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David Mullins

The 'New  
Covenant'  
– *A perspective  
on the future of  
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# The ‘New Covenant’ – *A perspective on the future of the Church-State relationship*

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David Mullins

## THE DECENT DRAPERY OF DEFERENCE<sup>1</sup>

The speech that was delivered in Dublin Castle by An Taoiseach, Leo Varadkar, on the occasion of the Visit of Pope Francis to Ireland last August was notable and more than a little unusual.<sup>2</sup> For while the text itself was compact and displayed a surface coherence; the broader political context reveals that it was replete with a dizzying array of theoretical dissonance.

Indeed what emerges from a cloud of misdirecting idioms that would have made Aristophanes blush is a portrait of the Taoiseach as a kind of accidental Wittgensteinian engaged in a surreal language game.

Is this a churlish response to a speech that was otherwise heralded as gracious yet forthright, and for which the Taoiseach was lauded with adulatory praise by an eerily uniform and ‘on message’ media?<sup>3</sup> I do not believe that it is.

To substantiate such a blunt assessment we need look no further than the ‘conceptual incommensurability’<sup>4</sup> that clearly exists between what the Taoiseach claims he wants in terms of a vision for Church-State relations, (specifically, a ‘new covenant’ for the 21st Century<sup>5</sup>) and some of the actual positions that his government and its recent predecessors have adopted.

1 Drennan, John, *Paddy Machiavelli-How to Get Ahead in Irish Politics*, Gill & Macmillan, 2014, Kindle Version, pg 189.

2 [https://www.taoiseach.gov.ie/eng/News/Taoiseach%27s\\_Speeches/Speech\\_of\\_An\\_Taoiseach\\_Leo\\_Varadkar\\_on\\_the\\_occasion\\_of\\_the\\_Visit\\_of\\_Pope\\_Francis.html](https://www.taoiseach.gov.ie/eng/News/Taoiseach%27s_Speeches/Speech_of_An_Taoiseach_Leo_Varadkar_on_the_occasion_of_the_Visit_of_Pope_Francis.html)

3 For a comprehensive overview of this reporting see the excellent article by Fr Andrew McMahon in the Dec 2018 issue of *The Furrow*. <https://thefurrow.ie/product-brands/andrew-mcmahon/>

4 MacIntyre, Alasdair, *After Virtue*, Second Edition, University of Notre Dame Press, 2003, Pg 8.

5 [https://www.taoiseach.gov.ie/eng/News/Taoiseach%27s\\_Speeches/Speech\\_of\\_An\\_Taoiseach\\_Leo\\_Varadkar\\_on\\_the\\_occasion\\_of\\_the\\_Visit\\_of\\_Pope\\_Francis.html](https://www.taoiseach.gov.ie/eng/News/Taoiseach%27s_Speeches/Speech_of_An_Taoiseach_Leo_Varadkar_on_the_occasion_of_the_Visit_of_Pope_Francis.html)

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This is not to say of course that there will be no relationship between Church and State; rather, the intention here is simply to highlight the major credibility deficit that resides in the sincerity of the claim.

### FROM ENDA TO END GAME

The Dáil speech delivered in July 2011, by former Taoiseach Enda Kenny following the publication of the Cloyne Report into allegations of child sexual abuse in the Diocese of Cloyne, can fairly be said to have fundamentally reset the parameters within which the dialogue between Church and State had habitually occurred.<sup>6</sup>

In deeply passionate and understandably emotive language, it exploded the shibboleths of deference that had so often characterised the relationship up to that point. More consequentially for Church-State relations; it dissolved through the heat of its verbal astringency the narrative shackles within which the majority of the Irish ‘conservative’ political class had felt themselves bound.

To be fair to former Taoiseach Kenny, the main target of his speech on that occasion was a corrosive clericalism that had facilitated the debasement of children through its exaltation and protection of what it considered to be the higher good of the ‘Institutional Church.’

From that point forward however, such nuanced analysis was to become increasingly absent from mainstream political discourse.

The approach that was to replace it, and which was to emerge as a de facto plank of future ‘programs for government’ was articulated early on in opposition Deputy Mick Wallace’s succinct intervention during the ensuing Cloyne debate:

“The Government must reassess the Church-State relationship. The church has played too big a part in the fabric of the State. The sooner they are divided, the better for both parties.”<sup>7</sup>

What the intervening years have demonstrated all too clearly however is that this legitimate call to ‘reassess’ the Church-State relationship has quickly degenerated into outright repudiation and overt revisionism.

Within the political sphere this has taken on an almost Ricouerean character with an “excess of memory here, and an excess of forgetting elsewhere” and where the “idea of a policy of the just allotment of memory” is scarcely to be found.<sup>8</sup>

The most recent example of an attempt to reshape the historical

6 <https://www.oireachtas.ie/en/debates/debate/dail/2011-07-20/19/>

7 <https://www.oireachtas.ie/en/debates/debate/dail/2011-07-20/19/>

8 Ricouer, Paul. *Memory, History and Forgetting*, Translated by Kathleen Blamey and David Pellauer, The University of Chicago Press, 2004, preface.

memory of the state with respect to the Church can be seen in the actions taken in late 2018 by the Minister for Children, Katherine Zappone. These actions would lead to a Commission of Investigation being commenced into the discovery of child and infant remains on the site of the former Bon Secours Mother and Baby Home in Tuam. They would also lead to the Minister's subsequent decision to proceed with an expansive forensic excavation of the site.<sup>9</sup>

This occurred despite the warnings issued by eminent historians like Diarmaid Ferriter. Ferriter tried to caution us that the headlines that went around the world in 2014 on foot of the findings at the Tuam site by the historian Catherine Corless were "problematic":

"These were premature, simplistic and speculative assertions. Corless herself pointed out in June 2014: "I never said to anyone that 800 bodies were dumped in a septic tank."<sup>10</sup>

The UK commentator Brendan O'Neil, went even further when he scathingly referred to a "hysterical piece in the Irish Independent comparing the Tuam home to the Nazi Holocaust, Rwanda and Srebrenica, saying that in all these settings people were killed 'because they were scum'. You can almost hear the sound of the whip as yet another self-loathing member of the Irish chattering class makes an art form of public self-flagellation."<sup>11</sup>

Nevertheless, the Minister, with the backing of the Taoiseach and the entire Cabinet agreed to proceed using the 'Transitional Justice' model of investigating the past; a model which has previously been reserved to addressing the systemic human rights abuses of apartheid or conflict and war ravaged states.

This model, ostensibly aimed at reconciliation, has broad ranging problems of such enduring depth that the influential European Consortium for Political Research (ECPR) conducted an entire conference on the subject in 2017.<sup>12</sup>

The papers delivered at that event reflected the "barrage of criticisms, from within, as well as from those outside" the field of Transitional Justice studies. The primary criticisms were identified as being of two major types; "first that theoretically it is problematic, and secondly, that it is misapplied."<sup>13</sup>

We can see clear signs that such misapplication is already happening with the legitimate, but completely disproportionate,

9 <https://www.dca.gov.ie/docs/EN/25-10-18-Dail-Statements-on-Tuam-Mother-and-Baby-Home-Dr-Katherine-Zappone-TD-Minister-for-Children-and-Youth-Affairs/4990.htm>

10 <https://www.irishtimes.com/opinion/diarmaid-ferriter-truth-of-what-lies-beneath-tuam-home-must-be-uncovered-1.3578387>

11 <https://www.spiked-online.com/2014/06/09/the-tuam-tank-another-myth-about-evil-ireland/>

12 <https://ecpr.eu/StandingGroups/StandingGroupHome.aspx?ID=43>

13 Ibid.

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focus on the historical role of the religious orders and the Church with little or no space being created to hold other centres of power accountable, such as local authorities, government departments or even the Garda Síochána. The failure to provide for this will almost inevitably amount to what The International Centre for Transitional Justice has described as “sophisticated impunity”<sup>14</sup> for every other institutional actor involved.

But perhaps that is the point?

For as things stand, it is difficult to avoid the view that the future relationship being envisaged for the Church is one where it will indeed be at the centre of the States reflections, but only in the role of a Bullseye or as the repository of all responsibility for every historical horror.

Thus we have moved from nuance to an approach that has all the political delicacy of a sledgehammer.

There are certainly grounds for thinking then that the nexus between Church and State is being disentangled by those who wish to retrieve or protect the imagined purity of ‘the State’ from its ‘disfiguring’ relationship with the Church.

This is in line with the thematic trajectory of the government’s recent political focus in the social sphere, a focus that has tended to lionise the State as the vehicle for, and originator of, all authentic progress.

As the Taoiseach informed Pope Francis in Dublin Castle:

“We have voted in our parliament and by referendum to modernise our laws – understanding that marriages do not always work, that women should make their own decisions, and that families come in many forms including those headed by a grandparent, lone parent or same-sex parents or parents who are divorced.”<sup>15</sup>

This revealing, if somewhat patronising assessment of legislative intent, with its ubiquitous association of modernity with the political goals of a narrowly conceived liberalism demands our attention.

‘TWO AUTHORITIES, ONE WAY, ZERO DISSENT’

The reference to Two Authorities, One Way, Zero Dissent, is taken from the lead title of a Human Rights Watch Report issued in 2018.<sup>16</sup> I have utilised that title here partly because of the way in which it captures, and can be applied to, the dynamic that currently characterises the States attitude to the Church-State relationship. It is no little irony that in this, as many will no doubt see; it is simply

14 <https://www.ictj.org/about/transitional-justice>

15 [https://www.taoiseach.gov.ie/eng/News/Taoiseach%27s\\_Speeches/Speech\\_of\\_An\\_Taoiseach\\_Leo\\_Varadkar\\_on\\_the\\_occasion\\_of\\_the\\_Visit\\_of\\_Pope\\_Francis.html](https://www.taoiseach.gov.ie/eng/News/Taoiseach%27s_Speeches/Speech_of_An_Taoiseach_Leo_Varadkar_on_the_occasion_of_the_Visit_of_Pope_Francis.html)

16 <https://www.hrw.org/report/2018/10/23/two-authorities-one-way-zero-dissent/arbitrary-arrest-and-torture-under>

replicating the 'ecclesiastical authoritarianism' that it denounces at every available opportunity.

But for our more immediate purposes, it is also useful as a way of navigating and understanding the political approach that has dominated so much of this and the previous governments view as to what validates or constitutes the moral core of the law.

For if there is one thing that recent referendum campaigns have made abundantly clear; it is that no real pluralism of moral 'authority' is permitted, however much the 'right' of the church to contribute is politically assured.

In reality there is only one way; that of an extreme liberalism which confers unquestionable legitimacy on whatever legislation is endorsed through a majoritarian consensus.

Against this view, no dissent will be brooked. Indeed, against this view, even the rights of conscientious objection become caricatured as conscientious obstruction.<sup>17</sup>

This is an approach and an understanding that appears to have never grappled, even at a superficial level, with any variation of the question posed by Ernst Wolfgang Bockenforde when he asked: "does the free, secularised state exist on the basis of normative presuppositions that it itself cannot guarantee?"<sup>18</sup>

For Joseph Ratzinger, Bokenforde's challenge gives rise to the perennial question "of whether there is something that can never become law but must always remain injustice; or, to reverse this formulation, whether there is something that is of its very nature inalienably law, something that is antecedent to every majority decision and must be respected by all such decisions."<sup>19</sup>

Attempts were of course made to place these questions at the heart of the government's recent and successful campaign to remove the pro-life Eighth Amendment of the Constitution. Unfortunately, the position adopted by the overwhelming majority of legislators tended to view argumentation for the protection of antecedent rights, like the right to life, as nothing more than arguments in which (to paraphrase MacIntyre) the assertion of principles functioned only as a mask for expressions of Catholic moral preference.<sup>20</sup>

Ultimately the merit of the argument could not be heard above the semi sectarian vitriol of interventions like those from Kate O'Connell TD: "It is when we have been at our most Catholic in Ireland that we have been at our least Christian ... Holy Catholic Ireland was a monstrous hoax ... Ireland's women and Ireland's

17 <https://www.oireachtas.ie/en/debates/debate/dail/2018-12-05/42/>

18 Quoted by Jurgen Habermas in Habermas, Jurgen, Ratzinger, Joseph. *The Dialectics of Secularization-On Reason and Religion*, Ignatius Press, Chicago, 2006, pg, 21.

19 Ibid, page 60.

20 MacIntyre, *After Virtue*, pg, 19.

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poor and marginalised, we murdered them in their hundreds through neglect and hate, brutalised them in the name of salvation and enslaved them in the name of redemption.”<sup>21</sup>

Despite the apparent sincerity of these words, and many others like them during the course of recent debates, it is hard not to recognise the presence of what Voeglin once described as political activity “degraded to an apology for the dubious fancies of ‘political intellectuals.’”<sup>22</sup>

Indeed for many, Voeglin’s words concerning the degradation of political activity will appear even more apt when one considers that the same Taoiseach who approvingly quoted the Psalmist to Pope Francis (‘children are a heritage from the Lord’) was the same Taoiseach who had personally campaigned for the annihilation of the last vestiges of constitutional protection for the unborn child.

This is to say nothing of the fact that that he also maintained the stewardship of a government that refused to countenance even the administration of pain relief for that portion of the ‘heritage of the Lord’ about to undergo late term termination.<sup>23</sup>

### YOU SAY ETHOS, I SAY DISCRIMINATION

Part of the Taoiseach’s speech to Pope Francis was also given over to acknowledging the role of the Church in both the historical and current delivery of services, specifically in the areas of health and education:

“Providing healthcare, education and welfare is now considered a core function of our State. When the state was founded, it was not. The Catholic Church filled that gap to the benefit of many generations of our people. We remain profoundly grateful for that contribution.”

On one level this can be taken at face value and welcomed. On quite another level however, it is extremely clear that what was actually being communicated was a direct political message; the role of the Church in these areas is effectively being brought to an end. In fact there is more than a little of the ‘thank you for your help but we can take it from here’ attitude in those remarks.

The desire to relegate religion to the private sphere and to insulate the State and the public forum from its apparently regressive social vision could not be clearer.

This was reflected three weeks earlier in the rather bizarre and petulant reaction of the Minister for Health to Bishop Kevin Doran’s remarks on the enduring importance of *Humane Vitae*: “Please just make it stop! Increasing access to and availability of

21 <https://www.oireachtas.ie/en/debates/debate/dail/2018-01-18/30/>

22 Voeglin, Eric. *The New Science of Politics - An Introduction*. The University of Chicago Press, Chicago, 1987, Pg 17.

23 <https://www.oireachtas.ie/en/debates/debate/dail/2018-11-29/37/>

contraception is and will remain public health policy. Religion plays an important role for many on an individual basis - but it will not determine health and policy in our social country any more. Please get that."<sup>24</sup>

Such an attitude has also become extraordinarily apparent in the states increasingly aggressive attempts to characterise Catholic education and Catholic ethos as exercises in discrimination. The rhetorical framing of this view can be seen in the title of an official Oireachtas research document that was distributed to all Members of the Dáil and Seanad in 2015 and which was titled 'Choosing Segregation: The implications of school choice.'<sup>25</sup>

It can also be seen in the recommendation of the Report of the Joint Oireachtas Committee on the Eighth Amendment that all Relationships and Sexuality Education at primary, secondary and tertiary level be mandatorily provided "independent of ethos."<sup>26</sup>

This recommendation was endorsed and supported by the Taoiseach and his government during the course of the nine months prior to Francis' visit. It cannot but represent a direct threat to the ability of denominational schools to advance their own view of human sexuality, intimacy, and the goods of marriage in the freedom proper to that sphere.

Indeed in its own way the recommendation is a charter for conflict. So much then for the Taoiseach's expression of hope to Francis, that both Church and State can "journey together"<sup>27</sup> in a cordial and covenantal embrace.

Indeed it is hard not to be reminded in this instance of MacIntyre's characterisation of the Athenian sophist, as one who learns the moulding of people by rhetoric "because he must take them by the ear before he can take them by the throat."<sup>28</sup>

#### PROSPECTS FOR THE FUTURE?

To conclude; it is likely that the Church is both already and not yet, fully in that space where "all is allowed, but nothing is possible."<sup>29</sup>

It is 'allowed' that we as a Church proclaim the fullness of the

24 [https://twitter.com/SimonHarrisTD/status/1026017924778270720?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwtterm%5E1026017924778270720&ref\\_url=https%3A%2F%2F](https://twitter.com/SimonHarrisTD/status/1026017924778270720?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwtterm%5E1026017924778270720&ref_url=https%3A%2F%2F)

25 [https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2015/2015-09-28\\_spotlight-choosing-segregation-the-implications-of-school-choice\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2015/2015-09-28_spotlight-choosing-segregation-the-implications-of-school-choice_en.pdf)

26 <https://webarchive.oireachtas.ie/parliament/media/committees/eighth-amendmentoftheconstitution/report-of-the-joint-committee-on-the-eighth-amendment-web-version.pdf>

27 [https://www.taoiseach.gov.ie/eng/News/Taoiseach%27s\\_Speeches/Speech\\_of\\_An\\_Taoiseach\\_Leo\\_Varadkar\\_on\\_the\\_occasion\\_of\\_the\\_Visit\\_of\\_Pope\\_Francis.html](https://www.taoiseach.gov.ie/eng/News/Taoiseach%27s_Speeches/Speech_of_An_Taoiseach_Leo_Varadkar_on_the_occasion_of_the_Visit_of_Pope_Francis.html)

28 MacIntyre, Alasdair, *A Short History of Ethics*, Routledge, London and New York, 1998, pg 18.

29 Cioran, Emile, *On the Heights of Despair*, Translated by Ilinca Zarifopol-Johnston, The University of Chicago Press, 1992, pg 65.

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Gospel but only within the delimiting possibilities of the States guiding vision; a vision that as we have seen above describes abortion as healthcare, ethos as discrimination and for whom the past is merely prologue to the future monopoly of memory.

The one exception to this may perhaps be seen in the States attitude toward Catholic welfare services like those of Brother Kevin at Church Street or the work of St Vincent de Paul.

But even here it is more likely the case that while Benedict XVI speaks of “charity in truth” as the inseparably united driving force behind the authentic development of every person and of all humanity<sup>30</sup>, the State’s preferential option appears to be that, from here on out, it will accept all of the charity but none of the truth.

Such a position, if left unchallenged, can only militate against the construction of a more mature and meaningful Church-State relationship.

In order for the state to free itself from such a debilitating degree of self-referentiality, and in order for the church to resist the drive to re-categorise itself as just another NGO, several things must happen;

First, the state must find a way of honestly and seriously addressing the challenges contained in Bockenforde’s question: “does the free, secularised state exist on the basis of normative presuppositions that it itself cannot guarantee?”

If it does not at least attempt this, then the states slide into the seductive, but ultimately undermining claim to represent the totality of the human experience will become even more pronounced.

For its part the Church can assist the State at this level through proclaiming with renewed confidence the hard won historical insight articulated by Ratzinger:

“It is precisely the separation of the authority of the state from sacral authority that represents the origin and permanent foundation of the western idea of freedom.”<sup>31</sup>

Ultimately then, the challenge for both is for each to become more authentically itself by avoiding the temptation to believe that each on its own can be all things to all people.

In the absence of this, even the minimal idea of a ‘covenant,’ as a pact between distinct parties, collapses into meaninglessness.

30 Benedict XVI, Pope, *Caritas In Veritate*, Veritas Publications, 2009, pg 5.

31 Razinger, Joseph, *Church, Ecumenism and Politics, New Essays in Ecclesiology*, St Paul Publications, 1987, Pg.161.