

THE DARK SIDE OF THE DALLAS CHARTER



by Thomas G. Guarino
10 . 2 . 19

As we approach John Henry Newman's canonization as a saint of the Catholic Church, it is a good time to invoke his considerable theological wisdom.

In his preface to the third edition of *The Via Media of the Anglican Church* (1877), Newman stated, "Theology is the fundamental and regulating principle of the whole Church system. It is commensurate with Revelation, and Revelation is the initial and essential idea of Christianity." Theology "has in a certain sense a power of jurisdiction" even over popes and bishops (who exercise what Newman calls the regal or governing office in the Church). Such supervisory power is essential, since there exist elements in the Church that "are far more liable [than theology] to excess and corruption, and are ever struggling to liberate themselves from those restraints which are in truth necessary for their well-being." Newman then lists several popes who "under secular inducements of the moment" have been tempted, though unsuccessfully, "to venture beyond the lines of theology."

Newman's lesson on theology's crucial role in the Church's life, and its obligation occasionally to correct hierarchs, remains relevant today—especially with regard to the U.S. episcopacy. Assailed from every side—by lawyers, the media, advocacy groups, and concerned laity—the harassed and harried bishops, with their Dallas Charter of 2002 (*Charter for the*

Protection of Children and Young People), passed Draconian norms that come close to venturing beyond Catholic teaching. The American bishops decreed “zero tolerance” for priests accused of sexual abuse, a norm that, as Cardinal Avery Dulles acknowledged in 2004, violates equitable treatment for priests. Dulles added, “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.”

Revealingly, Pope Francis has been reluctant to invoke the term “zero-tolerance.” He refused to employ it at the international summit dedicated to abuse this past February; instead, he encouraged bishops to observe “the traditional principle of proportionality of punishment.” The pope repeated his point about proportionality in a March 2019 *Motu proprio*, “On the Protection of Minors and Vulnerable Persons.” Of course, proportional punishments, rather than a woodenheaded zero-tolerance approach, have always characterized intelligent justice systems. As the *Wall Street Journal* reported, of the twenty countries in the world with the largest Catholic populations, only the U.S. bishops have invoked a zero-tolerance policy. This discrepancy indicates greater theological wisdom on the part of the international episcopacy.

A significant problem attending the zero-tolerance policy is that most accused priests have not actually been found “guilty” of abuse—even though that is the word usually invoked. Most often, a priest is found only to have had a “credible accusation” lodged against him. **But**

“credibility” has no clear and distinct definition. It has come to mean “not impossible” or “could have conceivably occurred.” A “credible accusation” offers nothing like the firm standard of clear and convincing evidence, or even preponderance of evidence, which is expected for a guilty verdict in civil society. Priests are declared unfit for ministry on the basis of standards that trade in dangerous generalities.

Under the Dallas Charter, a credible accusation must also be “substantiated.” But by whom? Not by a court, but by a committee, whose members’ identities and professional credentials are often unknown to the priests who are being surreptitiously judged. Who are these faceless judges? Are they, like diocesan lawyers and PR flacks, simply concerned with protecting the reputation of the bishop as “tough on abuse”? And precisely what evidence “counts” in determining that an accusation has been “substantiated”? The vagueness and ambiguity surrounding the entire process ensures that priests do not enjoy justice. And all this occurs in a country that insists an accused person has the right to come face-to-face with both his accuser and his judges. And in a Church in which bishops trumpet their commitment to “transparency.”

Local prosecutors have declined most accusations against priests because they fall well outside the statute of limitations. Such statutes, of course, date back to the ancient world; they were instituted precisely because memories become clouded with time. **But on the basis of a single accusation from thirty or forty years ago, priests are suspended from ministry with**

their reputations destroyed and their lives in tatters. They must forever wear the scarlet letter of abuse pinned to their garb. Do bishops realize that such actions veer closely toward rash judgment, calumny, and slander, all condemned by the eighth commandment? Is it any surprise that we are now treated to the spectacle of priests suing their own dioceses for libel in civil court?

This entire process has had a devastating impact on priests—who know that they do not have the support of their ecclesiastical superiors and realize they can be deprived of their ministries, their reputations, and their livelihoods in the blink of an eye. It is imperative that Catholic laity understand the impact the Charter's norms have had on priests. One highly intelligent and deeply committed priest recently said to me that for the first time in his life he cannot recommend the priesthood as a vocation to young men. The chances for injustice are simply too great; lives can be ruined in a split second, on the basis of unproven allegations. Another priest, a vocation director for a large diocese, has stated that when he asks for time to address groups of priests about fostering vocations in their parishes, he is often met with derision and disdain.

The Catholic priesthood, properly lived, demands considerable sacrifices: of a helpmate and partner, a family, personal freedom, and financial resources. Every priest, together with all Christians, understands that Christ demands sacrifices for the sake of the gospel. Priests also understand that persecution by civil

authorities has been part of Christianity from the beginning—and should be expected today. But injustice from the Church toward her own ministers? This has become a huge stumbling block that the U.S. bishops are either unable or unwilling to understand.

In August, Pope Francis wrote a letter of encouragement to priests, stating that they should find in their bishop “an older brother and a father.” In truth, Francis’s sentiment represents a naïve view of the relationship between priests and bishops in the United States.

Every American priest knows that, should he receive a call requesting him to come to the bishop’s office, both a civil and a canon lawyer should accompany him. He realizes that the bishop himself will be “lawyered up” and will in actions, if not in words, treat him not as son and brother but as a disposable contract employee. *Tu es sacerdos in aeternum?* Never has that been less true in practice.

All of this has a powerful effect on vocations. I have been teaching Catholic seminarians for over thirty-five years. Prospective candidates for the priesthood know the score. Some men proceed despite this—and they are to be applauded and encouraged in every possible way. But it

should be noted that a significant percentage of these candidates are originally from foreign lands. This should be a concern. Why are intelligent young men born and raised in the United States not offering themselves to the priesthood in greater numbers? One reason is that many young men have imbibed the message—either on their own or from priest friends—that offering oneself for ordination today is a dangerous path to tread. Young men know, and are told, that the contemporary priesthood harbors innumerable chances for rank injustice—and from the Church herself.

The protection of minors is, and must be, of paramount importance in the Church and society. Laudably, Pope Francis has insisted on this point repeatedly. But it makes no sense to adopt Draconian principles, with little concern for due process and proportionality of punishment, in order to show one's seriousness. The Dallas Charter is a sterling example of poor theology resulting from good intentions. The bishops were sold a bill of goods in the Charter, concocted by PR agents and lawyers but without solid Catholic theology. And now they are too frightened—by attorneys general, the media, lawyers, advocacy groups, and disgruntled laity—to seek justice. As Cardinal Dulles wrote in 2004:

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 [at Dallas] went far beyond the protection

of children from abuse. . . . [By their actions, the bishops] undermined the morale of their priests and inflicted a serious blow to the credibility of the church as a mirror of justice.

All this brings us back to Newman's point about "secular inducements" leading the hierarchy astray. Bishops in this country have been assailed by the state—with civil authorities regarding them as little more than co-conspirators in a massive cover-up. They are ceaselessly hounded by lawyers eager to cash in on the crisis, and by media outlets eager to embarrass the last institution to insist on gospel discipline in sexual matters. Add to these factors the anger of the Catholic laity who simply want the entire humiliating mess to disappear. One must have sympathy for the bishops given the unrelenting attacks they face. But it is just this assault that has tempted them to venture, as Newman recognized, beyond the lines of solid theology.

Now is the time for the U.S. bishops to show fortitude and intelligence by establishing a committee of theologians, canonists, and bishops to study and modify the present procedures, bringing them into accord with both natural justice and Catholic theology. Craven fear of the Church's opponents is not the heritage of great Christians or of great bishops. Courage in the face of relentless adversity is.

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