

## Academic Freedom and Religious Identity: The Charles Curran Case

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Terms like “diversity,” “pluralism,” “tolerance,” and “openness to all points of view” are beyond quibble in liberal society generally, and within the educational community in particular. Those able to appropriate such slogans to their own use have already won half their battle, since practically no one questions that such things are sacred. Yet liberals commonly understand such terms largely in individualistic ways, and are far more sensitive to transgressions against them by the “Right” than by the “Left.”

In particular liberal opinion seems insensitive to the ways in which values need to be rooted in institutions and communities in order to thrive. Individuals expressing personal opinions are doing merely that—their opinions are straws in the wind, quickly obliterated by the innumerable other opinions in circulation at any given moment in history. Perhaps a major reason why liberals seem unconcerned about the need for cohesive communities of opinion is that, on the liberal side, such communities already exist, albeit not usually acknowledged as such. Every study ever made, as well as ready experience, shows, for example, that college and university professors are dominantly liberal in their political and social opinions, and self-conscious conservatives regard themselves as, and often behave like, a beleaguered minority. Liberal opinions are so deeply embedded in academic culture as to be accepted by most professors as self-evidently true, and not even to be debated.

As always, there are telling exceptions to this. In the past two decades there have been sporadic complaints about separatist behavior by feminists and racial minorities on college campuses, patterns of behavior by which “outsiders” are, at a minimum, made to feel unwelcome by the group and are sometimes even officially excluded (for example, by black students who insist on their own designated tables in dining halls, or by feminist instructors who discourage males from enrolling in their courses). Where liberal opinion does not actually justify such actions, it tends to excuse or overlook them. So also there has been little public discussion of why predominantly black colleges should continue to exist. Implicitly, liberals concede to certain social groups the right to sustain their own communities and institutions in order to remain viable in the larger society.

Equally commonly, however, liberal opinion does not extend the same consideration to religious institutions, except in a formal legal sense. There is a long liberal habit of decrying the “divisiveness” of such institutions and their potential for promoting “narrow sectarianism.” These seeming inconsistencies in the liberal perspective are probably explicable by the simple fact that most liberals tend to be approving of the ideology of feminists and racial minorities but not that of ardent religious believers.

The case of Father Charles Curran, professor of theology at the Catholic University of America in Washington, D.C., brings into focus precisely the question whether pluralism, as understood in American education, means diversity of institutions, in which some retain a strong religious identity, or whether it merely applies to individual professors claiming the right to express their opinions freely.

Father Curran joined the faculty of CUA in the mid-1960's, as the turmoil which followed the Second Vatican Council was beginning to make itself felt in American Catholicism. His field is moral theology, which is not the most important area of theological speculation from a Catholic standpoint but is the most sensitive—moral theologians address themselves to the “bottom lines” of human conduct, answering the sometimes urgent questions people ask about the ways in which they ought to behave.

Inevitably, sexual morality has been the most sensitive area of moral theology, even though Catholic teaching recognizes sexual sin as being less grave than certain other kinds. Because sex is so intensely personal, and because of the “sexual revolution” blowing through American life, it is Catholic sexual teaching above all which attracts the widest public notice and generates the sharpest controversy.

On most disputed questions Father Curran takes what he regards as a moderate position, not accepting the absolutes of official Catholic teaching but also not departing from them radically. Over the years he has argued that abortion, divorce, homosexual behavior, extramarital sex, and certain other practices forbidden by official teaching may be justified under certain circumstances. He has questioned whether the Church ought to oppose legalized abortion and has suggested that Catholic hospitals have an obligation to the public to permit surgical procedures the Church finds unacceptable.

The “moderation” of Father Curran's views is essentially illusory, because classical Catholic (and Protestant) moral teaching precisely upholds absolute standards, and it is this which primarily differentiates it from most modern systems of ethics. Critics of Father Curran recognize that whenever prohibitions are relativized to meet particular circumstances, that procedure is likely to be understood ultimately as justifying whatever behavior the individual happens to find acceptable. In fact this is what has happened in American Catholicism in the past two decades.

In 1967 the board of trustees of CUA denied tenure to Father Curran. There were student demonstrations with some faculty support, along the lines familiar on so many secular campuses during the same period. After threats of an academic

strike, the trustees reversed themselves and granted Father Curran tenure. The episode is now generally ignored by his defenders, since it suggests that, despite the talk of academic freedom, Father Curran achieved tenure through coercion. It is a situation which could, of course, be duplicated on numerous other campuses.

The year after he was given tenure, Father Curran led the public assault on *Humanae Vitae* (human life), Pope Paul VI's letter which, among other things, reaffirmed the Church's official prohibition of contraception. The priest-professor has given a rather detailed account of the episode, in which he makes clear that the point of the national protest, which he orchestrated, was precisely to influence public opinion and inform Catholics of their "right" to dissent from papal teaching.<sup>1</sup>

Part of the standard liberal rhetoric surrounding the Curran case is the argument that scholars should simply be allowed to do their work in peace, evaluated only by their scholarly peers. But such an argument ignores the highly politicized context of American Catholic theology. Father Curran's work has not been simply theoretical and speculative. It has been intensely activist, its aim that of influencing public opinion in the Church and articulating a view of Catholic moral teaching in some ways directly at odds with official doctrine.

Commonly that teaching authority is called the "magisterium," denoting "mastership." In terms of Catholic doctrine the magisterium has been defined as the pope, and the bishops acting in union with him, an idea which, occasional reports to the contrary notwithstanding, was strongly and unambiguously reaffirmed by the Second Vatican Council. According to this classical doctrine theologians are in a position to propose, but it is the hierarchy of the Church which disposes.

Some American theologians now argue the existence of "two magisteria," the second one being scholars themselves, who may sometimes be at odds with the first magisterium. When conflict occurs, Catholics are advised to follow the scholars, on the assumption that the latter understand the issues better than do the hierarchy and in the expectation that ultimately the scholars will prevail. The situation is analogous, in the secular realm, to one in which professors of law and political science might urge citizens to disregard the policies of their government, on the grounds that scholars understand the political system better and their views will ultimately triumph.

John Henry Newman's *The Idea of a University* is one of the most influential works on the subject. Because Newman experienced difficulties with bishops in his attempt to found a Catholic university in Ireland, he is often cited by Catholic academics in support of their own position, overlooking the fact that Newman himself specifically warned of the danger that the university might establish itself as a rival theological authority to that of the Church. This is precisely the situation which the Curran case brings into focus.

The Catholic University of America is a unique institution in that it has a charter from the Vatican, whereas all other American Catholic colleges and universities are chartered by the states in which they operate. CUA's trustees are all bishops.

Thus the Church has a direct legal control over the institution which it does not have, for example, over Georgetown, which is also in Washington, D.C. It is indicative of the general state of American Catholic academic life that CUA's president, Jesuit Father William Byron, has remained largely silent about the Curran case and is thought by many to be sympathetic to Father Curran, while the proceedings against Father Curran have been conducted by Archbishop James A. Hickey of Washington, D.C. in his capacity as chancellor of the university.

For some years Father Curran was in dialogue over his writings with the Vatican's Congregation for the Doctrine of the Faith, and in particular with its head, the German Cardinal Josef Ratzinger, himself one of the leading Catholic theologians of the age. Cardinal Ratzinger's congregation finally judged that Father Curran's writings are not harmonious with Catholic doctrine, and the CUA trustees moved to terminate his contract.

The contention, by himself and his supporters, that his work should be judged only by fellow academics brings into still sharper focus the larger issues in the case. As understood in classical Catholicism and Protestantism, theology differs from all other academic disciplines in that its roots do not lie in the realm of human experience. Traditionally theology has claimed to take its ultimate authority, indeed its fundamental validity, from "divine revelation," meaning truths not discernible by the unaided human mind but known because God made them known in a special way. For both Catholics and Protestants such revelation is primarily found in the Bible, with the Catholic Church adding that it is the Church alone which can authoritatively interpret that revelation. If this position is accepted, then ultimate judgments about theological scholarship can never be located merely within the scholarly community. Authentic Catholic theology must take as its ultimate criterion of truth the teachings of the Church itself.

On this basis, skeptical academics might argue that theology has no place in the university, an arguable position although a somewhat unhistorical one, since the Western universities were originally incubated within a theological framework and were dominated by theology for centuries. Without doubt the American Catholic universities were established precisely on this assumption, which no one seriously challenged before about 1965.

Liberal theology, both Catholic and Protestant, now tends to abandon the classical idea of divine revelation and has made religion essentially a dimension of human experience. Theology becomes a reflection on that experience and hence has no reference point outside the world of experience. Many theologians find the Church's action in the Curran case intolerable because they reject the entire theoretical basis on which it was made.

Once again, therefore, the issues prove to be circular. Those who defend Father Curran are requiring that the Catholic Church, and a university officially chartered by the Church, conform to certain definitions which are at odds with official Catholic teaching.

At stake also is the meaning of the word "Catholic." Neither the Vatican nor the

bishops have any legal control over most American Catholic universities, many of which are now officially controlled by lay-dominated ecumenical boards. However, almost simultaneously with the dismissal of Father Curran, the Vatican published a tentative set of rules governing all institutions of higher learning which call themselves Catholic. According to those rules, local bishops have a responsibility to determine if what is taught in those institutions, especially in theology classes, is indeed Catholic doctrine. Ultimately bishops have authority to proclaim particular institutions no longer Catholic.

There is considerable hypocrisy in Catholic academic circles on this point. Many of the faculty of such institutions are not Catholic and have no commitment whatever to any Catholic view of education. Others are Catholics who have rejected their religion and are sometimes hostile to it. Many more are Catholics who nonetheless hold a view of the Church quite at odds with official teaching. Practically all these people agree on a liberal model of the university in which the claims of religious orthodoxy are an inherent violation of academic freedom. Honesty would seem to dictate that administrators and faculty themselves voluntarily abandon the Catholic name and inform the public why its use is no longer appropriate. Such is not likely to happen, however, because it would undermine the schools' entire network of public support—alumni, parents of students, and many students themselves. Successful Catholic colleges are now often those which manage to persuade the public that they are rather traditional and even sectarian places, while persuading the larger academic community that they are hardly distinctive at all.

Although it is almost never articulated fully, the implicit liberal Catholic position is that Catholicism is a self-defined thing which any institution may claim for itself. Thus it would be theoretically possible for a college which was once Catholic to become, over a period of time, dominated by atheists, yet to continue using its traditional name. Bertrand Russell thought that a Catholic university was a contradiction in terms. Yet, if there are to be such things, the meaning of the word must obviously be determined by the larger Catholic Church, not by any local community.

The significance of the Catholic name enters the Curran case in a special way, because of the name of the university at which he has taught for over two decades. Were Father Curran a layman teaching at Georgetown, his work would have enjoyed far less influence in ecclesiastical circles. As it is, he has had a considerable influence on Catholic education on all levels, his books used to educate future priests in seminaries, his theories accepted by confessors and counselors, he himself invited to address conventions and workshops under official church sponsorship. Objections to this have routinely been met with the rejoinder: "Father Curran is a priest in good standing and a professor at the Catholic University of America, the bishops' own institution." His work has thus been wrapped in mantle of semi-official approval, a fact which Father Curran has at least passively accepted, despite his insistence that a theologian ought to be independent of church authority.

Claims on behalf of the necessary independence of the theological profession also exaggerate the degree to which such independence exists even in secular academia. From one point of view theology is, rather paradoxically, one of the humanities. But from another it is professional training. At CUA a high proportion of students in the School of Religion are priests, nuns, and brothers, hence officers of the Church training for positions within the Church. Many others are aspirants to the clerical status. Probably most lay students also hope for employment in the Church in some capacity.

But professional programs in the secular universities are not independent of the professions they serve. Through influence both direct and indirect, the established professions—law, medicine, accounting—determine much of the content of university training. Schools which ignored the requirements of the profession would soon cease to attract students. Within the Church bishops and other officials ultimately establish the professional credentials of those they employ, a reality which academic theologians have consistently ignored.

Father Curran has filed suit against CUA claiming that the university has violated his contractual tenure rights. If this is found to be true in law, it will further illustrate the dilemma of the Catholic colleges over the past two decades. The American Association of University Professors' classic 1940 statement on academic freedom provided that limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment, with a footnote indicating that problems often arose either because of the school's failure to provide such written notice or a professor's failure to live up to these provisions.<sup>2</sup> Thus, under classical rules for academic freedom, the trustees of CUA seem to have been within their rights in seeking to terminate Father Curran's appointment in 1967 and in withdrawing his tenure in 1986.

However, a 1970 interpretation of the 1940 statement indicated that "Most church-related institutions no longer need or want the departure from the principle of academic freedom implied in the 1940 *Statement*, and we do not endorse such a departure."<sup>3</sup> Whom precisely the AAUP consulted in determining the needs and wants of religious institutions was unspecified. Clearly, however, it could not have been the trustees of CUA.

Now the trustees may eventually be censured but can legitimately claim that the rules have been changed and that they are not departing from classical American academic practice. (Pressure for Catholic institutions to sever their ties with the Church have rarely come from non-Catholics on their faculty or among their trustees but almost always from Catholics who have accepted a new concept of what the Church itself ought to be.)

Inevitably, Father Curran is portrayed as a hero, a lone individual courageously adhering to his beliefs despite the loss of his job, and in the face of the massive power of the Catholic Church. But in modern America such contests have long ceased to resemble David and Goliath, if it was ever legitimate to think of them in that way. Father Curran has had virtually unlimited access to the mass media, in

which he has been treated very sympathetically. Support for the Vatican is not precisely calculated to advance a theologian's career—only a tiny handful of members of the Catholic Theological Society of America dissented from a resolution supporting Father Curran, and “papalist” articles are seldom published in journals like *Theological Studies*. (Indicative of the atmosphere which to some extent now prevails in Catholic theological circles is a recent article by Patrick Arnold, a Jesuit on the faculty of St. Louis University. Arnold denounces “Catholic fundamentalism” as a “virus” which he says must be “stamped out.”<sup>4</sup>) For the academic year 1987–8 Father Curran will be a visiting professor at Cornell, and no one doubts that he has permanent prospects at equally prestigious institutions. His writings will continue to be published, and their sales will probably benefit from the publicity.

On the other side, the same pressures work relentlessly against any effort to preserve the authentically Catholic character of the colleges and universities which bear that name. If the significance of the Curran case is accepted in his own terms, theological education will be reduced to purely a matter of the opinions of individual professors, and religious institutions will cease to exist in any meaningful sense.

It is surely worth asking whether this is an altogether healthy prospect for American higher education as a whole, or for the people it purports to serve.

## Notes

1. Charles Curran, “Growth (Hopefully) in Wisdom, Age and Grace,” in *Journeys*, ed. Gregory Baum (Paulist Press, Paramus, N.J. 1976), pp. 102-107.
2. Louis Joughin, ed., *Academic Freedom and Tenure*, (University of Wisconsin Press, Madison, 1967), p. 36.
3. *A.A.U.P. Bulletin*, LXIV, 2(May 1978), p. 111.
4. Patrick M. Arnold, “The Rise of Catholic Fundamentalism,” *America*, April 11, 1987, pp. 297-302.