

**Is Orthodoxy a Pall?  
Or, Can Two Differing Traditions of Truth Searching  
Ever Be Reconciled?  
And, Is the University of St. Thomas a Suitable Place  
for this Reconciliation-Attempt?**

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First of all, let me point out the source of my rather odd title: I have taken it from the 1970 "Interpretive Comments" which the American Association of University Professors (AAUP) appended to its 1940 "Statement of Principles on Academic Freedom and Tenure." (para. 4) In the "Interpretive Comments" the AAUP quotes with approval a statement of the United States Supreme Court (1967) that declares academic freedom to be a right protected by the First Amendment of the Constitution: "Our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom."

It seems that, in spite of the religious metaphor, the justices of the Supreme Court did not have religion as the primary target of their statement, so much as the many other "orthodoxies" that may prevail in various disciplines and various political establishments. However, in the same 1970 "Interpretive Comments," the AAUP effectively dissociates itself from its earlier (1940) "Statement of Principles." In the 1940 document, the AAUP had recognized that an institution's religious aims might lead it to curtail academic freedom in certain areas: "Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the [professor's] appointment." ("Academic Freedom, para. b). By 1970 the same corporate group comments on this earlier exception: "Most church-related institutions no longer need or desire the departure from the principle of academic freedom implied in the 1940 *Statement*, and we do not now endorse such a departure." (para. 8)

"Not endorsing" is not exactly the same thing as forbidding, but it is clear that the attitude of most academics, including academics teaching at church-related colleges and universities, had changed between 1940 and 1970. But *what* exactly had changed? As George Marsden has described at length in *The Soul of the American University*, many Protestant-related colleges moved away from their religious foundations during those years (and earlier). *And*, we must add, most Catholic institutions had endorsed the "Land O'Lakes Statement" of 1967.

Although the "Land O'Lakes Statement" reaffirms the commitment of the Catholic university to be "an institution, a community of learners or a community of scholars, in

which Catholicism is perceptibly present and effectively operative," (para. 2) it also proclaims that "to perform its teaching and research functions effectively the Catholic university must have a true autonomy and academic freedom in the face of authority of whatever kind, lay or clerical, external to the academic community itself." (para. 1) It seems fairly safe to say that the new *Catholic* commitment, as well as that of most Protestant institutions, to academic freedom was what made it practical for the AAUP to drop the "religious exception" clause from its 1970 "Interpretive Comments." With the encouragement of the 1967 Supreme Court decision, the AAUP in 1970 removed the "pall of orthodoxy" from the classroom.

In discussions of this sort, however, no statement is absolutely final. For Catholic institutions, both the 1983 Code of Canon Law and the 1990 Apostolic Constitution on Catholic Universities, "Ex Corde Ecclesiae," insisted that an "authority of whatever kind, lay or clerical, external to the academic community itself" *did* have the right to intervene in "theological disciplines." (CCL, can. 812) In other words, Pope John Paul II insisted that the local Archbishop/Bishop might give or withhold his approval of what is taught in theology classes. For example, Article 4 of the "General Norms" appended to "Ex Corde Ecclesiae" states that "The identity of a Catholic university is essentially linked to the quality of its teachers and to respect for Catholic doctrine. It is the responsibility of the competent authority to watch over these two fundamental needs in accordance with what is indicated in canon law... In ways appropriate to the different academic disciplines, all Catholic teachers are to be faithful to, and all other teachers are to respect, Catholic doctrine and morals in their research and teaching. In particular, Catholic theologians, aware that they fulfill a mandate received from the church, are to be faithful to the magisterium of the church as the authentic interpreter of sacred Scripture and sacred tradition." (Article 4, para. 3)

These statements in "Ex Corde Ecclesiae" raise a number of interpretive problems: just what is the magisterium of the Church on this or that controversial issue, for example, and how formally is it taught? and what is this "mandate" that theologians have received?

One might as well begin this inquiry by noting that, judging by chronology, it seems "Ex Corde Ecclesiae" is, at least in part, a response to the "Land O'Lakes Statement" (1967) and the AAUP's "Interpretive Comments" (1970).

To someone who is well versed in the Enlightenment tradition of academic freedom and committed to it, "Ex Corde Ecclesiae" must seem like a perversely retrograde and benighted statement. But there are two different notions of the search for truth at work here, and both deserve a respectful hearing.

On the one hand, the Enlightenment is basically a secular, and secularizing, movement. For the last three hundred years, or longer, it has seemed to most Western thinkers, especially academics, that the only sure way to arrive at truth, conceived as something that transcends religious differences, is to use the scientific method, free from any *a priori* religious beliefs. In other words, the professor should examine and record the

materially verifiable evidence, and not assume any other source for truth about the matter in question.

It would be foolish to deny that many good things have come to the human race from knowledge pursued in this way. However, neither the Catholic Church nor any other religion that claims to teach a truth based on a Revelation has ever accepted the Enlightenment model for its proclamation of religious doctrine. All persons in the Judaeo-Christian tradition maintain, for example, that certain truths—truths about God and Salvation—come to us from God's Revelation, from the words of Scripture first of all, but Catholics modify that general claim by also maintaining that these truths come to us from that Scripture as interpreted for us by the developing Tradition of the Church. Of course, it takes faith to believe that such a Revelation exists, but, if one does so believe, then it is not irrational to listen to the teachings of the Church.

Thus, for the Catholic/Christian, there are ultimately two sources of knowledge: the scientific method for secular truth, in all disciplines not theological, and the same method radically modified by obedient listening to the magisterium, for theological teachings.

This seems simple enough, but there are problems with it in practice. Just who knows what the tradition of the Church really is, on a given controversial topic, especially when the leaders of the Church have not yet made a clear statement? Presumably in a case like that the individual theologian would be allowed to make up his/her own mind, so long as the theologian did not go contrary to an established doctrine of the Church. Presumably also, if the official Church at a later date makes a decision in the matter, the theologian would bow to the authority of the Church. Some theologians before 1854, for example, argued against the Immaculate Conception; since 1854 no Catholic theologian has done so. Most theologians of the last millennium or longer, furthermore, upheld the confessional state as the political ideal; presumably no Catholic theologian has done so since Vatican II, with its Declaration on Religious Liberty. And some theologians of the last century defended slavery; no one does so now, not so much because of an official repudiation as because of a gradual shift in the ordinary magisterium, which, let us admit it, has been influenced in this matter by public opinion.

The magisterium has changed, but, at any given moment, the magisterium is right; to any faithful Catholic, the magisterium is the means God uses to guide His Church at this time. Now the Ordinary (Archbishop or Bishop) of a place is the chief teacher of the magisterium in that place, the "competent authority" referred to in "Ex Corde Ecclesiae" with the responsibility to oversee the teaching of religion. The troubling sentence about the "mandate" refers in the first place to all priests and deacons insofar as they are speaking from the pulpit, acting as instructors in the faith, as with catechumens, or, in the case of priests, giving advice in the confessional; the obligation also refers, in a less formal way, to elementary and secondary school teachers, to teachers in religious education programs, and to the home-schoolers of little children.

It is a knottier question to say how it refers to university theology professors. It is in the nature of higher education that all of the arguments on all sides of a controversial

question should be aired, even though some of the students will come away with the "wrong" answers. And yet one cannot be purely "objective" in theological arguments. At any given time there *usually* is a view that the ordinary magisterium holds as "more probable" and even actively advocates—as with Pope John Paul II and abortion—and it is understandable that the local Ordinary—such as Archbishop Flynn—would not be pleased to find the official teaching of the Church being taught at a Catholic university as simply one opinion among many.

What should the local Ordinary do in such a case? If he is a responsible Ordinary, he should uphold the truth as the Church teaches it, but the method of "upholding the truth" may vary according to the nature of the institution with which he is dealing.

Part of the University of St. Thomas, for example, is the School of Divinity. Although lay students also pursue their studies there, the primary purpose of the School of Divinity is to serve as a seminary, a place for training priests. Because the School of Divinity is a sort of professional school, in the very profession where the Archbishop is the highest local authority, one cannot expect the Archbishop to remain silent if something contrary to Church doctrine is clearly being taught at the seminary. It seems to me that the Archbishop's right, indeed his obligation, to intervene in what is being taught at the seminary takes precedence over any concern for academic freedom. It would certainly "look better" in the eyes of the academic world if the Archbishop would begin to deal with this difficult situation by arguing the matter on an intellectual level, but in some cases he may find that intellectual argument does not work and that, for the sake of the common good of the Church, stronger and less intellectual measures are necessary.

Undergraduate theology courses, however, are not primarily intended for seminarians; they are part of a liberal arts education for all college students. It is harder to see why, in the undergraduate college setting, the Archbishop should have to give, or at least imply, a mandate for everyone teaching these courses. In fact, it might even cause more controversy and scandal, if a "mandated" teacher/scholar were propagandizing some heterodox opinions with the apparent approval of the Archbishop. Given the nature of liberal arts education on the undergraduate level, it would probably be best if the Archbishop refrained from attempting to exercise a mandate, except in those, presumably rare, cases where it is *clear* that grave harm is happening to the faith. Then the Archbishop's pastoral responsibilities and his obligation to uphold the magisterium would outweigh the respect that he should ordinarily accord to academic freedom.

Persons concerned with these issues should be aware of the considerable constitutional differences among Catholic institutions of higher education. Most Catholic colleges were founded by Religious orders of men or women and either still are governed by those orders or by a Board of Trustees or Regents made up of some members of the original order and some lay persons. The Ordinary of the place may or may not be a member of the Board, but, whether he is on the Board or not, he is also, as Ordinary of the place, the one who can give or take back the label "Catholic" regarding the institution. He does not, however, *run* the institution. The College of St. Catherine is a good example of such a Catholic college. Archbishop Flynn is a *member* of the CSC Board of Trustees, but not its

Chair; the College retains close ties with the founding religious body, the Sisters of St. Joseph.

The University of St. Thomas, in contrast, is that *rara avis*, a diocesan university. Its founding religious body was the Diocese, later Archdiocese, of St. Paul, still later "of St. Paul and Minneapolis." As St. Thomas is currently constituted, Archbishop Flynn is the *Chair* of the Board of Trustees, his Vicar General is a member of the same Board, and the President must be a priest, not necessarily of this Archdiocese, although Father Dease *is* a priest of this Archdiocese. Besides Father Dease, five priests of the Archdiocese are currently assigned to St. Thomas as full-time professors, and one as part of Campus Ministry. There are also two full-time priest-professors from outside the Archdiocese, and seven other priests, five from the Archdiocese and two from outside it, who work part-time for St. Thomas. (I am considering here only the undergraduate College and neither the School of Divinity nor St. John Vianney Seminary.)

There is, therefore, a considerably greater archdiocesan *clout*, at least potentially, at St. Thomas than at most Religious order institutions. It is most unlikely that the Archbishop would use this power in a draconian way, such as by transferring all of the archdiocesan priests to other ministries or by sending all of the non-archdiocesan priests home to their respective dioceses/Religious orders, but, strictly speaking, *if* he were to do so, I don't think that either the interested priests or the University could do anything about it.

And where does that leave the lay faculty in the undergraduate theology department? They do not have the same degree of obligatory obedience to the Archbishop that a priest would have, but still, as professors in an institution with such strong archdiocesan ties, they *may* have even greater obligations to teach what the Archbishop wants taught—or, more likely, to refrain from teaching what he does not want taught—than would be true at the College of St. Catherine. I hate to keep coming back to abortion for an example, but it seems like a fairly clear-cut example and one that conceivably *might* really occur. If a theology professor at UST were to advocate abortion rights in whatever circumstances, and if he/she were to do so consistently over a significant period of time, *of course* the Archbishop would be displeased. What would the Archbishop do? Probably at first he would simply state his disagreement and offer some arguments for the official Church position. Could he do more than that? Probably he could withdraw the appellation "Catholic theology" from what the professor is teaching. The University could then respect both the Archbishop's wishes and the academic rights of a tenured professor by calling the professor's teaching something else, like "religious studies." That is what the University of Tübingen did with Hans Kung, after all.

But the University of Tübingen is not a Catholic institution; there was no way any Church authority could *order* it to dismiss Father Kung. Because there is no really comparable precedent, it is impossible to say exactly how much authority Archbishop Flynn would have if he wished the University of St. Thomas to dismiss a difficult lay religious-studies tenured professor. Clearly this is a crisis that both the Archbishop and the University would try very hard to avoid in the first place.

Even if one were to assume what the upholders of academic freedom would certainly regard as the worst possible scenario, however, and the Archbishop were to insist on the dismissal in question, and the University were to obey him, I cannot see how that would affect the academic freedom of anyone else here, even in theology, apart from their sadness at losing a colleague. Because of the demoralization involved, I would hate to see it happen, of course, but because of the fundamental incompatibility of the two notions of the sources of truth, I cannot believe that such a confrontation can be avoided forever, *if* one thinks in terms of the rights of truth, believed by some to come from the "objective" following of the scientific method, and by others to come from the teaching of the Church.

I *do* think, however, that the ultimate practical consequence, the dismissal, could and should be avoided, not because of academic freedom, but because of Christian decency, justice, mercy, and charity. Error *per se* has no rights, but persons in error surely have rights, or at least a reasonable claim on our compassion. If the stubbornly opinionated professor were to be shunted into "religious studies," and if the Archbishop made the official Catholic theological teaching very clear and emphatic, the pastoral need for teaching, and not confusing, the faithful would be satisfied. (The only exception to this I can imagine would be one where the professor in question were to cause public disturbances, with gross disrespect and even blasphemy, but in that highly unlikely case the University could and probably should dismiss him/her for moral turpitude, if not insanity.) Indeed, the pastoral need for teaching, and not confusing, the faithful, including our own students, would be better satisfied by treating the apparent heretic with as much kindness as possible, rather than by acting in a way that could only seem harsh and vindictive.

Back to the questions I asked in my title. No, I don't think the two ways of pursuing truth can always be reconciled, even though in theory Truth cannot contradict itself. However, I *do* think of the University of St. Thomas as a place where both methods can be used and where conflict can be kept to a minimum. In our mission statement we claim, in part, to seek "to develop morally responsible individuals"; how better to do that than to be such individuals ourselves?

## **Works Cited**

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