

Wiggle Room

Gerard V. Bradley

At their November meeting the American bishops voted—overwhelmingly—to implement the canonical requirement that Catholics teaching theological disciplines in colleges and universities have a *mandatum* from Church authority, usually the local bishop. This was the most notable, and controversial, feature of a much larger scheme to implement *Ex Corde Ecclesiae*. The whole plan is expected to receive Vatican approval, and will go into effect one year after it does.

The bishops' resolve to go forward with mandates is a stunning defeat for the academic establishment (as expressed by the ACCU) and for the theological guild (as expressed by the CTSA). Those defeated will now have to try to live with their apocalyptic rhetoric. They stake the *existence* of (true) universities precisely upon freedom from *all* "external" authority, including the episcopacy. Mandates, in their dire predictions, were the intellectual equivalent of a death sentence. A few who believed so may accept martyrdom. Some have vowed continued resistance. Others are evaluating their options. Somehow, though, I doubt that the ACCU will change its name to the "Association of Catholic Schools which were formerly Colleges and Universities."

Their talking points after the vote centered on "wiggle room." Their hope is to find gaps and lacunas enough in the enacted norms, and in the interstices of episcopal-academic relations, to continue doing business as usual. In fact, the NCCB voted to develop, over the next year or so, concrete procedures for granting and revoking mandates and more certain criteria to govern those decisions. It is vital that this implementation of the Implementation be kept on course, and that it not be captured by those who resisted mandates all along.

The document is, to be sure, not *entirely* to anyone's liking. There is, I think, more "should" (as opposed to "shall") and "as far as possible" in it than is prudent. But this is certain: the American bishops have *reversed* the colleges' Land O'Lakes declaration of independence from the Church, and of theology from the Catholic faith. We now have a solid foundation upon which to carry forward the work of re-Catholicizing the colleges. And so, the bishops' vote is to be applauded, as is (especially) Anthony Cardinal Bevilacqua for guiding the document to passage. ✠

*O Timothee, depositum custodi, devitates profanas et
et opposiciones falsi nominis scientiae, quas quidam
circa fidem alienaverunt. Gratia vobiscum. I ad Timotheum*

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Hiring and Firing for Mission: *The Need for a New Campus Culture*

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[Note: The following remarks were given as a formal response to a paper presented by Fr. John Piderit, S.J., the president of Loyola University of Chicago, at a conference on *Renewing the Idea of the Catholic University*, sponsored by the Cardinal Newman Society. He addressed the topic of "Enhancing Catholicity at Catholic Institutions of Higher Education."]

The task you have given me is a comparatively easy one. For unlike a presidential position, the remarks that follow do not put my own or my institution's neck on the line ... where many people these days seem poised to release the guillotine's blade.

Not that Fr. Piderit's talk was in any way inflammatory; no one will rise up in arms as a result of his speech. The words he shares with regard to people, programs, and infrastructure at a Catholic university may at times raise the eyebrow of curiosity. For example, his reference to institutions "not directly under ecclesiastical control" may be misconstrued to imply that the bond between the Catholic university and the Church is only or merely nominal. Or, his suggestion that "the mandatum appears to be a reasonable innovation" seems to forget that it was promulgated as law in the Roman Catholic Church over fifteen years ago. For the most part, however, we can all agree with what he said and should be pleased that there is sociological data to support his suggestions.

And so, rather than quibble with anything specific in his talk, my remarks will explore the locus of its real import, namely the notion of "culture" with which Fr. Piderit introduces and concludes his presentation. He warns us that "a religious culture which is unable to hand on its shared meanings

to a younger generation will not survive," and he reminds us that the source of influence and success in Catholic schooling is its moral authority and leadership. Taking this one step further, my thesis is that *it is only by our personal and institutional appropriation of a renewed sense of "culture" that we in Catholic higher education can make sense of, and properly respond to, the concerns associated with hiring and firing.*

By way of example, and in view of the limits of time, let me explain this thesis with regard to one issue which Fr. Piderit did not specifically address, namely, the proposed norm that there be a majority presence — on governing boards and among faculty — of persons deemed to be "faithful Catholics" or Catholics "committed to the church" or "committed to the witness of the faith."¹ This proposition is one of the sparks that has caused the incendiary reaction to implementing *Ex Corde Ecclesiae*. What fuels the fire are two big questions. What criteria will be used to evaluate these persons as being faithful or committed? And who will be their judge? These issues are not only legitimate; they are also intimate, pertaining, as it were, to one's personal life and, as such, to the realm of the confessional.

Now, without suggesting, in any way, that someone's faith is only a private matter, to which unwavering respect would be due on all fronts, I am proposing that how we deal with this character issue can be problematic or fruitful — and which it is depends on the "culture" that dominates on our campus and in our thinking.

The problematic response arises when we operate solely within what I will call a *contractual culture*. In this realm, "faithfulness" or "commitment" is all too readily posed as a sort of Catholic litmus test — either you pass or you do not, and thus you will be hired or fired. In such a contractual culture, employment at a Catholic university is seen primarily, if not exclusively, as a matter of law, and implementation is to be regulated by judiciously crafted measures that protect the employees' freedom and preclude arbitrary control.

As long as the contractual culture is the operative one, there will, indeed, be problems with the proposed norm. On the theoretical level, the problem is one of possible discrimination, which could become apparent in attempts to exclude applicants or dismiss tenured faculty. On the practical level, it is an issue of social justice, particularly if this were adopted to terminate the service of long-standing and otherwise good employees. In both cases, talk of firing people raises an ugly specter and occasions a level of fear that is now paralyzing broader discussion and action.

But the real problem is not one of litigation; legal scholars have argued reasonably as to the lack of foundation for sustaining lawsuits against a Catholic university that may result from implementing this norm.² The more pervasive difficulty is the problem of perception. In a contractual culture, judgments about employment that are based on "personal" characteristics lead, in general, to a lack of trust and, in the extreme, to a real polarization. An obvious example of this is the faculty member who feels threatened by, and therefore distrusts, administrators and their application of policies. But the fear is no less evident on the other side, when bishops avoid a genuinely pastoral involvement in the university by ingenuously appealing to an absolutized notion of academic freedom.³ And even more egregious is the Catholic leader who publicly claims that we should sweepingly "get rid of" administrators who do not subscribe to Church directives. Voices like these sound off from within the same limited and flawed culture; such a cacophony will not lead to worthwhile resolution. Here Fr. Piderit is absolutely correct when he claims that, "Insisting on uniformity to achieve unity is doomed to failure."

I surmise that this is why the proposal in the implementation document drafted by Cardinal Bevilacqua and his committee made reference simply to "faithful Catholics." Is this vague? Yes ... and, I believe, intentionally so, because the experienced jurist that Cardinal Bevilacqua is knows that Roman law and American law do not operate, necessarily, on the same plane. Roman jurisprudence can be applied favorably and personally to such a broad notion; but in our American contractual culture we are fearful that something so indeterminate can too easily be abused or that it is so unspecific as to be weak and useless.

Fun though it can be, delving into Roman law theory takes us too far afield in this forum. Instead, let me now contrast the problem of the contractual culture with the potential of what I will call the "evangelical" culture.⁴ These cultures are not mutually exclusive, but between them there is a significant difference of vision. The former sees the university as Catholic because its employees are; the latter sees the Catholicity of the university as pertaining to its very existence. In the contractual culture, people work in a Catholic institution; in the evangelical culture, employees share in a Catholic mission.

For a college or university, the "evangelical" culture of which I speak is properly Catholic, but it is neither overtly apologetic or defensively polemical. It is, instead, an educational ethos maintained by, with, and for the people of the university on the basis of a shared religious faith. (Again, Fr. Piderit is on the mark when he speaks about the need for persuasion rather than obligation with regard to engendering faculty action.) This evangelical culture has a more pervasive influence, for it affects all employees, not just faculty or board members. And in it non-Catholic personnel can work and do make a significant contribution. As Fr. Piderit notes: "People of many different religious backgrounds may be eager to participate in this venture" of Catholic higher education. What he does not say is why. My answer would be that they, as much and sometimes more than the Catholics, relish the opportunity to be part of a living and vibrant culture that is essential to the world of education.

What is essential about this evangelical culture is that the realm of the spiritual is neither privatized nor compartmentalized.⁵ Rather, the Catholic university recognizes and intentionally promotes a fundamental truth about human life, one repeatedly affirmed by Pope John Paul II, who reminds us that:

At the heart of every culture lies the attitude man takes to the greatest mystery: the mystery of God. Different cultures are basically different ways of facing the question of the meaning of personal existence. When this question is eliminated, the culture and moral life of nations are corrupted.⁶

The Pope also discloses how this anthropological principle is related to the work of the university when he writes that:

All people are part of a culture, depend upon it and shape it. ... To everything they do, they bring something which sets them apart from the rest of creation: their unflinching openness to mystery and their boundless desire for knowledge. Lying deep in every culture, there appears this impulse toward a fulfillment. We may say, then, that culture itself has an intrinsic capacity to receive divine Revelation.⁷

It is the primary task of the university, I believe, to respond to this inherent "openness to mystery" and "desire for knowledge." And the culture within which that task is realized is the apostolic mission of the Church, "from the heart" of which comes the specific programs and activities of the university.

Two characteristics of this evangelical or apostolic culture deserve attention by those involved in Catholic higher education. One is its religious freedom, as this has been espoused in the teachings of the Second Vatican Council, where we read that:

... organizing the apostolate differently according to circumstances, the hierarchy brings into closer conjunction with its own apostolic functions such-and-such a form of apostolate, without, however, changing the specific nature of either or the distinction between the two, and consequently without depriving the laity of their rightful freedom to act on their own initiative.⁸

While this teaching refers specifically to the conferral of the *mandatum*, it offers us a vision that is applicable to the apostolate of the Catholic university as a whole. Like all universities, the Catholic one is a composite entity. Its "unity" comes from its Catholic mission; its "diversity" is constituted by the make-up of its various schools or departments ... and of the grand variety of people who work therein. Provided their actions are not contrary to the work of the Church and the truth of its teachings, their religious freedom, and by extension their academic freedom, are to be respected.⁹

A second characteristic of this evangelical or apostolic culture is its notion of holiness. Championed centuries ago by St. Francis de Sales, and taught by Vatican II as a "universal call," holiness is to be achieved with the help of God's grace in and through one's particular state in life, no matter what vocation one lives. What this means for the university is that its Catholicity is not and cannot be relegated solely to

matters of philosophy and theology. Rather, in our quest to educate the person and not just provide training in skills, the university is to reflect its Catholic identity and character in all its programs, regardless of particular academic discipline. Here resonates Fr. Piderit's call for introducing Catholic themes in courses on secular subjects and for instituting certain policies and directives related to student life.

But the specific question is: how does this evangelical or apostolic culture affect matters of employment? The answer is not overly complicated, though how it is put into practice will require some adjustments. For, if the culture of the Catholic university is evangelical, in the sense that it brings gospel values to bear upon all matters of human life, and if its institutional distinctiveness is apostolic in nature, in the sense that, unlike the secular university, it exists to aid in the building up of the kingdom of God which Jesus Christ has inaugurated, then the Catholic mission of the university must necessarily play a key role. Commitment to this mission, or at least wholehearted respect for it, should be a contingent qualification for being hired as an employee. So, too, positive contribution to the furtherance of this mission should be an explicit part of the evaluation of all employees of a Catholic university. We routinely incorporate other elements in our hiring and firing processes (e.g., research for faculty). Should we not also include what is at the very "heart" of this product line (to use Fr. Piderit's image for institutions of higher education) and what makes it distinctive in today's educational market?¹⁰

But matters of hiring and firing do not exhaust the concerns of this new culture in Catholic higher education. What is needed to bring about and sustain this evangelical culture, particularly in view of its contrast with secularism, is continued dialogue. Administrators — most notably university presidents — faculty, staff, and students should all be engaged in open and frank exploration of the impact of Catholicism in all the areas of education. The heritage of Catholic higher education is robust and its contributions singularly important in the development of civilization. Fr. Piderit's presentation has advanced this dialogue. Now it is time for others to continue it. ✽

NOTES

¹ "An Application to the United States of *Ex Conde Ecclesiae*," *Origins* 29/16 (September 30, 1999): 250-251.

² As presented by Prof. Gerard Bradley (Notre Dame Law School) and Dean Bernard Dobranski (Ave Maria Law School) at a recent national conference on *Ex Conde Ecclesiae* held at The Catholic University of America.

³ See, for example, Bishop John D'Arcy, "Achieving *Ex Conde Ecclesiae's* Goals," *Origins* 29/15 (September 23, 1999): 236-242. Summarizing the situation to-date, the bishop concludes: "My experience leads me to fear a stalemate rather than fruitful progress if all the solutions now under discussion are made a requirement" (p. 241). Unfortunately, this side-stepping exposé concerning the *mandatum* limps feebly on two broken legs: the first is the assumption that the "juridical" and the "pastoral" are antithetical processes; the second is the belief that the *mandatum* is opposed to "dialogue."

⁴ I have explored this notion in some detail in "Toward a Culture of Truth: Higher Education and the Thought of John Paul II," the Newman Foundation lecture at Lehigh University (PA) on April 14, 1999.

⁵ In 1994, three dicasteries of the Holy See collaborated to produce a document on "The Presence of the Church in the University and in University Culture." The urgent need expressed at the outset of this unusual document is this: "The Church's presence in the University is not, in fact, a task that would remain, as it were, external to the mission of proclaiming the faith. ... The Church's presence cannot, therefore, be limited to a cultural and scientific contribution: it must offer a real opportunity for encountering Christ."

⁶ *Centesimus Annus*, no. 24. Cf. *Redemptoris Missio*, no. 39 and *Veritatis Splendor*, no. 98.

⁷ *Fides et Ratio*, no. 71. Applied to the world of higher education, this notion of receptivity to divine Revelation obviates any unnecessary reliance on a "bottom up" culture that supposedly prevails in American academe (see D'Arcy, note 4, on page 242).

⁸ *Apostolicam actuositatem*, no. 24 (emphasis added).

⁹ Cf. Mark 9:38-41; Luke 12:49.

¹⁰ In another presentation at this same conference, Richard Williams, of Brigham Young University, explained how the evangelical aspect of an institution's mission can be incorporated in the procedures for hiring and firing.

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