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**DIALOGUE AND DISSENT:
AN AMERICAN CATHOLIC VOCATION**

LEONARD SWIDLER

In the wake of the clerical sexual abuse scandal many American Catholics have been outraged at the mismanagement and cover-up by a number of bishops. One of the results was the formation of the *Voice Of The Faithful (VOTF)* - over 25,000 strong). VOTF declared three goals: To supports the victim of clerical abuse, support good priests, and work for substantive structural change in the Catholic Church. No one has complained about the first two points, but there has been a mounting campaign by “traditionalist” Catholics, lay and clerical, damning VOTF and all Catholic reform organizations, as “dissidents,” as if to dissent were something evil.

Catholics in general, and American Catholics in particular, may begin to doubt their right, and at times obligation, to be a loyal opposition through reasoned dissent and dialogue. I would like to recall again that such a doubt is not only unwarranted, but that the exact opposite is called for - particularly by American Catholics. Reasoned dissent and dialogue should not be seen as flaws in American Catholicism. They should be viewed as part of its maturity. They should be seen as its vocation.

How does a community know it has a vocation, a calling? Probably the most important way, as pointed out by Pope John XXIII and Vatican II, is through the “signs of the times.” It is clear that the “signs of the times” in both secular history and church history point very clearly to the need to move away from the authoritarian, patriarchal style in the Catholic Church which has prevailed in recent centuries to one of mature adults schooled in responsible freedom and dialogue. In this contemporary vocation, moreover, American Catholics bear a special responsibility since it is in America that both freedom - with its necessary concomitant dissent and dialogue - have been most highly developed both individually and communally: a Church providing a model of the **Four D's** - *Deliberation*, *Dissent*, *Dialogue* and *Decision* would be their special contribution to the Church Universal. What are the arguments for this view?

“The Christian faithful... have the right and even at times **a duty** to manifest to the sacred pastors their opinion on matters which pertain to the good of the Church.” “Those who are engaged in the sacred disciplines enjoy a lawful freedom of inquiry and of prudently expressing their opinions on matters in which they have expertise.” These are not the



procedure of course is by no means new; it is precisely the procedure utilized at the Second Vatican Council.” (reprinted in Leonard Swidler, *Küing in Conflict* [New York: Doubleday, 1981], pp. 516f.).

Indeed, even the pope and the Curia wrote of the absolute necessity of dialogue and sketched out how it should be conducted. Pope Paul VI in his first encyclical, *Ecclesiam suam* (1964), wrote that dialogue “is **demande**d nowadays....It is **demande**d by the dynamic course of action which is changing the face of modern society. It is **demande**d by the...maturity humanity has reached in this day and age.” Then in 1968 the Vatican declared that “the willingness to engage in dialogue is the measure and strength of that general renewal which must be carried out in the Church, which **implies a still greater appreciation of liberty**....Doctrinal dialogue should be initiated with courage and sincerity, **with the greatest freedom**...recognizing the truth everywhere, even if the truth demolishes one so that one is forced to reconsider one’s own position.... Therefore **the liberty of the participants** must be ensured by law and revered in practice” (*Humanae personae dignitatem*, August 28, 1968, emphasis added).

What must we Catholics then do today when a return of a centralizing authoritarianism is so much the order of the day? First, we must not leave the Church but love it, and that means live it, live from it, live in it and live with it, that it might help us lead more fully human lives - which is what Jesus is all about (our “salvation,” **salus**, “full healthy lives” - loving ourselves, our neighbor, the world around us, and thereby the Source). But that loving, that living the Church means growing in “salvation,” **salus**, maturity, and for that we need **Deliberation**; and then where appropriate, **Dissent** (even if painful to us); a reaching out to **Dialogue** (even when rebuffed); so that ultimately a new, ever more mature **Decision** can be made.... That is our (American) Catholic vocation.

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wild words of some radical group of non-Catholics, or even the words of a group of liberal Catholics. They are the canons 212,3 and 218 of the new 1983 *Code of Canon Law* of the Roman Catholic Church. This might seem to some to seal the argument, but there is more:

“Christ summons the Church, as she goes her pilgrim way, to that continual reformation of which she always has need.... Let everyone in the Church...preserve a proper freedom...even in the theological elaborations of revealed truth.... **All** are led...wherever necessary, to undertake with vigor the task of renewal and reform.... [All] Catholics’...primary **duty** is to make a careful and honest appraisal of whatever needs to be renewed and done in the Catholic household itself.” Who this time are the radical advocates of freedom and reformation “even in the theological elaborations of revealed truth”? All the Catholic bishops of the world gathered together in Ecumenical Council Vatican II (*Decree on Ecumenism*, no.4).

The same Council also firmly declared that “the human person has a right to religious freedom. This freedom means that all human beings are to be immune from coercion on the part of individuals, social groups and every human power....**Nobody is forced to act against his convictions in religious matters in private or in public**.... Truth can impose itself on the mind of humans only in virtue of its own truth” (*Declaration on Religious Liberty*, nos. 1,2). The Council further stated that the “search for truth” should be carried out “by free enquiry...and dialogue.... Human beings are bound to follow their consciences faithfully in all their activity.... They must not be forced to act contrary to their conscience, **especially in religious matters**” (ibid., no. 3).

There is still more: In 1973 the Congregation of the Doctrine of the Faith stated that the “conceptions” by which Church teaching is expressed are changeable: “The truths which the Church intends to teach through her dogmatic formulas are distinct from the changeable conceptions of a given epoch and can be expressed without them” (*Mysterium ecclesiae*).But how can these “conceptions” be changed unless someone points out that they might be improved, might even be defective, that is, unless there is **Deliberation**, possibly **Dissent**, and then **Dialogue** leading to a new **Decision** on how to express the matter?

And a real mind boggler: “Doctrinal discussion requires

perceptiveness, both in honestly setting out one's own opinion and in recognizing the truth everywhere, even if the truth demolishes one so that one is forced to reconsider one's own position, in theory and in practice" Words of the Vatican Curia (!) in 1968 (*Humanae personae dignitatem*).

Even Pope John Paul II encouraged responsible dissent and supported theologians in their invaluable service done in freedom. In 1969, then Archbishop of Cracow, he said: "Conformity means death for any community. A loyal opposition is a necessity in any community." A decade later, as pope, he declared that, "The Church needs her theologians, particularly in this time and age.... We desire to listen to you and we are eager to receive the valued assistance of your responsible scholarship.... We will never tire of insisting on the eminent role of the university.... a place of scientific research, constantly updating its methods and working instruments... **in freedom of investigation**" ("Address to Catholic Theologians and Scholars at the Catholic University of America," October 7, 1979 - emphasis added). A little later he even went so far as to remark:

"Truth is the power of peace.... What should one say of the practice of combating or silencing those who do not share the same views?" (More than ironically, even as a countersign, that statement was issued on December 18, 1979, three days after the close of the "interrogation" of Father Professor Edward Schillebeeckx in Rome and on the very day of the quasi-silencing of Father Professor Hans Küng.)

But this support for, indeed, advocacy of responsible dissent by the highest Catholic officials should not at all be surprising. It is part of the proper pattern found in the whole history of humankind. The human being is by nature a historical being, and therefore subject to constant change. It is to be expected that established positions, in theory and practice, will upon occasion cause problems. The way this conflict is responded to is first *Deliberation*, and then if judged proper, *Dissent*, then *Dialogue*, and finally *Decision* - which decision may in the future again become the cause of further deliberation, dissent, dialogue, and decision, and so on. For humankind this is the Natural Law.

We see this already in our religious history in the Hebrew Bible with its prophetic tradition. The prophets dissented from the establishment very loudly and clearly. True, they were often resisted, and even put to death, by the establishment. Still, the prophetic tradition was accepted by Israel, God's Chosen People, as a whole. Jesus, who was an observant Jew, also stood in this prophetic tradition - indeed, he was called a prophet by his followers. He challenged the religious

1948, 1949 and 1954 the Vatican explicitly repeated its rejection of Catholic involvement in ecumenism. But in 1965, Vatican II "exhorted all the Catholic faithful to...take an active and intelligent part in the work of ecumenism.... The concern for restoring unity involves the whole Church, faithful and clergy alike. It extends to everyone" (*Decree on Ecumenism*, nos. 4, 5). How does Archbishop Hickey, or anyone, think the move was made from the excoriation to the exhortation of Catholic ecumenism? Again, only much public deliberation, dissent and dialogue led to this radical reversal.

Catholic Christianity is a living faith, not a dead imitation of a past which no longer exists. Catholic theology is a contemporary reflection in today's thought categories while facing present questions and problems about what it means to think and live as a Catholic Christian in this concrete world. Simply to parrot the past is to pervert it. To be a Christian means to make what Jesus thought, taught and wrought understandable and applicable in today's language and life. Christian life and theology must be something dynamic, not dead, and therefore at its heart there must be *Deliberation*, *Dissent*, *Dialogue*, *Decision* - which of course leads to further *Deliberation*, *Dissent*...

One of the main functions of the Magisterium, and especially the Congregation of the Doctrine of the Faith, therefore, ought not be to put a stop to *Deliberation*, *Dissent*, and *Dialogue*, but instead precisely to encourage, promote and direct it in the most creative possible channels. As a 1979 petition in support of Father Schillebeeckx signed by hundreds of theologians urged, "the function of the Congregation of the Doctrine of the Faith should be to *promote dialogue* among theologians of varying methodologies and approaches so that the most enlightening, helpful, and authentic expressions of theology could ultimately find acceptance.

"Hence, we call upon the Congregation of the Doctrine of the Faith to eliminate from its procedures 'hearings,' and the like, substituting for them dialogues that would be either issue-oriented, or if it is deemed important to focus on the work of a particular theologian, would bring together not only the theologian in question and the consultors of the Congregation of the Doctrine of the Faith, but also a worldwide selection of the best pertinent theological scholars of varying methodologies and approaches. These dialogues could well be conducted with the collaboration of the International Theological Commission, the Pontifical Biblical Commission, universities, theological faculties, and theological organizations. Thus, the best experts on the issues concerned would work until acceptable resolutions were arrived at. Such a

In responding to the objection that public dissent supposedly might give scandal to the faithful, the **Association for the Rights of Catholics in the Church (ARCC)** stated that “if giving scandal means harming the faithful by leading them astray, then scandal is given indeed not when dissent is expressed publicly, but when harmful teachings are not corrected as a result of the public dialogue arising out of dissent”(ARCC Statement on “Dissent and Dialogue in the Church,” 1986; <http://>).

Despite the great pile-up of documentation and precedent over the centuries in favor of responsible dissent in the Church, on August, 1986, Archbishop Hickey of Washington, D.C. publicly tried to role back the centuries, with the claimed support of the Vatican. Referring to the 1968 U.S. Bishops’ norms for theological dissent mentioned above, he commented, “I think we’ve seen these norms, as applied to public dissent, are simply unworkable.” What was even more remarkable was his claim that the Holy See had said that “there is no right to public dissent” (this all revolved around the Vatican’s dismissal of Charles Curran from the Catholic University of America). It is of course apparent that the Vatican would in fact like to make that a Catholic reality again, as if Vatican Council II and its freedom fallout had never occurred. But clearly and explicitly to state such a claim, as the Archbishop did, has the breath-taking quality of saying aloud that the emperor has no clothes.

In 1864, Pope Pius IX in his *Syllabus of Errors* condemned “that erroneous opinion most pernicious to the Catholic Church...called by our predecessor Gregory XVI ‘madness’ [*deliramentum*] namely, that liberty of conscience and of worship is the right of every human being.” A century later Vatican II’s *Declaration on Religious Liberty* stated: “Religious freedom in society is in complete harmony with the act of Christian faith” (no. 9). How does Archbishop of Washington, or anyone else, think the Catholic Church moved from the **condemnation** to the **commendation** of religious freedom? Obviously many Catholics dissented publicly and substantially over a long period of time - and sometimes at great personal cost (as late as the middle 1950s the American Father John Courtney Murray was silenced by Cardinal Ratzinger’s predecessor for publicly advocating freedom of conscience).

The 1917 Code of Canon Law forbade “Catholics from participating in disputations or discussions with non-Catholics without the permission of the Holy See” (canon 1325,3) And in 1919, 1927,

establishment. He was a dissenter. And Christians are said to be his followers?

His immediate followers, the disciples and apostles, did in fact follow him in this. They too were religious dissenters, and consequently they likewise fell afoul of the religious establishment, sometimes even suffering the same fate as their leader, and many of the prophets before him. The point to be noticed here is that from earliest Christianity, just as in Judaism, there has been deliberation, dissent, dialogue and decision. The first “pope,” Peter, experienced this when Paul “withstood him to his face” - and Peter changed.

This practice of decision-making in the Church by dialogue and consensus continued through the early centuries. But of course such dialogue and ultimate arrival at a consensus by its very nature included the possibility of dissent. There can be no such thing as a *consensus* without the possibility of *dissensus*. Listen for example to the words of a first-century Christian teacher - writing even before the New Testament was completed - speaking about something that may be startling to many Catholics, namely, the community electing its own bishop: “You must, then, elect for yourselves bishops and deacons.... Their ministry to you is identical with that of the prophets and teachers. You must not, therefore, despise them, for along with the prophets and teachers they enjoy a place of honor among you” (*Didache* 15:1-2).

Nor did this *dissensus, dialogus, consensus* in all parts of the Church cease with the end of the first century. In the third century we hear St. Cyprian when writing of a critical theological issue: “It is a subject which must be considered not only in counsel with my colleagues, but also with the whole body of the laity (*cum plebe ipsa universa*)” At another time he also wrote: “From the beginning of my episcopate I have been determined to undertake nothing on my own private judgment without consulting you and gaining the assent of the people (*nihil...sine consensu plebi*).” This was also true at Rome, for the clergy there wrote to St. Cyprian: “Thus by the collaborative counsels of bishops, priests, deacons, confessors and likewise a substantial number of the laity the problem was dealt with...for no decree can be established which does not appear to be ratified by the consent of the plurality.” No less stalwart a figure than Pope St. Leo the Great in the middle of the fifth century stated: “Let him who will stand before all be elected by all.” Indeed, the ultimate autocrat, Pope Boniface VIII at the beginning of the fourteenth century wrote: “Whatever affects everyone must be approved

by everyone.” (References and fuller quotations are found in Leonard Swidler, *Freedom in the Church* [1969], Leonard Swidler, *Toward a Catholic Constitution* [1996].)

It will probably come as somewhat of a shock for many to learn that not always in the history of the Roman Catholic Church were the pope and bishops the supreme teachers of what was true Catholic doctrine. For almost six centuries of Catholic history it was the teachers, the *theologians* who were the supreme arbiters in deciding what was correct Catholic teaching. This occurred in the first three centuries of the Christian era and again from the thirteenth through the fifteenth centuries.

Let me give only one example from the fourteenth century, that of the French theologian Godefroid de Fontaines. He poses the following question - and note how he poses it: “Whether the theologian *must* contradict the statement of the bishop if he believes it to be opposed to the truth?” He answers that if the matter is not concerned with faith or morals, then he should dissent only in private, but if it is a matter of faith or morals, “the teacher must take a stand, regardless of the episcopal decree...even though some will be scandalized by this action. It is better to preserve the truth, even at the cost of a scandal than to let it be suppressed through fear of a scandal.” And, Godefroid pointed out, this would be true even if the bishop in question were the pope, “for in this situation the pope can be doubted” (References and fuller discussion in Roger Gryson, “The Authority of the Teacher in the Ancient and Medieval Church,” in Leonard Swidler and Piet Fransen, eds., *Authority in the Church* [New York: Crossroad, 1982], pp. 176-187]).

Even in the twentieth century, under the pall of the Modernist heresy hunt, we find the traditional theological manuals, which every bishop over sixty today studied in his seminary days, putting forth the doctrine that “the consensus of the faithful is a certain criterion of the Tradition and faith of the Church” (*Consensus fidelium est certum Traditionis et fidei Ecclesiae criterium. Sententia communis*. Adolf Tanquerey, *Synopsis Theologiae Dogmaticae Fundamentalibus* [New York: Benziger, 24th ed., 1937], p. 752). But of course as noted, without the possibility of *dissensus* there can be no such thing as *consensus*. We would not be consenting to something if we were not able to dissent - otherwise we would simply be like Pavlov’s dog, automatically responding to stimuli.

Equally, if not more, interesting is the fact that all these over-sixty-year old bishops, and priests, also learned in their moral theology the ethical system developed by the Jesuits known as “probabilism.” Simply stated, probabilism means that in a disputed moral issue a Catholic may in good conscience follow a position even though it is espoused only by a minority of reputable moral theologians.

For example, before 1960 no Catholic moral theologian openly espoused the position that artificial birth control could under some conditions be in good conscience used by Catholics. Hence, no Catholic could legitimately do so at that time. Then in the late 1950s a Belgian Father Louis Jansens published an article that argued that there were some circumstances under which it would be morally proper for Catholics to use some forms of artificial birth control, and shortly thereafter came Vatican II (1962-65) with its historicizing and liberating influences and the questions of birth control and responsible parenthood were widely discussed. More and more Catholic theologians began to espouse the legitimacy of artificial birth control. Hence, it was then possible for Catholics to use birth control with a good conscience, since at least a minority of reputable Catholic theologians espoused that position. By 1968 the vast majority supported it. It was then that Pope Paul VI sided with the 5% of his international commission which argued against it and wrote his encyclical *Humanae vitae* against artificial birth control. Now as probabilism - which Paul VI and all the other priests of that time had learned - posited, since Paul VI and a small number of other theologians espoused the negative position, Catholics could in good conscience follow the pope’s position on birth control, even though there may have been even greater reason for them to have followed the massive majority who favored birth control.

Lest anyone think that only radicals in fact publicly dissent from an officially stated teaching of a pope, it should be recalled that in response to *Humanae vitae* the Bishops’ Conferences of at least Belgium, Germany, Canada and the United States issued public statements which essentially said that in the end, individual Catholic couples may follow their own consciences on the matter of artificial birth control, even if that led them to oppose Pope Paul VI’s position (according to present polls, over three-quarters of American Catholics in fact approve of artificial birth control). The U.S. bishops even explicitly stated that “**the expression of theological dissent is in order**” if three conditions are met: “(1) if the reasons are serious and well-founded, (2) if the manner of dissent does not question or impugn the teaching authority of the Church, and (3) is such as not to give scandal.”