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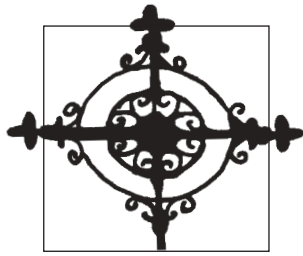
## Church Leadership, Ethics and the Future

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*This paper is divided into three parts: the first describes church leadership's relationship with ethics; the second highlights some initiatives by examining some principles, policies and pledges that are being proposed; and the third turns to moral rights and their relevance for the life of the church.*

## **I. Church Leadership and Ethics**

If the past five years of the sexual abuse crisis has taught us anything, it is that ethics had very little to do with it.

Ethics was not only lacking among the predatory priests, but it was also noticeably absent in the decision-making by bishops and their counselors as they transferred such priests, as they failed to notify civil authorities, as they stonewalled and defamed the reputations of concerned and aggrieved parents, and as they left children at profound risk. But ethics was also not evident even after the harm was done. As the crisis unfolded, innocent priests were not protected, due process was often and still remains breached, financial mismanagement has frequently occurred, lay initiatives were treated with scorn, derision, and suspicion, priests who protested Episcopal mismanagement became targeted, and chanceries relied on certain types of lawyers who did little to promote the common good.

Why was ethics so absent? Why didn't anyone in clerical or Episcopal life ask the simple question, "is this ethical?" Why was such a relevant question not evidently invoked? It is not just that these years teach us that things have been rough in church life, it is also true that there were few indications that someone in leadership wanted to determine what the ethical course of action would be. Instead, as Paul Lakeland recently writes about the church: "it has created a professional class, self-perpetuating and self-policing, insulated from the people by lifestyle and the possession of all executive and legislative authority." Let me add that that insularity is also from any internal discourse of ethics.<sup>1</sup>

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<sup>1</sup> Paul Lakeland, "Understanding the Crisis in the Church," Jean Bartunek, Mary Ann Hinsdale, and James Keenan, ed., *Church Ethics and its Organizational Context* (Lanham, Md.: Sheed and Ward, 2005) 3-15, at 14.

We need to realize that ecclesiastical leadership does not regularly promote for their own members an awareness of the ethical goods and benefits that are engaged by the practice of critical ethical thinking in routine decision-making.

Unlike many other professions, religious leaders rarely turn to ethical norms to consider what constitutes right conduct in their field of leadership and service. I do not mean by this that religious leaders or their decisions are always unethical. Rather, I mean that when religious, clergy and bishops exercise routine decision-making they turn to a multitude of considerations, but articulated ethical norms, their specific values and goods, the virtues and the type of critical thinking that estimates the long-standing social claims that these values, goods and virtues have on us, are not explicitly, professionally engaged. In a word, ethical norms and critical ethical reasoning, which frequently aid other professionals in law, business, medicine, counseling, nursing, and even politics, play a much less explicit role in ecclesial leadership practices.

But before I go further, let me be clear about a number of presuppositions with which I am operating that I need to make clear. I will simply stipulate six of these that I have developed elsewhere.<sup>2</sup>

First, what I say about the Roman Catholic Church applies to other communities of faith. Many churches simply do not default to an explicitly ethical way of thinking in making leadership decisions.

Second, I am not solely concerned with sexual boundaries, but also with financial responsibility, personal and social accountability, the claims of confidentiality, the importance of truth-telling, due process, consultation, contracts, fair wages, delations, adequate representation, appeals, conflicts of interests, etc.

Third, this is not part of an ideological agenda, neither progressive or conservative. I am simply proposing that such training in ethical reflection is necessary for those who exercise the various ministries of the Church.

Fourth, the lack of training in ethics has caused a greater vacuum than most laity recognize. The laity, I believe, presume that we have attended to this training all along and that we routinely engage in professional ethical standards. Thus for the most part, in the wake of the scandal the laity has rightfully insisted on talking about structures of governance without focusing on the related questions of ethics.

Fifth, this lack of critical ethical training is evident not only in ministerial decisions but, also in the practices internal to the clerical, religious and Episcopal cultures.

Finally, I believe that mandating ethical training and subsequent ethical accountability ought not to be seen as inimical to the interests of the church or her mission, but rather constitutive of it, as Yale University's Wayne Meeks notes in [The Origins of Christian Morality: The First Two Centuries](#): "Making morals means making community."<sup>3</sup>

So, why is there so little ethical professional insight within the leadership practices and lives of our clergy and episcopacy? I offer two answers.

The more immediate answer is that seminarians, religious men and women, lay leaders, and bishops are not and have not been trained in professional ethics. Those who study at seminaries, divinity schools, or schools of theology, rarely receive the type of ethical training that those at most other professional schools receive. Persons admitted to business, medical, or law schools take ethics courses that address specifically the ethical issues that are relevant to their particular profession. Those students are taught the responsibilities and rights specific to their profession, whether these deal with matters of representation, confidentiality, client expectations, privileges, promotions, evaluations, conflicts of interest, professional boundaries, etc. Their ethics courses in their professional schools aim to shape, if not the students' internal dispositions, then at least the students' external conduct so as to become acceptable colleagues in their particular professional field. Subsequent to this education, they join

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<sup>2</sup> James F. Keenan, "Toward an Ecclesial Professional Ethics," *Ibid.*, 83-96.

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<sup>3</sup> Wayne Meeks, *The Origins of Christian Morality: The First Two Centuries* (New Haven: Yale University Press, 1993) 5.

professional organizations which establish minimal codes of ethical conduct for their members. They become part of accountability structures from internal reviews to the Internal Revenue.

This type of professional ethical training and accountability is generally not found at most seminaries, divinity schools or schools of theology, even though many students take two, three or four courses of Christian ethics. What we find, instead, are courses that deal with the sexual lives of the laity, the social ethics of businesses, and the medical ethics of physicians and nurses. That is, those in ministry are taught how to govern and make morally accountable the members of their congregations with regard to their sexual, reproductive, and marital lives as well as being able to make claims about those in the medical and business profession. But generally speaking they are not taught by what ethical reasoning, insights, or norms, they should be held morally accountable as pastors, priests, or bishops. They have no training on the keeping of confidences, on making assignments, on professional evaluations, on the relevance of truth-telling, on crisis management, etc.

In the hierarchical structure in which priests exist, their accountability is solely to “the man upstairs.” That is, a priest’s or bishop’s professional accountability is singularly vertical, but again that man upstairs has probably had no training in fairness or any other professional ethical standard. Thus a priest basically is singularly responsible to nothing but the bishop’s own expectations and judgments. Quite apart from the absence of any ethical standards guiding the bishop’s evaluation of his priests, religious and lay ministers, there do not seem to be any specific normative standards to guide the bishop in his assessment of his diocesan personnel. Moreover, this vertical accountability is singularly unidirectional.

Furthermore, there is very little horizontal accountability in this very clerical world. A priest is not accountable either to a fellow priest, his community, or even to his parish. This is the world of clerical culture, that Michael Papesh tragically captures in his work, Clerical Culture: Contradiction and Transformation.<sup>4</sup>

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<sup>4</sup> Michael Papesh, Clerical Culture: Contradiction and Transformation (Collegeville: Liturgical Press, 2004).

It is worth noting, that there is one other institutional culture that also fails to make professional ethics a part of their mode of proceeding and that is, the academy. Like the clerical world, we professors teach ethics for others, but we have not been trained in it. None of us are really trained to be ethical in the standards we use for grading papers, for seeing students, for maintaining office hours, for evaluating colleagues or prospective hires. We have not been taught anything about professional boundaries with our students or about keeping our contracts. We have not really addressed the fact that our salaries are so disproportionate or that tenure decisions sometimes lack, what shall we call it, “objectivity”. We do not have professional questions about our investments, our budgets, or about our boards of directors. Our accountability is solely vertical, to our chairs and deans, but not to one another and certainly not to our students.

Like the church, our standards are fairly medieval and the standards of horizontal professional accountability noticeably mute.

At Boston College, the wonderful university where I teach, we have an enormously successful program entitled, the Church of the Twenty-First Century (or Church 21) wherein we have had hundreds of speakers, papers, and events envisioning the Church as alive, accountable and transparent. Echoing my colleague Frank Clooney I also want a program entitled the University of the 21st century... Wouldn't that be an interesting idea!

But let me return to the church.

Another reason why there has not been any ethical training in church leadership actually goes back to the Enlightenment. After the wars of Religion, the Enlightenment attempted to establish a way of understanding the ethical as universally normative. While the Church was teaching as it had about matters pertaining to the seven deadly sins and the ten commandments, and after the Church had validated in the seventeenth century the triple contract and allowed for money lending, pensions, annuities, banks, pawn shops and a host of other financial innovations, it unleashed an industrialized world that needed moral guidance beyond what pertained to sin and what did not. The Enlightenment’s engagement of reasoned argumentation in the

eighteenth century left it freer than the Church whose tradition needed a constant casuistry in order to advance. The Enlightenment moved in where the Church once was. Adam Smith's Theory of Moral Sentiments, for instance, provided a moral outline about how to proceed in the new markets of emerging democracies. Moreover, its democratic interests in horizontal accountability offered a new model of moral uprightness. In fact, we know how strongly the church resisted those democratic movements preferring the palace to the senate. It became a foreigner in the democratic world where normative standards were being articulated by lay judges rather than by clerical confessors. In a way the Confessional remained the place for personal sin, but social guidelines were less and less regulated by church dicta. Eventually, in the name of civil religion, the Enlightenment raised up the legislative conscience seeking to regulate as normative human commerce. Later on, in this past century the term professional ethics would enter a variety of mainline professions and their respective teaching institutions as well. But one place those standards never entered was the world of the Church where the moral was once singularly determined by the theologian but now by the bishop and mediated by the priest confessor in a highly vertical, unidirectional hierarchical accountability structure.

Today we see the church wrestling with those democratic structures of governance. We see the church in court, bishops being deposed, priests being arrested, affidavits being filed, audits being run. A new mode of accountability is being imposed on the Church. But this is an imposition from outside invoking minimalist standards that many local churches failed to observe.

Do church leaders need to be so passive in this ordeal? Could not Church leadership take a more aggressive stance and become not only regulated, but also self-regulating, ethically self-regulating? Could not the Church put up its own standards, that are not only professionally ethically responsible but also have a form of transparent accountability that is predominantly horizontal? Could not these standards also be articulated and imposed from within? I believe so.

Toward that end, I turn now to contemporary proposals for reform which point us in a variety of directions. These heuristic guides

show us how fertile the theological imagination is as well as the wide range of resources available. They also highlight that the field of ethics for the life of the church could be as expansive as similar fields like medical or social ethics. To highlight this spectrum, I cite three essays: one which invokes corporate ethical principles for crisis management, another which seeks to restore church policies that promote more horizontal accountability, and, a third which offers a set of pledges appropriate for church leadership.

## II. Principles, Policies, and Pledges

Last year, I wrote a lengthy bibliographical essay, entitled "Ethics and the Crisis in the Church," in Theological Studies referring to more than a hundred and forty books and essays on the topic of church ethics. The writers included journalists like The Times' Peter Steinfels, NCR's John Allen, and The Tablet's Elena Curti, canonists like John Beal, historians like John O'Malley and James O'Toole, sociologists like Dean Hoge, Patricia Chang, and Katarina Schuth, priests like Michael Papesh and Donald Cozzens, theologians like Paul Lakeland, Frank Sullivan, and Cardinal Avery Dulles, moral theologians like Lisa Sowle Cahill, Stephen Pope, Anne Patrick, and Richard Gula, lay leaders like VOTF's Jim Post and Fadica's Frank Butler, political scientists like Mary Jo Bane and Bruce Russet, business scholars like Kim Elsbach, and Denise Rousseau.<sup>5</sup>

Let me consider three of these. First, from Thomas Plante's Sin Against the Innocents there is Kirk Hanson's superb essay, "What the Bishops Failed to Learn from Corporate Ethics Disasters"<sup>6</sup> which enunciates ten ethical principles that address the legitimate interests and welfare of Church stakeholders. These include: "Take care of the victim," "Express public apology quickly and often," "Learn everything about the incident; know more than anyone else." "Search for the causes of the crisis," "Remove individuals who are responsible." This essay which builds on the normative principles elaborated in the

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<sup>5</sup> Keenan, "Ethics and the Crisis in the Church," Theological Studies (2005) 66.1 117-136.

<sup>6</sup> Kirk Hanson, "What the Bishops failed to Learn from Corporate Ethics Disasters," Thomas Plante, ed., Sin Against the Innocents: Sexual Abuse by Priests and the Role of the Catholic Church (Westport: Praeger, 2004) 169-182.



corporate world are transposed into a Church setting and make evident the claim I have made here in this lecture: the need for professional ethical standards in the church today. Hanson's essay dealing with moral principles is a model of the type of literature we need to train church leaders for effective, moral leadership, particularly in moments of crisis.

Second, my long time colleague and friend, Francine Cardman argues that one reason why we can not imagine the church otherwise is because we so easily fall into what she calls the "default mode" of seeing the church "as an unchanging, divinely willed institution that has always looked the way it does now."<sup>7</sup> So as to think outside the default mode, I turn to Michael Buckley's brilliant essay in Stephen Pope's "A Common Calling," where he reflects on Church governance and states: "We are dealing with a diminishment in credibility that is unparalleled in the history of the church in the United States." But Buckley rather than going outside the Church to find resources for normative directions digs deep into its own theological framework and from there offers four proposals that deal not with principles but rather long abandoned policies. Thus he begins, first we must "restore to the local church-and hence to the laity-a decisive voice in the selection of its own bishop." Second, "the church should restore the enduring commitment of the bishop to his see." Buckley insists that the "church should reaffirm strongly and effectively the ancient canonical prohibition that forbids a bishop's leaving one see to obtain another." Third, "the church needs to restore or strengthen Episcopal Conferences and regional gatherings of local bishops." Finally, "to counter the present excessive centralization within the church, certain institutions that may at one time have served a useful purpose need to be reconsidered and even abolished." Among his suggestions: the college of cardinals, the office of papal nuncio, the appointment as 'bishops' in the Roman curia of those who have no local church they administer, and honorific attachments to the papal court, such as "monsignor." Buckley's essay on policies keeps us alert to the

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<sup>7</sup> Francine Cardman, "Myth, History and the Beginnings of the Church," Francis Oakley and Bruce Russett, ed., Governance, Accountability, and the Future of the Catholic Church (New York: Continuum, 2004) 33-48, at 33.

theological warrants that could make our Church leadership a more ethically credible institution.<sup>8</sup>

Finally this past year, together with Jean Bartunek and Mary Ann Hinsdale, I edited Church Ethics and Its Organizational Context, the first volume out of the Boston College Church 21 project. These papers resulted from a conference where theologians, sociologists, historians, ethicists and church leaders met with major leaders from the world of organizational management. The latter offered us essays on social drama, leadership stereotype traps, organizational scandals, ethical codes, intervention and corruption reform. One essay was by Frank Butler, the president of FADICA. He offered a code of ethics but written specifically in the context of the Church, entitled "A Professional Code of Ethics Reflecting the Nature of a Christian Vocation and an Understanding of Leadership in the Church." Let me read a few of his ten well-honed pledges:

I promise to do all in my power to deepen my understanding of the church as a community and, as such, the body of Christ, and I will evaluate my service in the church daily in the light of my relationship to the person of Jesus Christ and his command to love one another as he has loved us.

I will pledge to strengthen my understanding and practice of Catholicism, its teachings, principles and values on an on-going basis so as to apply them to church operations and thus to be a credible witness to the faith.

I will exercise the authority of my office in a way that empowers those whom I serve and work in a collaborative spirit of church leaders.

I will do all in my power to foster broad participation in the life of the church, to encourage public opinion, and to respect honest differences and the rights of others.<sup>9</sup>

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<sup>8</sup> Michael J. Buckley, "Resources for Reform from the First Millennium," Stephen Pope, ed., A Common Calling: The Laity and Governance of the Church (Washington, D.C.: Georgetown University Press, 2004) 71-86.

<sup>9</sup> Francis Butler, "A Professional Code of Ethics Reflecting the Nature of a Christian Vocation and an Understanding of Leadership in the Church," Church Ethics, 137-145.

Butler's pledges, along with Hanson's principles and Buckley's policies offer us a glimpse of the horizon for where our Church could be.

### III. The Moral Rights of Priests

Besides principles, policies, and pledges, ethics is also concerned with the language of rights and responsibilities. Let me now turn to an initiative of my own, the rights of priests. I propose here not canonical rights, since I am not a canonist. Rather I use the word "rights" as moral theologians and Christian social ethicists do when speaking of the right to food, or work, or health care, that is, as a moral right. I propose these rights with the hope that they may be eventually articulated into canonical precepts. But I do not claim that they have canonical force today.<sup>10</sup>

I do not consider rights as voluntaristic assertions of power over and against others; rather, I see rights language as springing from a community of faith looking to see how best its members can protect the good of the whole Church and its specific members. Following Brian Tierney<sup>11</sup> I believe that rights were originally recognized by 11<sup>th</sup> and 12<sup>th</sup> century theologians and canonists who tried to articulate those that belonged to popes, bishops, clergy and other church members, not as inimical to the life of the Church, but as constitutive of the Church. In other words, way before the use of rights language appeared in the Enlightenment and in modern liberal democracies, they were first expressed as intrinsic to the good of the church.

Rights language developed in the twelfth century precisely as we became more interested in the nature of the person. Caroline Bynum points to the privileging of spiritual experiences of members of charismatic movements of the twelfth century that eventually led in

the next century to the founding of the great religious orders by Dominic, Francis, and Clare. In the twelfth century mystics saw themselves in union with God and understood God as triune, that is, as three persons in one God. Bynum asks the very relevant question, "Did the Twelfth Century Discover the Individual?"<sup>12</sup> Her question is pivotal, inasmuch as much of the twelfth century spirituality was an appreciation of God's love for the human in God's image and inasmuch as that image was not predominantly Christological but Trinitarian, the Christian saw her/himself more and more like the Trinity, that is, as a person constitutively related to other persons.

Rights are for persons. The more we recognize someone's rights the more we recognize their personhood and the more we recognize their personhood the more we recognize them as related to ourselves.

Rights language, therefore, does not alienate or individuate, divide or polarize, rather rights language incorporates into the human community those who are persons: upholding one's rights then is an act of upholding one's own participation in the goods of the community.

Over the past fifty years we have seen the language of rights being used precisely to build up the community by asserting particular rights to particular groups of people. First, the civil rights movement which moved from asserting moral rights to articulating legal and constitutional ones so as to break down the predominant American mentality to keep African Americans segregated, that is, outside of the body politic. By recognizing their rights they became incorporated onto our buses, at our lunch counters, into our schools, and finally, into our neighborhoods. Second, in the pro-life movement we have seen a vigorous attempt to restore to fetuses the rights that Roe v. Wade effectively suppressed. Each gain that the fetus makes of a right not to be terminated or of a right toward living, each time that we see a fetus being protected by the state, we see the community's growing

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<sup>10</sup> James F. Keenan, "Framing the Ethical Rights of Priests," *Review for Religious* 64.2 (2005) 135-151; "The Ethical Rights of Priests," *Touchstone*, National Federation of Priests Councils 20 (2004) 6, 19-20; "The Moral Rights of Priests," Donald Dietrich and Michael J. Himes, ed., *Priests for the 21st Century* (New York: Crossroads, 2006) forthcoming.

<sup>11</sup> Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law*, 1150-1625 (Atlanta: Scolar's Press, 1997).

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<sup>12</sup> Caroline Bynum, "Did the Twelfth Century Discover the Individual?" *Journal of Ecclesiastical History* 31 (1980), 1-17.



recognition of the personal status of the fetus. Finally, in the gay rights movement, we see their search for parity about property, housing, healthcare, and other issues as steps toward being treated more as persons and being more fully incorporated into the body politic.

Thus, as Aristotle taught us, ethics is for the community and asserting the moral rights of priests is certainly not at the cost of the community, but rather for its benefit. To the extent that these rights are not respected, then, to that extent not only priests but the community of the church, its own very communio suffers. Correlatively, to the extent that we withhold these rights to that extent we exclude priests from being incorporated into the community and relegate to them a second class status.

I am convinced that the process of recognizing, articulating, and asserting the rights of priests is a deeply humanizing process for a group of men who have suffered a great deal these years. I believe that this work of rights helps restore to priests not only their incorporation into the community, but also occasions the possible restoration of much of their humanity that has been disregarded.

Moreover, I believe that if we can articulate and defend the rights of the clergy we will with that mentality articulate and defend the rights of the laity. In fact, the laity are already doing that and one reason why I am speaking about the rights of the clergy is precisely because so few do.

The six rights that I am proposing are not unrelated to one another; taken together they more fully comprehend the man in his humanity and in his priesthood. Though the Code of Canon Law defines three canonical rights for priests: of association, to a vacation, and to fitting and decent remuneration. Instead of these three canonical rights, I propose six “moral” ones: the right to share in the Episcopal ministry of the local ordinary; the right of association; the right to discern the proper exercise of our ministry; the right to our personal development; the right to privacy; and, the right to fair treatment. Let me briefly comment on each of them.

## The right to share in the Episcopal ministry of the local ordinary

The first right echoes one that had been discussed in the revision of the code of canon law, “the right of cooperating with the bishop in the exercise of his ministry.” It is derived from three Vatican II documents. The Decree on the Ministry and Life of Priests writes: “Priestly obedience, inspired through and through by the spirit of cooperation, is based on the sharing of the Episcopal ministry which is conferred by the sacrament of order and the canonical mission.”<sup>13</sup> Similarly, in The Bishops’ Pastoral Office, we find: “All priests, whether diocesan or religious, share and exercise with the bishop the one priesthood of Christ.”<sup>14</sup> Finally, Lumen Gentium declares: “The Bishop is to regard his priests, who are his co-workers, as sons and friends, just as Christ called his disciples no longer servants but friends.”<sup>15</sup>

It is also found in the rite of ordination. The first question the bishop asks the ordinand is:

“Are you resolved, with the help of the Holy Spirit, to discharge without fail the office of priesthood in the presbyteral order as a conscientious fellow worker with the bishops in caring for the Lord’s flock?”

Then, in the prayer of consecration we hear the bishop say:

“Lord, grant also to us such fellow workers,  
for we are weak and our need is greater.  
Almighty Father, grant to this servant  
of yours the dignity of the priesthood.  
Renew within him the Spirit of holiness.  
As a co-worker with the order of bishops  
may he be faithful to the ministry  
that he receives from you, Lord God,  
and be to others a model of right conduct.”<sup>16</sup>

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<sup>13</sup> Decree on the Ministry and Life of Priests (Presbyterorum Ordinis), 7.

<sup>14</sup> The Bishops’ Pastoral Office (Christus Dominus), 28.

<sup>15</sup> Lumen Gentium 28.

<sup>16</sup> In this section I am indebted to, John Lynch, “The Obligations and Rights of Clerics,” John Beal, James Corriden, and Thomas Green, ed., The New Commentary on the Code of Canon Law (Mahwah: Paulist Press, 2000) 343-381.

## The right of association

The right of sharing in the ministry of the bishop leads to fostering right relations among the clergy through association. Canon 275.1 states, “Since clerics all work for the same purpose, namely, the building up of the Body of Christ, they are to be united among themselves by a bond of brotherhood and prayer and strive for cooperation among themselves according to the prescripts of particular law.” Immediately after this paragraph, the Code adds, “Clerics are to acknowledge and promote the mission, which the laity, each for his or her part, exercises in the Church and in the world.” Associations among the clergy are intimately tied, then, to promoting the laity’s own involvement in the life of the church. In fact, in the earlier draft of the Code, the clergy were only called to recognize the laity’s mission; according to the promulgated code, they must promote it.

Though canon 215 defined the right of all the Christian Faithful to form associations, that is, both lay and clergy, canon 278 establishes it as the first canonical right for priests. The Code reads: “Secular clerics have the right to associate with others to pursue purposes in keeping with the clerical state.” This is the first time that canon law recognized this moral right.

In developing the revised code, the commission rejected a proposal that placed associations of priests under the local ordinary. To do so would be to infringe on the exercise of the very right that was being promulgated.

Throughout the United States, we have seen in the past few years free standing priests’ associations emerge, for example, The Boston Priests Forum, The Milwaukee Archdiocese Priest Alliance, or New York’s Voice of the Ordained. This moral right validates these groups. The recent innovations by priests to form local groups are congruent with good thinking within the church. Moreover, these organizations do not replace presbyteral councils but represent a few of what Pope John XXIII referred to as the “wide varieties” of gatherings necessary for human flourishing.

## The right to discern the proper exercise of our ministry

While there is an obligation to exercise one’s priestly ministry, there is also a right to exercise that ministry according to one’s particular judgment. Here I think of pastors who must discern a variety of issues on a weekly basis: whether this particular couple is actually ready to get married in the Church, whether they should preach about the way the Gospel applies to this particular local issue, or how these children in this parish should be prepared for confirmation.

In the USCCB document on Sunday homilies Fulfilled in Your Hearing, we find the bishops calling the pastor to listen to the Scriptures and to the Congregation and to respond to that listening. Is there something that happens existentially in that listening that could prompt the pastor to hear the needs of the laity of his parish in some way that the bishop has not yet addressed? If the priest, in all his listening is also obliged “to foster peace and harmony based on justice” as canon 287 states, he may find himself needing to obey his conscience as a preacher of the Word to the particular congregation he serves.

This is not advocacy for rebel priests. Rather it recognizes both the context in which a priest exercises his ministry and the process by which he comes to preach the sermon and exercise other forms of ministry. Though by his faculties a priest exercises his ministry at the bishop’s pleasure, there seems to be another claim on the priest that comes not from the bishop directly but from the people whom the priest serves. If the priest is to truly promote peace and justice and communio, it seems that in order to discern how to do so, he needs to rely on something in addition to the bishops’ particular perspective. Like other expressions of his ministry that he shares with the bishop and with the laity, a priest’s preaching calls for a conscientious integrity to witness to the Gospel as he sees it expressed in his midst. This too follows from the insight of Thomas Aquinas that as we descend into a situation specific circumstances need to be attended to in order to rightly discern what is actually required.

Putting the right of the bishop to teach and the right of the priest to discern the proper exercise of his ministry in tandem with one another is very important for together they achieve a balance.

### **The right to our own personal development**

While the previous right affirms the relevance of a priest's personal, though professional experience with his congregation and encourages him to trust the development of a professional fealty with his parishioners that couples the fealty he enjoys with his ordinary through the orders which unite them, this right encourages the community and the priest to appreciate the priest as an embodied, personal relational agent. In many ways it expresses the insight that the priest must learn not only about his parish and his chancery, but also about himself. If the previous right is about him developing himself into a professional, this right recognizes that to be a professional one needs to be a person first.

Because of clericalism, most priests' personal affective experiences are measured not with mature adult self-understanding and responsible affective conduct based on mutual respect, but rather on an intuited sense of what constituted "proper discretion." In other words, so long as a priest manifested decorum, he stayed within the boundary lines of acceptable clerical conduct.<sup>17</sup>

By this right, however, we see that affective experiences are good and necessary for personal growth and wisdom; this right recognizes what clericalism shadows. It proposes to say that priests need and have a right to the forms of friendship and responsible affective relations that make a person a mature adult and that he has a right to invoke these experiences as sources of wisdom.

The range of the right is broader than simply the development of affective relationships, since it includes intellectual and spiritual development as well. Thus, priests have a right to continuing

education, leisure, sabbaticals, retreats, adequate time for daily prayer, etc. In other words, priests have duties in these areas and thereby should have rights as well. A more inclusive right to human development embraces affective experience (intimacy, friendship, etc.) while also calling for needed intellectual and spiritual development and their related goods as well.<sup>18</sup>

Rightly understood, these spiritual and intellectual developments happen within an affective context. Thus, the right could be expressed as I heard it from a fellow priest and friend: the right to our own affective experience and the wisdom that derives from it. Bernard of Clairvaux supports the claim, "Instructio doctos reddit, affectio sapientes."<sup>19</sup> Instruction renders us learned, experience renders us wise. In my own life as a priest, I have received much wisdom about myself, my God, those I serve and my share as a disciple in the mission of Christ as a man precisely through the affective relationships that challenged, sustained and nurtured me.

### **The right to privacy**

This right turns inevitably to the right to privacy. Recently, the noted Roman moral theologian Brian Johnstone proposed privacy as the protected zone wherein a person can exercise self-determination, pursuing ends in a shared moral climate wherein the individual and society respect the claims of one another, that is the individual's

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<sup>18</sup> See Pope Paul VI, "Progressio Populorum."

<sup>19</sup> "Nec te moveat, quod initium sapientiae huic demum loco dederim, et non priori. Ibi quippe in quodam quasi auditorio suo docentem de omnibus magistram audimus Sapientiam, hic et suscipimus; ibi instruimur quidem, sed hic afficimur. Instructio doctos reddit, affectio sapientes. Sol non omnes, quibus lucet, etiam calefacit; sic Sapientia multos, quos docet quid sit faciendum, non continuo etiam accendit ad faciendum. Aliud est multas divitias scire, aliud et possidere; nec notitia divitem facit, sed possessio. Sic prorsus, sic aliud est nosse Deum, et aliud timere; nec cognitio sapientem, sed timor facit, qui et afficit. Tunc sapientem dixeris, quem sua scientia inflat? Quis illos sapientes nisi insipientissimus dicat, qui cum cognovissent Deum, non tanquam Deum glorificaverunt, aut gratias egerunt? Ego magis cum Apostolo sentio, qui insipiens cor eorum manifeste pronuntiat (Rom. I, 21). Et bene initium sapientiae timor Domini; quia tunc primum Deus animae sapit, cum eam afficit ad timendum, non cum instruit ad sciendum; nec cognitio sapientem, timor facit; et sapit tibi justus et potens Deus, quia timor sapor est. Porro sapor sapientem facit, sicut scientia scientem, sicut divitiae divitem." (Bernardus Claraevallensis. Sermones in Cantica Cantorum. Sermo 23, 14. En: Migne. PL 183, cols. 0891d-0892a).

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<sup>17</sup> Michael Papesh, "Farewell to the Club," *America* 186 (May 13, 2002) 8-9; see also his Clerical Culture: Contradiction and Transformation (Collegeville: Liturgical, 2004). See also, Gibson, "Clericalism: The Original Sin," in The Coming Catholic Church 197-219.

personal good and society's common good.<sup>20</sup>

The right to privacy is the right to exercise personal responsibilities and decisions. It is the right to be self-determinative, the right to be a mature adult whose movements are not subject to suspicion or intrusion without civil warrant. The right protects a person to be a person. In short, it allows a priest to have a place he calls his home, a circle of acquaintances to be called friends, and a conversation to be called confidential.

The assertion of the right to privacy not only shoulders the earlier rights stated above, but it also prompts us to recognize the relevance of the final right.

### **The right to fair treatment**

This right arises in the light of the National Review Board's endorsement of zero tolerance. Here let me simply note that fairness cuts two ways. Not only ought due proportionality emerge somehow in the treatment of accused and offending priests, but priests alone cannot and should not bear the weight of the scandal. If a zero tolerance policy is applied to priests, where is an analogous policy for the scandalous bishops?

The scandal will only come to rest when justice has been served, but an inequitable justice is not justice. The National Review Board has then two additional more responsibilities: they must somehow guarantee that due process and due proportionality are granted to priests and they must hold proportionally accountable both the offending priests and the offending bishops.

No less than Cardinal Avery Dulles has addressed the rights of priests to due process.<sup>21</sup> As we attempt to discern the rights of priests it is this right more than any other that demands that a priest accused deserves to be treated as a human being, that is, as a person.

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<sup>20</sup> Brian Johnstone, "The Right to Privacy: The Ethical Perspective," The American Journal of Jurisprudence 29 (1984) 73-94; Richard McCormick, "The Moral Right to Privacy," in How Brave a New World (Garden City: Doubleday, 1981) 352-61.

<sup>21</sup> Avery Cardinal Dulles, "The Rights of Accused Priests: Toward a Revision of the Dallas Charter and the 'Essential Norms,'" America (190.20) June 21, 2004.

I propose these six rights—one about participatory leadership, another about right to associate, a third about ministerial vocation, the fourth about personal growth, the fifth about basic civil liberties, and the sixth about fairness—with the hope that these may further encourage the voice of the clergy.

Throughout these recent years, the voice of the clergy, when it does occasionally, though not at all often enough, address either the harm and shame attached to the abuse of children or the rights of the laity and bishops, has done so most frequently in the place that they are called to be: the parish pulpit. I suggest that if priests begin to recognize the rights due them—especially at a time when many find themselves, as the Report by the National Review Board states, demoralized—they might in turn be more vocal from that pulpit in recognizing the rights of others and in fostering the communio that the Church so desperately needs.

## **IV. A Strategic Conclusion**

I have learned from an old friend and good mentor, John O'Malley that in the pursuit of any reform we cannot simply rely on one mode of proceeding. In his book, The Four Cultures of the West, O'Malley differentiates the world of the academic paper, the rhetorical sermon or speech, the prophetic action and the poetic meditation.<sup>22</sup> These are not simply cultures, as O'Malley proposes them, but also the very strata of strategies of reform. We academicians need to do our work and to publish our papers, but if we want to see our proposals ever embraced we will need to combine our efforts with the preachers, the prophets and the poets. We need not stand alone and in fact we cannot, but perhaps in a university like Santa Clara, where each of these cultures are welcomed we can see them advancing with the rest of us the strategies of reform by which we all get into the habit of thinking, whenever we wish to move ahead, whether in the church or in the academy, that lingering question that must be more habitually asked, "but is it ethical?"

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<sup>22</sup> John O'Malley, Four Cultures of the West (Cambridge, MA.: Belknap Press, 2004).