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On the Duty of Ecclesiastical Office Holders to listen to the Faithful

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In 2016 the Canadian Government created a regulatory framework legalizing medical assistance in dying (MAID) for persons with a “grievous and irremediable medical condition” and “unbearable physical or mental suffering from illness, disease, disability or state of decline that cannot be relieved under conditions that [one] consider acceptable.”¹ In 2021 access to MAID was extended to persons whose death is not immediately foreseeable, including those who fear losing mental capacity to direct their caregivers through advanced directives to permit MAID.

The Catholic Bishops of Canada opposed MAID from the start. Although their position raised important arguments “informed by reason, ethical dialogue, religious conviction and profound respect for the dignity of the human person,”² in the end it proved ineffective.

How does one explain the gap between what Catholic Church leaders view as compelling moral arguments, on the one hand, and the general public acceptance of the opposite positions? In this article I will argue that in a secular culture the voice of the Church lacks the moral force it once held. This is further weakened when bishops speak in their own voice, without the participation of lay Catholics. In order to communicate effectively in civil society, ecclesiastical office holders need to learn how to communicate with members of their own Church.

THE CHALLENGE OF FORMING A MORAL CONSENSUS IN A PLURALIST SOCIETY

The Gospel dynamism animating the Church’s involvement with the world does not guarantee a smooth relationship between

1 Government of Canada, “Medical Assistance in Dying,” <https://www.canada.ca/en/health-canada/services/medical-assistance-dying.html#grievous>

2 Canadian Catholic Conference of Bishops, ongoing. “Faith and Moral Issues,” <https://www.cccb.ca/faith-moral-issues/suffering-and-end-of-life/euthanasia-and-assisted-suicide/>

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the Church and culture. When public policy runs in the face of values deemed essential for integrity of life, the Church has a right to speak out. Indeed, to intervene in defense of the common good is a fundamental dimension of its mission.³ In a culture of individualism, however, autonomy often trumps all other values.

The impetus to broaden eligibility for MAID followed on a Quebec Superior Court ruling that “the statutory provision requiring natural death be reasonably foreseeable infringes life, liberty and security of the person guaranteed by the Charter of Rights ... in a manner inconsistent with the principles of fundamental justice.”⁴ While the initial intent of the legislation was de-criminalization – protecting the assisting physician and medical workers from prosecution – in the public debate MAID was treated as a medical procedure aimed at ending suffering.

Polls indicate that a majority of Canadians accept the choice to end one’s own life as a human right, the act of assisting as compassion and restrictive provisions as discriminatory. Only one-fifth of the population opposes legal access to MAID. The rest find themselves somewhere in the middle, echoing the position taken by the Alzheimer Society Canada that everyone, including people living with dementia have “the right to participate in decisions about their life and care and advocating for access to MAID through advance requests.”⁵

Like their fellow citizens, Canadian Catholics consider MAID from across a spectrum of views, informed both by religious values, as well as beliefs about governmental responsibilities in a democratic, morally pluralistic society. Arguments based on natural law are no longer accepted by “all reasonable” persons. Concepts such as the dignity of life and the nature of the person have proven to be as divisive as they are unifying. Authoritative teachings of the Church, from same-sex marriage to abortion no longer gain full compliance within the Church.

ON BECOMING A CHURCH THAT GIVES WITNESS IN A PLURALIST CULTURE

The questions that Catholics face are daunting. They concern how to respond to significant shifts in public values and “be a sign and

3 Synod of Bishops, “Justice in the World,” 1971. <https://www.cctwincities.org/wp-content/uploads/2015/10/Justicia-in-Mundo.pdf>.

4 Government of Canada, “Legislative Background: Bill C-7: Government of Canada’s Legislative Response to the Superior Court of Québec *Truchon* Decision,” <https://www.justice.gc.ca/eng/csj-sjc/pl/ad-am/c7/p1.html>

5 Alzheimer’s Society of Canada, “Statement on Medical Assistance in Dying,” 2019. <https://alzheimer.ca/en/help-support/im-caring-person-living-dementia/end-life-care/medical-assistance-dying>

safeguard of the transcendent character of the human person.”⁶ How does the Catholic community dialogue with a culture that appears unable to accept the same starting points? What has to happen to make assisted dying, abortion, or any other “big” moral issue unthinkable, even if they remains legal? The Church has a place in the public forum. While a moral consensus appears to be out of reach, the bishops must avoid dividing the world epistemologically into opposing realities – the religious and the secular.

Formal statements, natural law arguments, and dogmatic imperatives fail to address the factors at play in culture and society today. The Church does not need to change its beliefs in order for it to learn new ways to communicate with others about what it believes human dignity involves and requires. But this requires paying attention to the experience of lay Catholics. The witness of the Catholic Church will only be compelling when it reflects not only what the Church teaches, but who the Church is – all of the baptized who are seeking a spiritual home in Catholicism. Pope Francis clearly sees this as integral to the credible witness of the church. “In [the bishop’s] mission of fostering a dynamic, open and missionary communion, he will have to encourage and develop the means of participation proposed in the Code of Canon Law, and other forms of pastoral dialogue, out of a desire to listen to everyone and *not simply to those who would tell him what he would like to hear.*”⁷

All members of the Church have a right to be consulted when bishops make decisions that impact on the lives, from closing parishes or schools to public statements of what the Church stands for. When Bishops speak on divisive public policy issues, they need to make room for the laity to speak. Instead, in an effort to control the message, they act unilaterally, as was evident from the sex abuse scandal, engaging in a kind of clericalism which is both transactional (situating the status of the clergy above that of the laity) and institutional (putting the needs of the institution above those of community of believers). Clericalism is a form of controlling the rules of belonging and the parameters of questioning/ thinking. Clericalism limits the space for critical thinking and allows virtually no structures or processes for hearing what is on the minds and in the hearts of the laity.

Without *practical structures* it becomes meaningless to say that lay women and men play a critical role in the choices that lie before

6 Vatican II, *Gaudium et Spes* (Rome, 1965), n. 76 https://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html

7 Pope Francis, *Joy of the Gospel* (Rome, 2013) n. 31, http://www.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20131124_evangelii-gaudium.html.emphasis mine).

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the Church. Choices give contour and substance to the Church's presence vis-à-vis cultural shifts and social values. The voice of the Church in public affairs requires the capacity "to decipher authentic signs of God's presence and purpose in the happenings, needs and desires in which the People [of God] has a part along with other men of our age" and to find "solutions which are fully human."⁸

Church authorities, though gifted with the grace of office, have a limited perspective. Consequently, they must listen to and learn from the laity. Facing the reality of pro-life and pro-choice parishioners, feeling the yearning of divorced and remarried and same-sex couples who want to share in the spiritual strength of the Church should not be a threat to their status. The hierarchy needs to hear the stories of Catholics and to understand not just what they are saying, but the people who are saying it. The Catholic clergy, from bishops to curates, need to show enthusiasm for being with their people, attending to the questions, and searching for the truth.

THE LAITY AND THE WAY FORWARD

The actual path forward remains uncharted. Finding practical ways to listen to and learn from the laity often founders on clashes over authority and position in the Church.⁹ Nevertheless, there is a sound theological argument for not only permitting, but requiring lay participation in decision making in the Church. In the following section I will highlight the views of John Henry Newman and Karl Rahner. In the process I will show that Church practice still lags far behind practical theological development.

John Henry Newman is perhaps best known for his essay "On Consulting the Faithful in Matters of Doctrine,"¹⁰ where he argued that the Holy Spirit works in hierarchy and laity together. The faithful experience of the laity (*sensus fidei fidelium*) counts, because they are "a substantive factor in the Church" and their sense of the faith works as a barometer of the Church's vital

8 Vatican II, *Gaudium et Spes*, n. 11.

9 The U.S. Catholic bishops continue to act unilaterally on a range of practical issues that they claim are actually matters of Church doctrine, most recently on the Biden's right to receive communion. See: *National Catholic Reporter* <https://www.ncronline.org/news/people/pelosis-archbishop-calls-denying-eucharist-public-figures-who-support-abortion>; Michelle Boorstein, "Biden's Stance on Abortion Rights triggers coming debate among Catholic Bishops on Communion," *Washington Post*, April 29, 2021.

<https://www.washingtonpost.com/religion/2021/04/28/biden-catholic-president-bishops-abortion-communion/>

10 John Henry Newman, "On Consulting the Faithful in Matters of Doctrine," *Rambler*, July 1859, <https://www.newmanreader.org/works/rambler/consulting.html>.

ON THE DUTY OF ECCLESIASTICAL OFFICE HOLDERS

connection to its origins”¹¹ This claim brings together doctrine and practice, not in a derivative way (where practice is determined and governed by doctrine), but in a mode of complementarity.¹²

While Newman’s essay has been the source of numerous studies on the theology of the laity, it is important to remember the context that led to its publication. Newman, the newly appointed editor of the *Rambler*, was intent on settling a dispute between the magazine and the English bishops over the question of the state’s right to inspect publically funded Catholic schools. The *Rambler* had argued that the bishops’ decision would hurt the Church by risking the loss of government funding and that their decision was a mistake that could have been avoided had the bishops consulted competent laymen on the topic. The Bishops countered that the school question was an ecclesiastical matter, in which the laity had no say, arguing that they were the sole authority for making practical decisions affecting the Church.¹³

In a conciliatory approach to the bishops’ argument Newman wrote: “Acknowledging then most fully the prerogatives of the episcopate, we do unfeignedly believe ... that their Lordships really desire to know the opinion of the laity on subjects on which the laity are especially concerned.”¹⁴ Newman had in mind “practical questions” not what we call matters of faith and morals; but to underscore his position, he continued, “[i]f even in the preparation of a dogmatic definition the faithful are consulted, as lately in the instance of the Immaculate Conception, it is at least as natural to anticipate such an act of kind feeling and sympathy in great practical questions, out of the condescension which belongs to

11 Richard Penaskovic, *Open to the Spirit: The Notion of the laity on the Writings of J. H. Newman* (Augsburg, Germany: Veralg Werner Blasaditsch, 1972), p. 189.

12 John Burkhard would expand *sensus fidelium* beyond practicing Catholics to include “all who are struggling to live their lives in pursuit of and in accord with Christian truth as they inhabit it. This is especially the case when they are struggling with the vast array of issues that promote or restrict human dignity.” See: “*The Sensus Fidelium – Old Questions, New Challenges*,” in *Catholic Theological Society of America Proceedings*, 2015, 27-43, at 29. <https://ejournals.bc.edu/ojs/index.php/ctsa/article/view/8751/7969>

13 One finds this attitude institutionally solidified by Pius X. “The Church is essentially an *unequal* society, that is, a society comprising two categories of persons, the Pastors and the flock, those who occupy a rank in the different degrees of the hierarchy and the multitude of the faithful. So distinct are these categories that with the pastoral body only rests the necessary right and authority for promoting the end of the society [Church] and directing all its members towards that end; the one duty of the multitude is to allow themselves to be led, and, like a docile flock, to follow the Pastors.” http://www.vatican.va/content/pius-x/en/encyclicals/documents/hf_p-x_enc_11021906_vehementer-nos.htm

14 “Judgment of the English Bishops on the Royal commission,” *Rambler*, May 1859 <https://www.newmanreader.org/works/rambler/contemporary5-59.html>

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those who are *forma facti gregis ex animo* [called to be an example for the whole flock, 1 Peter 5:4].”¹⁵

For Newman “ecclesiastical matters” cannot be reduced to magisterial teachings. His position on the Catholic schools question exposed the ecclesiastical over-reach of the bishops into matters that clearly impacted and thus required dialogue with the laity.¹⁶ Just as no dimension of lived faith should be overlooked in clarifying doctrine; neither should the experience of the laity be ignored in determining Church practices. For Newman, the sentiments and ideas of the laity, not over against but in conjunction with the clergy, were an integral dimension not only in doctrinal matters, but in its governing and teaching offices, as well. This insight remains foundational for understanding the role of the laity in ecclesiastical decisions and the obligation of bishops to engage in dialogue. or what in Germany has become known as the “synodal way.”¹⁷

But Newman was short on proposals for how this might look in practical decision making in matters affecting the Church at the local level. He placed little stock in public opinion and insisted that for their voices to hold weight in the Church, the laity should be theologically orthodox and well formed catechetically. Nor were the rank and file of Catholics receptive to his ideas--not surprising considering the precarious position of Catholics in 19th century England.¹⁸

NO LONGER NEWMAN’S WORLD

By the mid twentieth century it was clear that a defensive position was no longer tenable. Pope Pius XII recognized that the voice of the hierarchy was often too weak to prevent the destructive abuse of power by Europe’s totalitarian regimes. In his 1944 Christmas address *Benignitas*¹⁹ Pius underscored the importance of a dynamic public opinion in opposing the “brutality, iniquity, destruction, and annihilation” rationalized through propagandizing media. Public

15 Ibid.

16 See Fainche Ryan, “On Consulting the Faithful in Matters of Doctrine: The Twenty-First Century,” in *The Church in Pluralist Society: Social and Political Roles*, Cornelius J. Casey and Fainche Ryan, ed. (Notre Dame, IN. University of Notre Dame Press, 2019), pp. 101-122.

17 “Germany’s synodal assembly a step to rebuilding Church’s credibility,” *Crux*, January 20, 2020. <https://cruxnow.com/church-in-europe/2020/01/germanysynodal-assembly-a-step-to-rebuilding-churchs-credibility/>; Der Synodaler Weg (The Synodal Way) https://www.synodalerweg.de/fileadmin/Synodalerweg/Dokumente_Redden_Beitraege/2020_FAQ-Synodal-Path-englisch.pdf

18 J. H. Newman, “Lectures on the Present Position of Catholics in England,” 1851, <https://www.newmanreader.org/works/england/index.htm>

19 Pius XII, “Benignitas,” December 24, 1944. http://www.vatican.va/content/pius-xii/it/speeches/1944/documents/hf_p-xii_spe_19441224_natale.html

opinion was a necessary condition for restoring just relationships in society. Six years later the Pope called for freedom of speech in the Church itself. In his words, “only those who do not know the Church or those who know it poorly will be surprised by this. For the Church, after all, is a living body and would be deficient in her life if public opinion were lacking; and that lack would devalue both the shepherds and the faithful.”²⁰ Pius was cautious. He neither abandoned the idea of a hierarchically ordered Church structure nor equated public opinion with the “will of the masses.” Without referring to *sensus fidelium*, he did envision responsible informed and sustained dialogue in matters of Church governance.

THE *SENSUS FIDELIUM* AND CHURCH GOVERNANCE

Public opinion is not identical with the *sensus fidei fidelium*. Nor can the *sensus* be measured simply against theological propositions or declarations of the Magisterium, as if it were some form of “theological correctness.” The question for advancing the role of the layman in the Church concerns how *sensus fidelium* is practiced in the life of the Church. Critical thinking Catholics want to go beyond affirming that the Holy Spirit is present in the Church; they want to have a *framework* for discussing how this unfolds in the decision making and commitments of the Church in the life of their parish, their diocese, and in their country.

The laity have a rightful say in more mundane decisions, not because these decisions may be viewed as “practical” (not requiring sophisticated theological training), but because dogma is embodied in and made accessible through practices. Karl Rahner explains that the Church either achieves or falls short of what it is called to be through its practices. Rahner sees Church “practice” as inclusive both of structures and policies, as well as sacraments and devotions. A theology of *participation* can affirm the role of the laity in the “essential” structure of the Church; but such a theology is deficient, if it does not demand to know how this role is realized in fact. According to Rahner, public positions taken by the Church cannot be derived simply from doctrine or scripture, but need to be discerned in the particular situation in which the Church wishes to speak. These iterations of the life of the Church as a visible community are not the sole prerogative of the ecclesiastical office holders – bishops and priests – but are a responsibility shared with all the members of the Church.²¹

20 Pius XII, “Aux journalistes catholiques réunis à Rome pour leur IVe Congrès international,” February 17, 1950. http://www.vatican.va/content/pius-xii/fr/speeches/1950/documents/hf_p-xii_spe_19500217_la-presse.html

21 Karl Rahner, “Practical Theology Within the Totality of Theological Disciplines,” in Karl Rahner, *Theological Investigations*, Volume IX, Graham Harrison, tr. (London: Darton, Longmans, and Todd, 1972), pp. 104-105.

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The place of the layperson in the Church is of special concern to Pope Francis.²² His vision of a “synodal Church” underscores his teaching that “every one of the baptized should feel involved in the ecclesial and social change that we so greatly need. This change calls for a personal and communal conversion that makes us see things as the Lord does.”²³ He calls for pathways from polarizing positions toward a “culture of encounter.”²⁴ Shared discernment does not diminish the truth of moral beliefs or the authority of the Church’s office holders. It expands our access to truth. Before Catholic bishops take positions on burning issues in the public sphere, they have a duty to listen to what the faithful have to say.

22 Christopher Wells, “Synod of Bishops to Take Up Theme of Synodality in 2022,” *Vatican News*, 7 March 2020. <https://www.vaticannews.va/en/pope/news/2020-03/synod-of-bishops-to-take-up-theme-of-synodality-in-2022.html>;

23 Pope Francis, “Letter to the People of God,” Vatican City, 20 August, 2018. https://www.vatican.va/content/francesco/en/letters/2018/documents/papa-francesco_20180820_lettera-popolo-didio.html

24 Pope Francis, *Fratelli Tutti*, Vatican City, 3 October 2020, https://www.vatican.va/content/francesco/en/encyclicals/documents/papa-francesco_20201003_encyclica-fratelli-tutti.html

False Security. Many areas of life are now extremely polarised and opting for one side only can give a false sense of security and certainty. In political life, this can and does give rise to a culture where security is sought to an extent that billions are approved by governments and peoples for spending on arms and processes to keep the presumed enemy at bay. Fundamentalism in religion is equally wasteful, distorts the quest for the truth and forfeits it to unattainable certitudes and compliance.

— JIM MALONE AND JOHN McEVOY, *Mystery and the Culture of Science*, (Cambridge Scholars Publishing) p. 16.