



THE VATICAN AND THE RULE OF LAW

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On this past Monday, Archbishop Dominique Mamberti, the Secretary for Relations with States of the Roman Curia (essentially the Vatican's foreign minister), made an important statement at the first-ever high-level meeting on the rule of law at the national and international levels at the the General Assembly of the United Nations. The archbishop's intervention is here: http://www.vatican.va/roman_curia/secretariat_state/2012/documents/rc_seg-st_20120924_rule-of-law_en.html.

At the outset of his intervention, Archbishop Mamberti echoed the widely held concerns about the crises which the human family presently faces. But the archbishop noted that the common good is an essential basis for meeting these crises. As he pointed out, the concern for the common good serves the human family by seeking an effective and universal rule of law which is necessary for a just, equitable, and effective response to any crisis that threatens humanity universally or regionally. While some may be tempted to rely on general human rights claims that have a positivistic inclination, the archbishop noted that more is needed as the rule of law is a tool to obtain an objective that affects everyone. In this regard, he noted that the inviolable dignity and value of everyone is vital to the rule of law project. Moreover, the rule of law must inevitably be based on this reality rather than on social consensus. In other words, truth rather than compromise is needed for the rule of law that is both durable and true to its calling.

He also noted that as legal systems of the world become more complex, there can be a tendency for a proliferation of norms and procedures that can eventually become contradictory of one another. The problem with any potential or actual conflict of norms is that it will inevitably place the rule of law in jeopardy.

On another related concern, we at the Mirror of Justice have sometimes noted that the fragmentation of the educational process is counterproductive to learning. The archbishop raised a parallel concern when he commented on the of fragmentation that infects legal reasoning today. This infection has sometimes reached the point where what the law is supposed to be about—a service to all humanity—is either lost or weakened because the inalienable dignity of each member of the human family, who bears the divine imprint, is forgotten by some of the players in the formation and administration of the rule of law. This tendency can actually generate a paradox that the rule of law, which ought to protect legitimate interests of everyone, achieves the opposite.

The archbishop also acknowledged in his intervention that the rule of law must always have the objective of achieving and sustaining justice. But what is justice? Well, the archbishop provided an answer by asking the non-negotiable question of what is right and what is wrong for each and for all. In short, justice is due all because it concerns every member of the human family. I point out that the vital modifier “universal” in the context of the declaration about human rights echoes this very sentiment made by the archbishop.

He also spoke about faith to his pluralistic audience because the Charter of the United Nations mentions it. Faith for both Catholicism and the United Nations means seeking knowledge of the transcendent rather than the immediate. In this context, the archbishop reminded everyone that the human person is not self-creating. He also pointed out that the nature of every human person is a synthesis of intellect, will, and essence that reflects both the individual and the universal elements of everyone. Moreover, understanding the authentic nature of the human person is critical for the rule of law if it is to be true to its vocation. In this regard, the natural moral



law rather than positivism must be the inspiration for the human law that is critical to the success of the rule of law.

At this stage, the archbishop raised his concern about the lobbies or special interests which have a strong will to achieve and implement their goals that are contrary to the welfare of the dignity of everyone and to the common good. Perhaps in this regard, he was thinking of the statement of Blessed John Paul II that even a democracy without the proper values is nothing more than a thinly disguised totalitarianism in that the concern for “me” rather than “thee” becomes the catalyst for the making and application of norms. The rule of law can never succeed when the interests of the “will of the powerful” prevail. As the archbishop stated, the rule of law will not be successful in its vocation unless it secures the “transcendent value of the human dignity” of everyone.

Another important and concluding point offered by the archbishop, which has particular application to the rule of law in the United States today, is the protection of the first freedom: the freedom of religion. When people are not permitted to exercise this essential right needed for human dignity because of the law, the rule of law has been compromised and transformed into something that menaces the society it was designed to serve and protect. This inviolable freedom is critical to the truth which serves and sustains the rule of law for everyone. As the archbishop reminded his audience, this fundamental liberty is “an inalienable hinge of the rule of law” not only for the believer but the non-believer as well.