

AGREEMENT

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ments elsewhere which could put civil authorities in control of aspects of diocesan life.

Mark Chopko, general counsel for the U.S. Conference of Catholic Bishops, said the agreements do not set precedents elsewhere because of different state laws.

"Just because one diocese signs an agreement doesn't mean others have to enter into agreements," said Chopko.

Chopko declined to answer questions about specific aspects of the two agreements and whether they involved important church-state issues. Lawyers for the Manchester and Phoenix dioceses were also contacted but did not want to be interviewed for this story.

The Vatican Embassy to the United States — in an oral communication to the U.S. Conference of Catholic Bishops that was forwarded to CNS — said a bishop has authority to delegate the responsibilities covered in the Phoenix agreement but that the Vatican "had absolutely nothing to do" with the drafting of the accord.

Questioning the Phoenix agreement was Cardinal Theodore E. McCarrick of Washington, who said it may have set an unfortunate precedent. A bishop can delegate authority as long as he does not lose it, but it seems that he lost it in Phoenix, he said.

A bishop cannot stop being a bishop in one area, said the cardinal.

Jesuit Father Gerald Fogarty, a church historian, said that many bishops are unaware of the national

repercussions of their actions in response to local clerical sex-abuse problems.

"Under pressure because of an immediate problem, bishops don't see that by giving up oversight, they are setting precedents," said Father Fogarty, professor of religious studies and history at the University of Virginia.

Defending the Phoenix agreement was Archbishop Michael J. Sheehan of Santa Fe, N.M., newly appointed apostolic administrator of the Phoenix Diocese. Archbishop Sheehan was named to the post by the Vatican after it accepted Bishop O'Brien's resignation June 18, the day after criminal charges were brought against him in connection with a fatal hit-and-run accident.

"A bishop doesn't lose his authority when he appoints a moderator of the curia. A bishop doesn't lose his authority when he appoints a youth-protection advocate. A bishop doesn't lose his authority when he agrees to cooperate with local authorities," said Archbishop Sheehan.

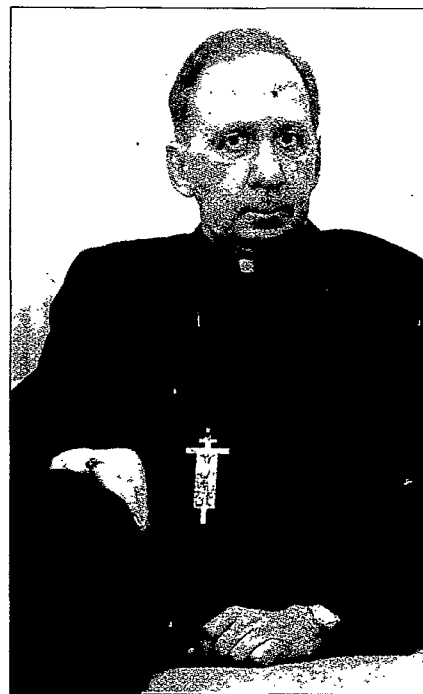
Agreeing was Father Lawrence O'Keefe, president of the Canon Law Society of America.

Father O'Keefe, judicial vicar for the Diocese of Gallup, N.M., said it is common for bishops to delegate power. He cited his own case where his bishop has delegated judicial powers to him regarding application of church law in the Gallup Diocese.

Father O'Keefe doubted that state authorities want to intervene directly in internal church affairs.

"I don't think too many state agencies would take this on with relish, to control church activities," he said.

"The state is responding to a public demand over sex abuse, much of



Reuters/CNS

Bishop Thomas J. O'Brien sits inside his office in Phoenix June 3 after making an agreement with the Maricopa County prosecutor's office to delegate some of his diocesan administrative duties.

this demand is coming from within the church," he said.

Father O'Keefe said that some theoretical problems can be raised regarding such agreements but he foresees little practical problems.

"Practically, the key issue is how we can put a stop to this (sexual abuse of minors) and set up a system so if it happens again it will be quickly dealt with," he said.

Barnett Lotstein, special assistant to Romley, the Maricopa County attorney, said his office was sensitive to church-state separation issues in

negotiating the Phoenix agreement.

"We are looking for crimes, not to reform a church or a religion," said Lotstein.

Action was needed as "there was a crisis in our community over clergy sex abuse" because of "questionable decisions" made by Bishop O'Brien, including a lack of cooperation with civil authorities investigating sex-abuse cases, he said.

The county attorney's office preferred an agreement to court action as the best way to remove Bishop O'Brien from involvement in diocesan sex-abuse issues, he said.

Jesuit Father Ladislav Orsy, a canon law expert and critic of the Phoenix and Manchester agreements, said in such situations it would be better for the bishop to resign, giving diocesan and civil authorities a fresh start, rather than sign an immunity agreement cutting into a bishop's control of diocesan affairs.

It was "a tragedy" that state authorities have had to intervene to provide the supervision that the church has not provided in dioceses with troublesome sex-abuse situations, said Father Orsy, canon law professor at Georgetown University in Washington.

"The human side of the church needs checks and balances and we don't have them," he said.

The current situation is that a bishop exercises power in his diocese and is directly responsible to the Vatican which is unable to monitor what goes on in every diocese, he said.

Father Orsy said intermediary church bodies are needed for monitoring and to issue objective reports on the status of dioceses.

GENERAL

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