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Church tax decree bodes ill for German Catholicism

VIEWPOINT

The German bishops' recent decree refusing sacraments to Catholics who stop paying a church membership tax has been greeted with incredulity and opprobrium around the world.

Global media coverage of the decree, which was authorized by Rome, has brought into sharp focus a situation of which most were unaware: German Catholics and members of other denominations pay a "church tax" amounting to 8-9 percent of their income tax.

The state has collected the church tax since the secularization of Germany in the 19th century and channels the money to the churches for a small fee. It is widely assumed that the German Catholic church uses the income to fund a broad range of Catholic organizations and bodies — schools, hospitals, study centers, youth centers and kindergartens — whose indisputably excellent work would have to be taken over by the state if church tax ceased.

Carsten Frerk, an expert in church finance, disputes this assumption in Caritas und Diakonie in Deutschland. For example, he writes, estimates reveal that the state's contribution to denominational kindergartens amounts to approximately 75 percent of the operating costs.

Fifty years ago, Germans could not believe that other national Catholic churches ran their institutes of learning and organizations without a dime raised from a church tax. Since then, Germans have traveled the world and discovered the truth for themselves.

The gulf between German advocates of church tax and its critics in and outside Germany seems unbridgeable. Defending the tax, Markus Nolte, theologian and editor of the Catholic newspaper Kirche+Leben, points out that it is "a solidarity contribution," explaining that the tax enables the church to be of service within society across a broad base. "Practicing Catholics don't have a problem with it."

Nolte does not think a church with no church tax is more authentic. He sees the current debate as primarily between a few theologians and lawyers but not among the majority of practicing Catholics.

The scale of clerical sex abuse in Germany and Austria profoundly shocked Catholics in those countries. German Catholics had not expected that the abuse uncovered in America and Ireland had also been happening in Germany. Thousands of German Catholics reacted by formally defecting from the church, incurring a harsh penalty: excommunication.

The German bishops' recent decree provides no evidence they have taken into account the distress caused by clerical abuse revelations. A German Catholic resident in London remarked: "We were stunned by the clerical abuse scandal. Coming so hot on its tail, the timing of this decree feels like a slap in the face. Where is the repentance?"

Christian Weisner of the grass-roots Catholic group Wir sind Kirche (We Are Church) told the BBC that the decree "is really the wrong signal by the German bishops who know that the Catholic church is in a deep crisis."

The bishops' decree reiterates the stiff penalties for church defection: exclusion from the sacraments, from all parish and diocesan committees and from official church organizations. It also bans defectors from being godparents. However, it contains two positive changes. In future, Catholic defectors will no longer be excommunicated.

The other significant change is that the church will now contact every Catholic who has left. "Church authorities will invite everyone who has declared their defection from the Church to talk about it with a view to his or her re-integration into the Church, and with the aim of bringing about reconciliation with the Church and a return to the full exercise of all rights and responsibilities." One responsibility is the obligatory payment of church tax.

The decree has been reported outside Germany as if it had come out of the blue. Not so. It was intended to settle a long-running legal dispute between the Freiburg archdiocese and canon lawyer Hartmut Zapp. The timing of the Sept. 20 decree appears to be directly linked to a ruling handed down by Germany's highest administrative court in Leipzig on Sept. 26.

The German church has a dual character: It is a community of faith and a statutory body. In 2007, Zapp, determined to challenge the church on the coupling of nonpayment of church tax with excommunication, submitted his church exit declaration form to his local authority but added a rider that stated he was leaving the statutory body but not the community of faith. He informed his bishop that he wished to remain a practicing Catholic without paying church tax.

Zapp's action threw the Freiburg archdiocese into confusion. Church authorities feared that millions of German Catholics could exploit the loophole to avoid paying the tax, so the archdiocese sued Zapp's hometown, Staufen im Breisgau, for accepting his declaration, charging that the rider invalidated his application. In July 2010 the Administrative Court of Freiburg dismissed the archdiocese's petition.

Refusing to be thwarted, the archdiocese appealed and won. Zapp's next move was to lodge an appeal at Germany's highest administrative court in Leipzig. The court ruling on Sept. 26 was at once clever and prudent. Neither party lost. It reinstated the original decision of the lower court, upholding Zapp's right to add a rider, which the court deemed "unnecessary but not damaging."

It was a pyrrhic victory. The presiding judge ruled that anyone who legally defects from a denomination cannot restrict the declaration to the statutory body. "A statutory body that is separate from a denomination does not exist."

Nevertheless, the damage that the decree has inflicted on the German Catholic church's national and international reputation is incalculable. German websites heave with mockery and cynicism. One unnamed canon lawyer describes the decree as "a botched job of less value than toilet paper."

The decree indicates that Zapp's challenge triggered significant changes for defectors. Yet the entrenched position of the German bishops, evident from the decree's uncompromising text, bodes ill for the future of the German Catholic church.

(Moya St. Leger is a freelance journalist and legal translator. A British citizen, she paid the church tax for more than 25 years when she lived and worked in Germany.)
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