

**Cardinal Avery Dulles, S.J., gave this lecture to the Thomas More Society in Fort Lauderdale, Fla., on May 27, 2004. Its full text is available at: [http://www.americamagazine.org/content/article.cfm?article\\_id=3638](http://www.americamagazine.org/content/article.cfm?article_id=3638)**

### **Rights of Accused Priests: Toward a revision of the Dallas charter and the 'Essential Norms'**

Since World War II, the Catholic Church has become a leading champion of the inviolable rights of individual human persons. Applying this principle, the bishops of the United States in November 2000 published *Responsibility and Rehabilitation*, a critique of the American criminal justice system, in which they upheld the dignity of the accused and rejected slogans such as "three strikes and you're out." Among other things, the bishops stated: "One-size-fits- all solutions are often inadequate... We must renew our efforts to ensure that the punishment fits the crime. Therefore, we do not support mandatory sentencing that replaces judges' assessments with rigid formulations."

"Finally," they said, "we must welcome ex-offenders back into society as full participating members, to the extent feasible."

In the case of the sexual abuse crisis, the United States bishops have taken positions at odds with these high principles. Meeting at Dallas in June 2002 under the glare of adverse publicity and under intense pressure from various survivors' networks, they hastily adopted, after less than two days of debate, the so-called Dallas charter and an accompanying set of norms that were intended, after approval by the Holy See, to be legally binding in the United States.

In the charter, the bishops rightly expressed the gravity of the problem that needed to be addressed. "The sexual abuse of children and young people by some priests and bishops, and the ways in which we bishops addressed these crimes and sins, have caused enormous pain, anger, and confusion." But in their effort to protect children, to restore public confidence in the church as an institution and to protect the church from liability suits, the bishops opted for an extreme response. The dominant principle of the charter was "zero tolerance." Even a single offense, committed many decades ago, no matter what the mitigating circumstances, was deemed sufficient to debar a priest for life from the exercise of his ministry. Having been so severely criticized for exercising poor judgment in the past, the bishops apparently wanted to avoid having to make any judgments in these cases.

The church must protect the community from harm, but it must also protect the human rights of each individual who may face an accusation. The supposed good of the totality must not override the rights of individual persons. Some of the measures adopted went far beyond the protection of children from abuse. The bishops adopted the very principles that they themselves had condemned in their critique of the secular judicial system. In so doing they undermined the morale of their priests and inflicted a serious blow to the credibility of the church as a mirror of justice.

Although the charter was modified as a result of consultation with Vatican officials, the revised norms are still subject to criticism. Groups of priests still protest that they are not accorded the basic requirements of due process. Continued discussion may be helpful because the Holy See granted *recognitio* to the "Essential Norms" only for a period of two years from their promulgation (Dec. 12, 2002). If the norms are extended, they will probably be first revised.

With regard to the rights of accused priests, the following 15 principles would seem to be pertinent for any re-evaluation of the “Essential Norms.”

### **Presumption of Innocence**

At the time when accusations are made, it is often impossible to judge their truth, and this impossibility may persist indefinitely if the accusations are denied and probative evidence is lacking. When dioceses routinely announce that accused priests have been “removed from public ministry because of a credible accusation of sexual abuse of a minor,” such priests are, in effect, branded as guilty. An accusation is deemed credible unless it is manifestly groundless. When priests are treated as guilty, they suffer the loss of their good name and as a consequence find it difficult in the future to function effectively in their God-given vocation, assuming that they are restored to ministry.

The Australian Catholic Bishops Conference, recognizing this problem, decreed in December 2000: “All persons are presumed innocent unless and until guilt is either admitted or determined by due process. If church personnel accused of abuse are asked to step aside from the office they hold while the matter is pending, it is to be clearly understood that they are on leave and that no admissions or guilt are implied by this fact. Unless and until guilt has been admitted or proved, those accused should not be referred to as offenders or in any way treated as offenders.”

A corollary of the presumption of innocence is that while an accused priest may be prohibited from exercising public ministry while his canonical case is pending, it would be unjust to order him not to wear clerical garb, especially since Canon 284 obliges him to wear such garb. Also it would be unjust and lacking in charity to tell an accused priest, as some bishops have done, that he is not welcome to attend gatherings of priests, including the diocesan priests’ convocation, the Chrism Mass or priests’ retreats.

Analogous problems, of course, arise in many sectors of our society. Accused policemen and public officials are often suspended pending the investigation of their cases. But they are generally restored to duty unless they are found guilty.

### **Definition of Sexual Abuse**

The “Essential Norms” include under the category of sexual abuse an “external, objectively grave violation of the Sixth Commandment. ..by which an adult uses a minor as an object of sexual gratification,” even when the act does not “involve force, physical contact, or a discernible harmful outcome” (Preamble). The Report of the National Review Board of February 2004 remarks that this definition of sexual abuse is “expansive and somewhat amorphous.” A distinguished canon lawyer, Ladislav Orsy, S.J., writes in *The Boston College Law Review* (Fall 2003): “The Preamble concludes without a precise legal definition of the criminal act of abuse; it refers, instead, to a generally accepted understanding in moral theology.... The general terms borrowed from moral theology may leave too much room for ambiguities. To assign ultimate responsibility for the definition of the crime to the diocesan bishop/eparch may result in definitions diverging from place to place and from case to case; not a sound practice in criminal law.”

### **Proportionality**

While speaking of “grave” offenses, the “Essential Norms” do not distinguish among different degrees of gravity. Pope John Paul II, however, has insisted on this distinction. In an important address given on Feb. 6, 2004, to a plenary meeting of the Congregation for the Doctrine of the Faith, he declared, “Once a delict is proven, in each case you need to discern well both the just principle of proportionality between the offense and the penalty and the predominant need to safeguard the people of God.”

Displaced by zero tolerance, the principle of proportionality finds no place in the “Essential Norms.” A priest who uttered an inappropriate word or made a single imprudent gesture is treated in the same way as a serial rapist. The National Review Board, in its report, comments that according to some observers, the penalty of laicization for each and every offense is “inconsistent with concepts of natural justice and canon law that are premised upon differentiation in penalties depending upon the gravity of the misconduct.”

### ... **Virtual Laicization**

Upon being ordained, a priest gains the right to exercise the ministry corresponding to his order. After a formal ecclesiastical process has been initiated, the bishop may for prudential reasons forbid a priest to exercise public ministry for a period of time (Canon 1722), but removal from public ministry without a canonical trial or special action by the Roman pontiff should never be permanent or excessively prolonged, since for practical purposes such removal amounts to the very harsh penalty of forced laicization.

### **Laicization**

Involuntary loss of the clerical state can be imposed by a judicial sentence or by a special act of the pope (Canon 290). But such removal from the clerical state should be exceedingly rare, since it obfuscates the very meaning of ordination, which confers an indelible consecration. It reinforces the false impression that priesthood is a job dependent on contract rather than a sacrament conferred by Christ. The reduction of a priest to the lay state, moreover, does nothing to assure the safety of children, whose protection is supposed to be the decisive norm. As mentioned above, it frequently removes the priest from an environment in which his conduct would be suitably supervised.

### ... **Equitable Treatment**

It is to be hoped that the revision of the “Essential Norms” in the coming year will be undertaken with a sincere desire to give a more equitable treatment to accused priests, especially those who may be presumed innocent. “Zero tolerance” may be appropriate in cases where a serious crime is known to have been committed and as long as there is a palpable risk of its being repeated. After doing everything necessary to create a safe environment for children, the bishops should strive to do what they can to see that innocent priests are not treated as if they were guilty and that all priests are treated with justice and Christian charity.

As the U.S. bishops themselves declared less than five years ago in *Responsibility and Rehabilitation*, “One-size-fits- all solutions are often inadequate.” They appealed to the teachings of Jesus in the Gospels: “The parable of the Prodigal Son (Luke 15) shows God’s love for us and models how we are to love one another. In spite of his younger son’s reckless life and squandering of his inheritance, the father celebrates his return home, recognizing that

his son has shown contrition and has changed his life. The lost who have been found are to be welcomed and celebrated, not resented and rejected.”

Priests, like others, should be given due process of law. Even when it is clear that an offense has been committed, the church should not by her policies send the message that she does not care about the clerical sex offender or that she believes him to be beyond redemption. After correction offenders should be welcomed back into their order “as full participating members, to the extent feasible.”

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## **Banned By the Pope**

by Charles E. Curran, June 5, 2010, *NEWSWEEK*

I knew that the letter—approved by Pope John Paul II and issued by then-cardinal Joseph Ratzinger—was unlikely to be good news. It was 1986, and for the previous seven years, Ratzinger’s Congregation for the Doctrine of the Faith—the office charged with safeguarding official theology—had been investigating my work. As a professor at Catholic University in Washington, D.C., I lectured and wrote about traditional church teachings. But I also pointed out areas where I believed Catholicism and modern life were misaligned, including Rome’s opposition to birth control for married couples; its stance on homosexuality, divorce, and remarriage; and the status of women in the church. The Vatican had finally had enough. “One who dissents from the Magisterium as you do,” the letter said, “is not suitable nor eligible to teach Catholic theology.”

Despite that rebuke, I remain a committed Catholic, a priest in good standing, and a professor of Catholic theology (albeit at a Methodist institution). I also continue to care deeply about the church, which I believe is facing a crisis that predates the sex-abuse scandal of recent years. Today, about a third of people who were raised Catholic have left the church; no other major religion in the United States has experienced a larger net loss in followers in the last 30 years.

Many of the issues that troubled me decades ago have contributed to this decline. Some, like those related to contraception, homosexuality, and family life, are considered matters of divine or natural law—the will of God—and, therefore, are immutable. I disagree, and I’m not alone, but we have been unable to persuade the church to make changes. Other matters are considered a product of human law, which is alterable if the church thinks that doing so is in its best interest. The vow of priestly celibacy is one such statute: none, I believe, would be easier to change or, quite possibly, is more important to the short-term health of the church.

Lifting the ban might help address the pedophilia crisis—which, at least in the popular mind, was caused in part by the frustrations of celibacy. More important, it would reverse a damaging shortage of clergy. Between 1975 and today, the number of Catholic priests in the United States has slid from nearly 60,000 to about 40,000. Protestant churches, which allow their ministers to have families, have suffered no such struggles. I can only conclude that celibacy laws are to blame.

The shortage has created related problems. For example, the church has tried to make up for the shortfall by using foreign priests. Without strong English skills or a knowledge of American culture, however, some of these substitutes struggle to connect with their followers. Some

parishes are closing because no one can be found to lead them, while others remain open but no longer offer the eucharistic liturgy—the heart of Catholic faith and life—because there’s no priest to preside at it. (Catholic bishops have had to devise alternative services for those communities.) In essence, by mandating celibacy, the church contributes to a dilution of Catholicism.

Now, I’m not wholly at peace with would-be reformers placing *all* the emphasis on the celibacy issue. Women, whom the church treats as second-class citizens, are hurting most today; changing the laws that forbid male clergy from marrying will do nothing to speed women’s path to the priesthood. We should treat rewriting the celibacy laws as an initial edit—a change on the way to redressing the multitude of other needed reforms. Even at the risk, I’d argue, of getting an unfriendly letter one day from Rome.

**Fr. Curran is a Catholic priest and a professor of human values at Southern Methodist University in Dallas.**

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## **Mandatory celibacy at the heart of what's wrong**

By James Carroll

### **VIEWPOINT**

Like all Catholics, I gratefully depend on the faithful ministry of the many good priests who serve the church. Yet I offer a broad critique of something central to their lives and identities -- the rule of celibacy. Many priests will recognize the truth of what I describe. I write from inside the question, having lived as a celibate seminarian and priest for more than a decade when I was young. In the Bing Crosby glory days, celibacy was essential to the mystique that set priests apart from other clergy, the Roman collar an “Open sesame!” to respect and status. From a secular perspective, the celibate man or, in the case of nuns, woman made an impression simply by sexual unavailability. But from a religious perspective, the impact came from celibacy’s character as an all-or-nothing bet on the existence of God. The Catholic clergy lived in absolutism, which carried a magnetic pull.

The magnet is dead. Celibacy cuts to the heart of what is wrong in the church today. Despite denials from Rome, there will be no halting, much less recovering from, the mass destruction caused by the priest sex abuse scandal without reforms centered on the abandonment of celibacy as a near-universal prerequisite for ordination to the Latin-rite priesthood.

No, celibacy does not “cause” the sex abuse of minors, and yes, abusers of children come from many walks of life. Indeed, most abuse occurs within families or circles of close acquaintance. But the ongoing Catholic scandal has laid bare an essential pathology that is unique to the culture of clericalism, and mandatory celibacy is essential to it. A special problem arises when, on the one hand, homosexuality is demonized as a matter of doctrine, while, on the other, the banishment of women leaves the priest living in a homophilic world. In some men, both straight and gay, the stresses of such contradictions lead to irrepressible urges that can be indulged only by exploitation of the vulnerable and available, objects of desire who in many cases are boys, whether prepubescent or adolescent. Now we know.

Celibacy began in the early church as an ascetic discipline, rooted partly in a neo-Platonic contempt for the physical world that had nothing to do with the Gospel. The renunciation of sexual expression by men fit nicely with a patriarchal denigration of women. Nonvirginal women, typified by Eve as the temptress of Adam, were seen as a source of sin.

But it was not until the Middle Ages, at the Second Lateran Council in 1139, that celibacy was made mandatory for all Roman Catholic clergy -- a reform bracing clerical laxity and eliminating inheritance issues from church property. But because the requirement of celibacy is so extreme, it had to be mystified as sacrificial -- "a more perfect way" to God. Monastic orders of both males and females had indeed discovered in such sexual sublimation a mode of holiness, but that presumed its being both freely chosen and lived out in a nurturing community. (Religious orders continue to this day with the vows of poverty, chastity and obedience as a proven structure of service and contemplation. The vows of such orders are a separate question.) But when the monastic discipline of "chastity" was imposed on all priests as "celibacy," something went awry. The system broke down during the Renaissance and the Reformation, with the Counter-Reformation hierarchy more attached to it than ever.

Not sex, but power was the issue. The imposition of sexual abstinence was a mode of control over the interior lives of clergy, since submission in radical abstinence required an extraordinary abandonment of the will. In theory, the abandonment was to God; in practice, it was to the "superior." The stakes were infinite, since sexual desire marked the threshold of hell. The normally human was, for priests, the occasion of bad faith.

Obsessive sexual moralism, along with that bad faith, spilled out of pulpits. The confessional booth became a cockpit for screening "mortal sins," with birth control emerging as the key control mechanism over the laity. If they were willing to abide by this intrusion and its burdens, it was only because the celibate priest could be seen to have made an even greater sacrifice. They were subject to an even greater control.

As is suggested by the contemporary hierarchy's apparent equanimity about the exodus of tens of thousands of priests, and the crisis of ministry it has caused, church authorities will pay any price to maintain a vestige of that control. That is why bishops have exchanged their once ample influence on matters of social justice for a strident single-issue obsession with abortion, a last-ditch effort to control the intimate sexual decisions of laypeople. When it comes to their clergy, the single-issue obsession remains celibacy.

This nearly changed at the Second Vatican Council (1962-65), when the bishops prepared to reconsider both birth control and celibacy. Until then, an insufficiently historically minded church had regarded such contingent questions as God-given absolutes. What was the point of even discussing them, since change was out of the question? But change was suddenly in the air. What? St. Peter was married? Even before the council acted, the myth that these disciplines were eternally willed by God was broken.

The conservative wing of the hierarchy panicked. Pope Paul VI astonished the council fathers, and the Catholic world, by making two extraordinary interventions that violated the letter and the spirit of the council. In late 1964, just as the fathers were about to debate the question of "responsible parenthood," the pope ordered them not to take up the question of "artificial contraception." Snap! Birth control was "removed from the competence of the council."

But there was every sign that the council fathers, when they inevitably took up the subject of the priesthood, were still going to discuss celibacy, as if change were possible there. Yet it was politically unthinkable that the church could maintain the prohibition of birth control, the burden belonging to the laity, while letting clergy off the sexual hook by lifting the celibacy rule. Therefore, in late 1965, Paul VI made his second extraordinary intervention to forbid any discussion of priestly celibacy. A council had initiated the discipline, but a council was now not qualified even to discuss it. The power play was so blatant as to lay bare power itself as the issue. And just like that, Catholics had reason to suspect that celibacy was being maintained as a requirement of the priesthood because of internal church politics, not because of any spiritual motive. God was not the issue; the pope was. The abrupt elimination of the mystical dimension of vowed sexual abstinence left it an intolerable and inhuman way to live, which sent men streaming out of the priesthood, and stirred in many who remained a profound, and still unresolved, crisis of identity. Paul VI sought to settle the celibacy question with his 1967 encyclical *Sacerdotalis Caelibatus*, which proved to be a classic instance of the disease calling itself the cure.

The celibacy encyclical, maintaining the weight of “sacrifice” on clergy, prepared the way for the laity-crushing *Humanae Vitae* in 1968, with its re-condemnation of birth control. In response to the pope’s initial removal of birth control from the “competence” of the council, one of its leading figures, Cardinal Leon-Joseph Suenens of Belgium, rose immediately with a warning; “I beg you, my brother bishops, let us avoid a new ‘Galileo affair.’ One is enough for the church.” Galileo was famously forced to renounce what he had seen through his telescope, an imposition of dishonesty. (“And yet it moves,” he was reported to have muttered under his breath.) Paul VI’s twin re-impositions of the contraception and celibacy rules plunged the whole church into a culture of dishonesty. Catholic laypeople ignore the birth control mandate. Catholic priests find ways around the celibacy rule, some in meaningful relationships with secret lovers, some in exploitive relationships with the vulnerable, and some in criminal acts with minors. If a majority of priests are able to observe the letter of their vow, how many do so at savage personal cost? Well-adjusted priests may live happily as celibates, but how many regard the broad discipline as healthy? Insisting that celibacy is the church’s “brilliant jewel,” in Paul VI’s phrase, defines the deceit that has corrupted the Catholic soul.

But the most damaging consequence of mandatory celibacy lies in its character as the pulse of clericalism. The repressively psychotic nature of this inbred culture of power has shown itself in the still festering abuse scandal. Lies, denial, arrogance, selfishness and cowardice -- such are the notes of the structure within which Catholic priests now live, however individually virtuous many of them nevertheless remain. Celibacy is that structure’s central pillar and must be removed. The Catholic people see this clearly. It is time for us to say so.

**A version of this article appeared in *The Boston Globe*. James Carroll’s most recent book, *Practicing Catholic*, just appeared in paperback.**

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**Grateful to John Chuchman for the heart he brings to the conversation.**

***I am Catholic,***

I will remain Catholic,  
though not in the sense I have been Catholic,  
and not in the sense the hierarchs would like.

I'll ever be Catholic  
in an inclusive and expanding sense,  
not in an exclusive and retracting mode.

In terms of the Institution's trinity of Behavior:  
to pay, pray, and obey,  
the hierarchy would say I have two and half strikes against me:  
I support my parish, but refuse to donate to any diocesan campaign,  
(I need no middle-men for my donating, especially ones I do not trust)  
I pray—more than ever—but not in some prescribed formulas,  
rather in how I live and dialogue with my God;  
I refuse to obey the hierarchy's self-serving rules and regulations,  
preferring instead to abide by the true original meaning of the word  
To obey: To Listen Well.

I don't think I need to find a home in another Faith,  
though I now respect them all more than ever,  
and not as *defective religions*,  
so called by the Vatican.  
No religion is without problems,  
no human institution is perfect.

Catholic hierarchy has been guilty of many sins, including  
being money driven,  
being hypocritical about celibacy,  
conducting murderous Crusades and Inquisitions,  
persecuting witches—and nuns--and anyone else who disagrees,  
abusing children (and protecting the abusers)  
etc., etc., etc.,  
but we are humans  
who often fail.

Even when these sins,  
institutionalized, and elaborately committed and skillfully covered up,  
are admitted,  
the apologies and repentance,  
are seldom adequate.

But some sins,  
like the hierarchy's discrimination and abuse of women,  
are not acknowledged,  
but instead, justified over and over  
as tradition, and even dogma.

One can lose status within the institutional church  
for just discussing the ordination of women,  
perhaps even for just thinking about it.

I will not accept the claim that  
gender determines who can represent Jesus  
at the altar.

Women of depth, faith, wisdom, compassion,  
sense of humor, experience, and Love,  
cannot be excluded from ordained priesthood  
because they have not an external male appendage.

Jesus was circumcised,  
So Peter and Paul had to openly discuss  
if all future baptized males had to follow suit.  
Did they make that practice,  
which had been tradition,  
unchangeable?

Their final decision was  
Not to do slavishly whatever had been done in the past,  
but to adapt to the very different sensibilities  
of the newest converts to Christianity,  
to the people of the current time.

Jesus left us with principles  
that he applied and expects me to apply  
with intelligence and creativity  
in whatever time and place  
I find myself.

All the pompous verbiage  
and ethereal images  
of the Eucharist as a nuptial banquet  
with a male priest the only possible stand-in for Jesus,  
have nothing at all to do with Jesus' life and message of  
Love, Integrity, Inclusiveness, and Justice.  
But then, the image of males as the spiritual authorities  
translates into full control of the purse strings  
of one of the world's oldest and wealthiest institutions.  
How so?

Making God male, makes males gods.

What is the theological support for  
the non-transparency/non-accountability  
of the hierarchs?

I realize that ordaining women  
into the present closed corrupt system,  
will not of itself fix the institution.  
It is simply a matter of  
Justice.

How can a church preach Social Justice,  
while not practicing it?

Rings hollow.

So,  
the **One, Holy Catholic, Apostolic** Church  
I espouse is  
One, not in structure or practice,  
but **One** in Love and Compassion as exhibited by Jesus;  
Holy, not in common external pieties,  
but **Holy** in the pursuit of Inner Spiritual Growth;  
Catholic, not in being members of some universal organization,  
but **Catholic** in being willing to reach out to help all peoples;  
Apostolic, not in physical lineage to the Apostles,  
but **Apostolic** by Living in the Spirit as bestowed on them.

The hierarchy's Catholic Church which discriminates and excludes people  
failing to accept our diversity  
shrinks  
as they fail to construct their tower of Babel.

A True Catholic Faith, which is Inclusive of God-given diversity,  
will grow and expand.

Love, John Chuchman

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Please continue to forward comments and relevant articles to [tony@tonyercolano.com](mailto:tony@tonyercolano.com)