary to defend society. He also believed that these cases were so rare they were practically nonexistent (The Catholic Church). In 2018, Pope Francis revised the catechism of the Catholic Church to be unequivocally against the death penalty (The Catholic Church).

The death penalty was a common practice in Britain for a wide variety of crimes, and when the British came to the North American continent, they brought capital punishment with them (Early). The first recorded instance of an execution in the former American colonies was in 1608 with the execution of Captain George Kendall of Jamestown, Virginia (DPIC). The death penalty has existed in the U.S. in various forms and shades of legality ever since. In 1846, Michigan became the first state to abolish the capital punishment for all crimes except treason, and although other states followed suit, capital punishment continued to be a legal if not entirely encouraged part of the American legal system. During periods of high economic and social instability, capital punishment became more popular and more used, like during the 20s and 30s (Zalot). However, support for the death penalty began to decline, and in 1966, overall US support of the death penalty reached its lowest point, with only 42% of Americans approving of its usage (The History). In 1972, the Supreme Court suspended the use of the death penalty, declaring it could violate the 8th amendment, after the landmark case *Furman v. Georgia*. Four years later, in 1976,

the Supreme Court reviewed new sentencing guidelines and asserted that the death penalty was actually constitutional under the 8th amendment if properly applied (History). In 2014, 51 million Americans were Catholic (Masci). These Americans practiced a religion where the death penalty and abortion would be permissible in such rare and extreme cases that they practically didn't exist. They also lived in a country where both capital punishment and abortion were federally protected. Although the dynamics between these two conflicting ideas have changed in the past 10 years, the sentiments and clashes remain timeless. Any country with a separation between church and state will have laws that go against religious practices for some. **For Catholics in the United States, faith and law clashes like the death penalty and abortion force them to choose whether they will side with their religion or their country's legal system.**

Catholics often do not side with their religion during faith/law debates. American life has become increasingly secular in the 21st century, and Catholicism is not an exception to this trend. 13% of U.S. adults are former Catholics, while only 2% are converts (Masci). This push of the American Catholic public away from Catholicism has potentially far-reaching implications for both the Church and the U.S. government. With only 17% of American Catholics attending Mass once a week, the Church's direct influence on the American public is shrinking (McKeown).

One example of this is American Catholics' opinions towards the death penalty. In 2018, the Catholic Church revised its catechism to be completely anti-death penalty. Before this, the catechism allowed for the death penalty only in the most extreme cases. Despite Pope Francis' clear assertion that the death penalty goes against Catholic catechism, half of U.S. Catholics support the death penalty, and that percentage is even higher for white Catholics, of whom between 63 and 69% support the death penalty (Lipka). Because most American Catholics are white, although a large minority are Hispanic, and white people support the death penalty at a much higher rate than people of color do, it does make sense that many American Catholics would support the death penalty (Smith). Although only half of American Catholics are Republican, more than half of White American Catholics are Republican, and most Republicans support the death penalty (Political). Nearly 70% of Hispanic American Catholics are

Democrats, and about half of Democrats support the death penalty (Smith). One factor that may play into the Republican party's support of the death penalty is the fact that people of color are more likely to be handed down a sentence of capital punishment than white people, and the Democratic party has more racial diversity than the Republican party, which is nearly 90% White (Newport). Because most Catholics are White and most White Catholics are Republican, the trend for Catholics to support the death penalty reflects the trend that Catholics, and specifically White Catholics, do not look to the Catholic Church for moral guidance and are instead guided by their politics, and, like all people, view issues like the death penalty and abortion through the lens of their own personal experiences and convictions (Bruenig). The death penalty is not the only issue where Catholics are seemingly guided more by their political leanings than their faith. 60% of Catholic Republicans say they believe life begins at conception, while only 30% of Catholic Democrats say the same (Pew), despite the fact that they both follow a faith that fundamentally believes that life begins at conception.

For all Americans, race, gender, church attendance and political leanings influence death penalty support. American Catholics are a diverse group of people, ethnically, racially and politically. Often, a US Catholic will be more influenced by their gender, race, income and political leanings than by Church teachings on social justice issues. Catholics who frequently attend Mass are more likely to oppose the death penalty and are more likely to agree with the Church on other social issues (Smith). However, Mass attendance in the United States has been consistently dropping, especially post-pandemic. Only 17% of US Catholics attend Mass at least once a week. In 2015, 40% did (Wormald). Catholics who attend Mass weekly or more often are also more likely to oppose abortion in all cases (Smith). In 2001, 68% of American Catholics supported the death penalty (Opinion). The Pope at that time, John Paul II, was notably anti-death penalty and extremely influential, but the majority of American Catholics did not side with him on his stance on the death penalty. Pope Francis, who finally made the opposition to the death penalty an official church stance, could nevertheless not convince the American members of his church to side with him on this issue. In comparison, the Italian government, the country which surrounds the Vatican where the Pope lives, abolished the death penalty completely in 2009 (Hill). American Catholics'

low support for crucial Church issues, as opposed to other parts of the world, signify further that in today's world, American Catholics are not looking to the Catholic Church for guidance, and are in fact rejecting many of its stances on social issues.

Another issue where American Catholics are notably split from their church is abortion. Although the Catholic Church is unequivocally against abortion now, except for ectopic pregnancies, the Catholic view of abortion has changed over the past two thousand years, based on previous Catholic philosophers' opinions of when life began (Abortion). American Catholics, however, do not tend to side with the Church. While regular Mass-goers' views on abortion are often a reflection of the Church's views, many Catholics disagree with the Church, especially in cases of a woman's life being threatened by pregnancy (Smith). Abortion is a hotly debated topic in the United States at the current moment, with many opponents being guided by their religious convictions. Much of the Republican party is opposed to abortion, while much of the Democratic party is pro-choice. One of the complications of the argument that White Catholics in particular do not follow church teachings is the fact that so many White Catholics do subscribe to a party that recently has become notable for its anti-abortion stance. The nuances in the relationship American Catholics have with their church apply to many levels of church teaching, doctrine, and faith. Catholics who are Republicans (and are usually White) tend to be in favor of the death penalty and believe that human life begins at conception, while Catholics who are Democrats (and more likely to be Hispanic) tend to be against the death penalty and believe that human life does not begin at conception. The diversity of opinion on social justice and church issues of American Catholics is as significant as the racial, political and faith-related diversity of American Catholics as a whole.

In 1960, John F. Kennedy became the first Catholic to ever be elected president, running on the Democratic ticket. 60 years later, Joseph R. Biden became the second Catholic to be elected president, also running on the Democratic ticket. Biden is opposed to the death penalty but supports the right to an abortion. This puts him in the same position that many Catholic Americans are in of not being in accordance with parts of his Catholic faith, however, his prominent position as both the president and a Catholic has led to several discussions, particularly by American members of the clergy, over Biden's

eligibility to receive communion. The Catholic Church views receiving communion as an extremely central and powerful part of the faith. Because the Communion wafer is considered to become the actual body of Jesus Christ through transubstantiation, Catholics have strict rules about who can receive communion and who cannot. Children must prepare themselves spiritually before they can receive their First Communion, and non-Catholics are not permitted to receive Communion (Roman). In 2019, Rev. Robert Morey of St. Anthony Catholic Church in Florence, South Carolina, refused Biden communion on the grounds that “any public figure who advocates for abortion places himself or herself outside of Church teaching,” (Cramer). In November of 2021, the United States Conference of Catholic Bishops met to discuss, among other things, the delicate situation of giving the Eucharist to politicians who support the right to abortion. Although the document they finally did not single out Biden, it did state that “Lay people who exercise some form of public authority” have a duty to “serve the human family by upholding human life and dignity,” (Graham). Also in 2021, Biden met with Pope Francis and discussed a number of current events issues. When talking to journalists after the meeting, Biden said “We just talked about the fact [Pope Francis] was happy that I was a good Catholic and I should keep receiving Communion,” (Boorstein). However, Pope Francis later said that it was an ‘incoherence’ that Biden would support abortion rights, adding “Is it just to eliminate a human life?” (CNA). Relating to the death penalty, while campaigning for the presidency in 2020, Biden pledged to eliminate the death penalty. However, several years in, he has not fulfilled that promise (Andone). The tension between Biden’s faith and politics is not unusual for an American Catholic, however, his visibility has led to more and more conversations about what duties Catholics have towards following their faith in the political arena.

Biden is not the only high ranking Catholic official in the federal government. Catholics are disproportionately represented at the judicial level. Although only 20% of Americans are Catholics, six out of the nine current Supreme Court justices are Catholic: Clarence Thomas, Samuel Alito, Sonia Sotomayor, John Roberts, Brett Kavanaugh, and Amy Coney Barrett (Murphy). Although it is impossible to know exactly what prompts the court to rule the way it does, it is clear that the current Supreme Court is deeply guided by Catholic ideology. In 2022, this court overturned *Roe v. Wade*, the landmark abortion

case that guaranteed the right to an abortion nationwide (Parenthood). In his majority draft, Justice Samuel Alito wrote “Roe was...egregiously wrong and deeply damaging,” (Excerpts). Alito, one of the Catholic justices on the court, never expressly states that he is siding against Roe because of his faith. However, in abolishing the right to an abortion, it is clear that Alito is acting in accordance with Catholic Catechism. Even as the American Catholic public as a whole shifts away from looking to the church for guidance, the members of the Supreme Court seem to be working against this shift and upholding tenets of the Catholic faith. American Catholics are less interested in the Catholic Church but now live in a country where the highest court of the land is working to hold all Americans to laws that reflect at least some Catholic influence.

The clash between faith and law is inevitable in a democratic republic where the separation of church and state allows for disagreements between Church law and United States law. American Catholics will have to continue to choose between their faith and the United States’ laws on the death penalty and abortion. However, the abundance of Catholics on the Supreme Court who seem to be following the Church’s catechism could alleviate, or at least change, the tension between US law and Catholic catechism. While the American public will most likely continue the trend of moving away from the Church, especially when it relates to stances on social issues, the future of American law as it relates to Catholicism is on a journey that will likely take many twists and turns before it is done.

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