March 2017

# Must Canon Law be Color Blind?

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THANK you for your invitation to speak to you about Canon Law and the minority community. I should like to take a three-stage approach to this. First, I would like to present a view of the black Catholic and his relationship to the institutional Church. Next, I would like to identify the varying black constituencies and, concentrating on the Afro-American community, indicate some of the problems faced by people living in urban centers and put this within the context of the relativity of canon law. Finally, I would offer a "modest proposal" for affirmative action.

To be born black and a Catholic is to be born an alien in one's spiritual homeland. To be black and choose (convert to) Catholicism is to choose second-class citizenship as the price for the "gift" of faith.

Black Catholics come in every persuasion. They are of the pre-Vatican II vintage, upset and bewildered by the changing Church. They are the post-Vatican group impatiently looking for the promise of the constitution of the Church. Common to all of them is the knowledge and feeling that they are a colonized people.

For some, this is not a major issue. They are content to receive the sacraments and exist on the periphery. For others it raises many questions. The younger black Catholic tries to reconcile his blackness and his Catholicism. Steeped in a philosophy centered around his cultural identity, he finds little in the liturgy or life of the Church to reinforce it. He agonizes over the points at which he must act separately

and those areas where he can act in common with other Catholics. He toys with the idea of a separate black Catholic Church. He is cynical about pronouncements of brotherhood, because the actions of Church members speak louder than words. He sees those adherents to Catholicism, lauded from the pulpit and the press, in control of the very forces which are the main source of oppression in his community.

Black suburban Catholics have little sense of identification with their parishes. The parish church is at best a place to fulfill a weekly obligation; at worst, it is a neutral or even uncongenial world, where a moment's hesitation precedes the handshake of peace.

The black Catholic in the inner city has more of an identification with and role in his parish, but little wider sense of identification with "The Church." Even in these parishes there are tensions, because inner city parishes are often much like the "mission fields," but without the mission intent to build an indigenous structure. As the inner city parishes developed, many pastors resented the changing neighborhood patterns and the loss of their congregations. There was often initial rebuff and this left many scars.

In recent years, attempts have been made to assign clergy and religious more sensitive to the needs and values of the people. But the number of black religious is severely limited, and even the most enlightened white inner city missionary finds acculturation difficult. He has problems providing a liturgy and ministry in which both he and his flock can feel comfortable and find meaning.

The Church is limited in its work in the black community because of the small number of black religious. There are many explanations for this, but the truth of the matter is that until fairly recently, blacks were either rejected, severely restricted or channelled when they sought entry into religious life. This creates problems for the Church. This makes it impossible for the Catholic Church to be involved as an integral part of community affairs since black self-determination is the keynote. It further raises the questions of young black people identifying role models and any eventual hope for more black clergy. Most important, this reinforces the idea that the Catholic Church is a white, outside force. This, coupled with the fact that most of the police, teachers, civil servants, etc. found in the black community are white Catholics, means that when political, educational and social confrontations occur, there is the feeling that the Catholic Church must bear some responsibility for the injustices involved.

Internally, there has been conscious and unconscious racism in appointments, power distribution, etc. None of this has, perhaps, been as difficult to accept as the racist insults. For instance, the insults heaped upon black people in the attempts at religious education, i.e., souls black with sin or white and pure, etc. These are the epitome of racism.

The result is that to be a black Catholic is to be ambivalent—to be torn by love and hatred. Love for the divine center of the Church and conviction of its divine mission yet hating the white power structure which has made Christ's Church its church and limited one's participation. Yet

black people remain in the Church. The thinking person does this on the basis of rationalization as much as by the gift of faith. One rationalizes the divinity of the Church and the fallibility of its official servants. One can understand the conditioning of the Church's servants and adherents, by the racism of our society. One can also rationalize that Christ was rejected, humiliated and despised and if one is Christ-like, one can grow from this. Most of us are not that Christ-like. We grow—but into cynicism. We look for help in sensitizing the Church. We set up organizations like the National Office for Black Catholics, the Black Clergy Caucus, the Black Sisters Caucus and the National Black Lay Convention because they offer avenues for more effective participation by black Catholics. We appear before white groups, like the Eastern Regional Conference of the Canon Law Society, to attempt to help canonists develop more sensitivity to the needs of black Catholics. Yet, there is something inherently demoralizing about the need to organize and proselytize to get "equal opportunity" with God.

Up to this point the relationship between the Church and the black community has been marked by paternalism and irrelevance. Therefore, it should come as no surprise that in the black community, canon law is usually considered irrelevant. Most black Catholics have heard that there is someplace where people with money can go to get it fixed so they can get married again and remain in the Church. Sometimes a parish priest must postpone or refuse a marriage request until he can get some things straightened out. Many times we have been told that we can't get rid

of a particular pastor, or have a voice in the selection of the next Archbishop of Washington, or have a separate liturgical rite because "it's against canon law." (If someone was trying to really confuse us, he might have suggested recourse to rescripts.)

But canon law or canon lawyers—they aren't real to the average black Catholic.

Even if it was a reality, there might be problems. Part of the program for more effective action by the black community demands group cohesion. To develop this, blacks must stress their common condition, drawing upon everything which produces a sense of distinctiveness, i.e., black pride, black power. With each advance of black self-consciousness, there comes a corresponding sense that the laws and authorities are white laws and white authorities and that they are not legitimate for black people. If black Catholics were generally more conscious of canon law, some of the same kinds of questions might be raised about a need for a black canon law as are now being raised about the need for a black liturgy—to give them a legitimacy and relevance to black life styles.

However, let us fantasize a little. Imagine in the question of marriage that canon law was of vital concern and every black Catholic with a marriage problem, rushed to the nearest tribunal. Would the decisions have relevance? What color canon law would be dispensed; that is, in what frame of reference would decisions be made? How many people serving on tribunals know anything about the black community, its ethos or its problems?

Indeed, it is incorrect to talk about a

black community, not just in terms of urban or rural, but even in terms of social, economic or ideological positions, or indeed, in terms of culture, language and history. While the roots of all groups can be traced back to Africa, the intervening culture and experiences will establish a set of variables which must be understood. The largest group of black people are Afro-Americans whose existence in this country dates from 1619. The next largest groups come from the Caribbean area. The various West Indies groupings have been influenced by their British experience. While there is a differing heritage, this group generally merges with the Afro-Americans. Influenced by the Latin culture are blacks from places like Puerto Rico, Nicaragua, Cuba, etc. For acculturation in America, the initial disability of language gives way to the problem of race.

Within many ghettos there are increasing numbers of Haitians, tending at first to remain isolated, trying to keep alive their culture and language. The second generation usually acculturates into Afro-American society. The next grouping to consider comes from African colonies or African states. The largest of this group would be Cape Verdeans who have an Afro-Portuguese culture. Until quite recently, Cape Verdeans preferred to be known as Portuguese because of the stigma and disabilities in American life associated with American blacks. Anti-colonial sentiment and persistent race discrimination have led most second generation Cape Verdeans to identify with the larger black community.

We want to concentrate on the urban Afro-American. To do this—say in terms of the question of marriage—we must begin by looking at the history of black Americans and the impact of slavery with its "broom marriages," its failure to allow a man to be a father or even to allow children to stay with a parent. What was its general impact on the black family and the development of the extended family? How many of the tribunes could really understand the impact of discrimination in education or job opportunities, which makes it easier for a black female to get a job or an education than a black male? How much understanding is there of a welfare system that makes assistance contingent upon breaking up families—a man must leave his family before they are eligible for relief. Much has been written about the many female centered households of the black community. What has been largely ignored is the impact of discrimination on the self-image of the black male.

Most people are familiar with the Moynihan thesis of the "pathology of black family life." Dr. Moynihan draws the picture of a vicious cycle that says basically: Negro men have no stable place in the economic system, so they cannot be strong husbands and fathers. So Negro families break up and women must assume the task of rearing children without male assistance. Women must also assume the task of bringing in income. Since children do not grow up in a stable home, they learn they cannot look forward to a stable life. They are not able to accomplish in school, leave school early and therefore are in a very poor position to qualify for jobs that will produce a decent family income and the cycle starts again.

Much has been written pro and con

about the Moynihan thesis. Its basic weakness is that it was designed as a political document and oversimplifies the issue in viewing the Negro family as homogeneous. Even at the lowest income level, there is diversity, yet Moynihan's comparison is generalized and made between low socioeconomic blacks and middle income whites.

The basic implications that the matriarchical family structure is pathological and that employment is primarily the role of the male has a host of new critics, among them the women's liberation movement.

However, realistically, many Americans, black Americans included, do see the principal role of the male as bread-winner. But generally, black unemployment is 5% higher than that of whites, and 1/4 of the group is unemployed. Note also the relationship between "slaving" and the kinds of jobs available to most unskilled black men—bus boy, dishwasher, laundry attendant, car washer, cafeteria worker—hardly calculated to develop a sense of competence.

Moynihan emphasizes the pathology, delinquency, etc. but gives little attention to the issues of jobs, housing, and education, and the fact that until black males are fully and productively employed they cannot emerge as strong family figures in this cultural context. There is a growing, but still small, middle class. However, the large numbers of black people find themselves trapped at the bottom of the economic scale. Young people see the emphasis put on material goods and on the male attainment of these goods. For the young black whose self-ego has constantly been as-

saulted, there is still one way to prove your manhood—by sexual prowess. Teenage pregnancies and youthful marriages are the results. Another factor in these early marriages is that, with the housing situation, people live so closely together that youngsters come to an early understanding of sex and sexuality. The survival rate for these marriages, in any context, is minimal.

This brings us to the question of separation. Divorce has always been a rather expensive venture what with court costs, lawyers, etc. and therefore sometimes a technicality to be dispensed with. Programs of legal services to indigents have changed this somewhat, but there is still the distrust and reluctance of many blacks for dealing with the system. This is as true for ecclesiastical officialdom as for the civic. But the question must be raised, does a woman spend a life alone because society has so crushed a man that, shorn of all self-respect, the respect of his children and of society, and to get the very food for their mouths, it was easier for him to leave his family?

One of your sessions was spent discussing drugs. The white community has recently become very concerned about drugs. Scientists are beginning to document the impact of drugs on genetics. Sociologists and psychologists are analyzing what it does to the individual, to families and society. Twenty years ago, alarmed black communities pleaded for action in the field of addiction. Twenty years ago, it could document that drugs ruined families, destroyed health and damaged the unborn. What does a woman do when she discovers that her husband is a hopeless addict? How many deformed or retarded children must

a man accept as a result of his wife's drug experience?

The low income inner city has many different families who have different kinds of problems. Where there is disorganization and deprivation, the conditions are not due to pathology of family life but to the pathology of racism. As one looks at the consequences of segregation and discrimination and emphasizes the deficits and damages, it is also important to be aware of the development of "coping mechanisms" and of the informal systems and traditions that have helped people to cope and survive. Basic to these are the extended family and the black church. (You will note that I said the black church.) Since I do not pretend to know much about canon law I can only repeat the question raised earlier. Should the circumstances of ghetto life have any relevance in a marriage tribunal's decisions?

However, I should now like to go beyond the important, but perhaps myopic, view of considering canon law and the black community in terms of such things as marriage problems. I should like to put before you a "modest proposal," which might project canon law and canon lawyers into relevancy in the minority communities and into the vanguard of the struggle for social justice. I cannot believe that there are no provisions in canon law which could be specifically interpreted as setting forth certain obligations in terms of justice and, implicitly, at least, make demands for social action. If there are not, canon law deserves to be irrelevant. Where does it say it is evil to discriminate? When canon law tells a bishop or a pastor that they have a grave obligation to care for all the souls within their boundaries, why don't canonists indicate, by point of law, that this carries the responsibility to make the Church's stand on justice and charity as mandatory and well-known as its stand on abortion?

Physical and psychological segregation are very real in the Catholic Church today. Look at the parish structure. It follows the housing pattern. The role of the Church during the process of ghettoization of the inner city and the flight to the suburbs is worth studying. The Church has followed its constituency to suburbia. It has not been a force against block busting or for open housing. Yet housing discrimination is at the root of many of the other educational, social and employment problems of minorities. The deepest and most intransigent prejudices have been sustained in patterns of housing, and whites have put their bodies on the line to deny equal housing to blacks. The *Kerner Report* tells us that "Segregation and poverty have created the racial ghetto, a destructive environment totally unknown to white Americans. What white Americans have never fully understood—but what the Negro can never forget—is that white society is deeply implicated in the ghetto. White institutions created it, white institutions maintain it and white society condones it."

Leronne Bennett Jr. has said that: "The problem of race in America . . . is a white problem. White America created the race problem and its fears and frailties are responsible for the urgencies of that problem. The Ghetto is a white made thing and in order to understand it do not go to

Harlem but go to the conscience of white America and ask 'Why did you create it? Why do you need it?' "

I submit, gentlemen, that the American Catholic Church by its historic obeisance to legal and de facto segregation, by its parish arrangement and its school policies, has contributed both directly and indirectly to our American version of "apartheid" and has an obligation to rectify this. You could have a role here.

Civil rights lawyers using the guarantees of law, have developed an advocacy system designed to secure and maintain basic civil rights and move the nation closer to justice. I propose that a group of canon lawyers investigate canon law and arrive at a very clear definition of its provisions regarding justice and social action, translate these to the current racial situation, and make sure that every bishop, priest, religious and layman know, that under canon law, the Church has certain teachings on justice and charity which permit no equivocation.

Just as there are civil lawyers who serve as public defenders or counsel to civil rights groups, there should be canon lawyers aiding diocesan human rights and interracial justice groups. The individuals who choose to do this, would, of course, have to know canon law and the minority community. They would have to work in supportive roles with black religious and laymen, understanding the pressures and divisions of the community. To this point, canon law has not been color blind—by virtue of its non-usage in this context. It, like the institutional Church, has had a color. We have no tribunals examining the conscious and unconscious habits which have led to separate and unequal Catholicism based on race. We have no procedures for removing pastors or bishops who perpetuate dual parish or school systems. I am not, initially at least, suggesting procedures. What I am suggesting is an advocacy role for canon lawyers and a usage for canon law to promote social justice while the Church still has any possibility of being "universal" in America.

The technicalities could be worked out, if you believed the end to be important. Let me end with a quotation attributed to Thomas Merton: "Before you do a damned thing, just be what you say you are, a Christian: then no one will have to tell you what to do. You'll know."