

# Morality : between Law and Real-life Needs

thoughts on the doctrinal proceedings against the American theologian Charles Curran

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*The investigation that culminated last July in a letter from the Vatican to Professor Curran, criticising the distinction made by him and many others between 'infallible' and 'non-infallible' Church teaching and initiating his removal from his post at the Catholic University of America, has been one of the most hotly discussed events to have happened in the modern American Catholic Church, has been written about throughout the Catholic world, and has troubled many theologians. We are publishing this translation of an article by Bernhard Häring, 'Moral zwischen gesetz und Lebensnot' (which appeared in the German Church magazine *Christ in der Gegenwart*<sup>1</sup> in August), because its author, who taught Curran in Rome and in March accompanied him to the Vatican for 'informal dialogue', has such a close knowledge of this theologian's thinking, which in some places has been misrepresented. The text has been updated where essential.*

Who is Charles Curran? And what was the 'Curran affair' about? Curran is a diocesan priest from the diocese of Rochester in the State of New York. He gained his Licentiate in Theology in Rome, at the Gregorian University, and took his Doctorate in Moral Theology in Rome, at the Academia Alfonsiana, where I taught for many years. I was one of his teachers but not his moderator. He wrote his doctoral thesis about Conscience and Intelligence according to Saint Alphonsus of Liguori (1696—1787). Like Alphonsus, but paying special attention to the human sciences, Curran set out to study conscience as challenged by the call to discipleship but as also influenced by clearly perceived values. He is concerned for the sincere and genuine conscience of every human person, especially the integrity of Christian conscience—and not least of the moral theologian. And he regards himself as all the more truly in the

service of the Church insofar as he promotes integrity of conscience and sincerity of dialogue.

From 1961, Curran was professor of moral theology at the Major Seminary in Rochester under Bishop Fulton Sheen. When a chair at the Catholic University of America in Washington was offered to me in 1964, and I was not free to accept it, I was asked to suggest another candidate and nominated Curran. He was called to Washington, where he soon gained the esteem of both students and colleagues for his learning and character, and his extraordinary availability not only to his students but to anyone in need who came to him. He did not question the Church's authority to teach, and was never accused of teaching anything contrary to the Church's dogma. However, as an academic teacher he saw it as his task to ask searching questions about the non-infallible teachings of the Church. Even more than St. Alphonsus, he enquired into the degree of certainty attaching to traditional moral teachings, even those formally stated by the Magisterium. He is concerned for dialogue with modern men, with the searchers and doubters, with those involved in the human sciences, and not least also with ecumenical dialogue. This American theologian stands for a moral proclamation based on the Scriptures, in respectful interaction with tradition and the Church's teaching authority. Like many other moral theologians, he urges the primacy of positive goals and commandments over restrictive or negative norms. But the main thrust of his work deals with establishing the norms of the natural moral law—an emphasis deriving, no doubt, from the special situation of the Church in the U.S.A. as a Church in the modern world. Curran is very aware that a one-sided stress on Church authority must lead to a strong sense of irrelevance, if meaningful foundations for moral norms cannot be offered, and if time-conditioned solutions are hardened into timeless, absolute and ever-valid principles. The main points of his thought include: the right of the Church (meaning both ecclesiastical authority and the whole People of God) to the absolute integrity of the theologian; sharp awareness of conflict situations encountered in real life, by people 'on the way', in the tension between the 'already' of salvation begun, and the 'not yet' of fulfilment. On questions of political ethics, he holds that while some measure of compromise is unavoidable, this is no justification for mere apathy or 'lazy compromise'. What he prefers to stress is rather a 'high ethics' of goal-setting, of Christian enthusiasm, and coming as near as possible to renunciation of the use of force.

Curran has written at least fifteen widely-read books, most of which first appeared—like Karl Rahner's work—as essays and were later gathered into thematic sequence. This scholar devotes himself especially to questions of method in moral theology, to moral hermeneutics (about

understanding and interpreting texts, but also including the evaluating of situations where contrasting ethical claims are at work), and to the resolution of conflict situations. He is concerned to pin-point the boundaries of absolute norms, when these seem to conflict with other norms which safeguard higher or more urgent values.

He has expressed himself repeatedly and at length on the question of dissent from the Magisterium, in matters concerning *non-infallible* doctrine. How far may a theologian propound views which differ from the official line, but for which he can provide a solid scholarly basis for which he can be in conscience responsible? On many live questions, he has practised such 'dissent'.

Charles Curran is not in favour of casuistically soft-pedalling or 'watering down' what Church authority has propounded as moral norms. With unvarnished bluntness, he states these norms in their full severity, without omitting a single iota. If he nevertheless judges one of these norms to be unconvincing, he says so without protecting himself under a welter of jargon, yet also without disrespect. Curran is no fiery prophet, burning with indignation. He accepts it as normal that there will be tensions between the Magisterium, whose task is to guard the tradition, and the necessities and pressures of a person-centred moral theology.

The investigation of the Curran case by the Congregation for the Doctrine of the Faith concentrated on differing viewpoints upon sexual ethics or questions closely connected with this, whereas most of Curran's published material is devoted to other things. By his own free choice, in his last fifteen years at the Catholic University of America the professor did not initiate any course or seminar devoted to sexual ethics. He even offered to the Congregation for the Doctrine of the Faith an undertaking not to teach in the future about questions of sexual ethics at the Catholic University.

What were the principal issues in the dispute? It began with the controversy surrounding *Humanae Vitae*. Shortly after this encyclical was issued by Paul VI in 1968, Curran—along with many other theologians in the United States—expressed the view that there may be conflict situations where one could not impose the prohibition of artificial means of contraception as an absolute norm.

He has repeatedly warned also against a sharp and absolute condemnation of masturbation in the time of puberty, and criticised some of the documents of the Magisterium for not making sufficient distinctions here, and thereby short-circuiting this problem. Also, while speaking out clearly against any bland, universal acceptance of homosexual relationships, he proposed that serious consideration be given to whether a long-lasting partnership between persons of the same sex, in the case of these persons being prone to an incorrigible

homosexual tendency, should not be allowed as 'objectively' the better way, for the avoidance of more serious disorder, or, in other words, as the lesser evil.

Curran provoked further opposition through his untiring advocacy on behalf of remarried divorcees whose first marriage was irretrievably broken down—often without any serious fault of their own. He stresses mutual fidelity and the permanence of Christian marriage as a binding positive commandment, but holds a view (in line with the ancient practice of the orthodox Churches, which have recourse to the so-called *oikonomia* in particularly difficult cases) that even a marriage canonically regarded as valid might in some instances be impossible to sustain. In practice, this concerns the well-being and capacity for re-marriage of the partner who, against his or her will, has been deserted.

The discussions between the Congregation for the Doctrine of the Faith and Charles Curran furthermore touched on questions about 'direct sterilisation' and 'direct interruption of pregnancy'. As I understand it, Curran would see sterilisation as justified only in situations where this can be clearly seen as therapeutic, from the point of view of the individual's total well-being. Likewise he would consider that interruption of pregnancy may be justified only when not merely the subjective intention but also the objective significance of the action is not abortion as such, but saving the life of the mother when the lives of both cannot be saved. He does of course advert to the problematic grey area up to about ten or twelve days after fertilisation, while individuation is still incomplete. I believe Curran was right to draw attention to the fact that moralists in previous centuries, like St. Alphonsus, stressed that in such cases, from an ethical view-point one is speaking not of direct but of indirect sterilisation or indirect abortion.

The exchange of correspondence which went on for years between the Congregation for the Doctrine of the Faith and Curran was published almost in its entirety in the periodical *Origins*, for which the secretariate of the North American Episcopal Conference is responsible. In his responses, Curran persistently requested that the Congregation should express its stance upon the central question: whether dissent from the non-infallible doctrines was as such punishable. The moral theologian could point to statements from episcopal conferences which under particular conditions allow for genuine and responsible disagreement with ecclesiastical teaching authority. And Curran is convinced that he has held strictly to these conditions: he has always accurately portrayed the teaching of the Church in its full severity. His dissent is not absolute or apodictic, intolerant of contradiction; rather, he has always acknowledged the right and duty of the Magisterium to correct mistaken doctrine and to reassert its teaching more clearly.

In the light of the documents not just of the Curran case but also of

several other moral theologians, I wonder about the purpose and method of these conflicts. Is it the intention to persuade, to stimulate new reflection, to promote theological thought? Or is it rather to enquire about guilt and possibly punish attempts at building a 'therapeutic' moral theology? In the Curran case and in other similar situations, hard formulae from the marriage encyclical *Casti Conubii* of Pius XI (1930) and from *Humanae Vitae* (1968)—in this case, the well-known sentence: 'Each marital act must be open to the transmission of life'—are adduced as the norm to be strictly adhered to. I imagine that if Curran were asked whether his 'dissent' differs in any way from the Königstein Clarification issued by the West German bishops about *Humanae Vitae*, or from positions adopted on the same question by the full German Synod, he would without hesitation reply that he also accepts *Humanae Vitae* as normative in the same sense.

There were press reports that Curran 'refused to submit'; this is simply not true. He never put in doubt his submission to the teaching authority of the Church. In reply to the Congregation for the Doctrine of the Faith early in April, 1986, he repeated that he was open to further reflection; that he did not maintain his views as apodictic, but rather as 'tentative', as contributions to the solution of problems. But Curran also said quite clearly that he was not honourably able simply to withdraw all the views previously expressed by him on questions of sexual ethics which according to the Congregation for the Doctrine of the Faith were out of line with the traditional doctrine of the Church. It should be remembered, however, that the Congregation had never accused Curran of departing from Church dogma, but only from non-infallible statements of the Magisterium.

At the end of the process, the Congregation indicated to Curran that it was prepared for further informal dialogue with him, if he himself should so wish. Curran did this, and without hesitation received permission to bring me with him into this dialogue. The conversation of about two hours, length took place in the office of the Congregation on March 8th, 1986. Curran was on that occasion invited to express himself once again in writing, which he did without delay.

We pointed out that many respected Catholic theologians are teaching in secular universities or in non-Catholic theological faculties and that these attract considerable numbers of very able Catholic doctoral students. Twenty years ago, indeed, Curran himself received some very flattering offers. But he regarded this drift away to faculties which are not under the influence of the Roman Curia as a regrettable tendency and would have preferred for this reason to have continued teaching in the Catholic University, keeping clear of sexual ethics and teaching only areas in which Rome had no objection to him.

This scholar must wonder why he has been made a scapegoat, when

so many other moral theologians both in the United States and elsewhere are teaching basically the same as he is accused of—and in many cases have distanced themselves further than he has from Roman doctrinal statements. I do not know all the background; but I venture to guess that the reason for singling him out is that Curran is surely the most influential and most widely read Catholic moral theologian writing in the English language today. He is held in high esteem by priests, religious, and committed lay people. His personal conduct is irreproachable; he lives poverty and the option for the poor with almost Franciscan radicality. He is severely critical of the modern (and American) consumer society. Those who know Curran would not accuse him of trying to fit morality to the measure of the average American citizen. But he is also an outspoken opponent of legalistic severity. Along with the high ideals of the Gospel, he seeks to promote a thoroughly pastoral approach, using patient effort in order to convince, rather than make too strong an appeal to authority.

This may be why, despite his personally inoffensive manner, he has aroused such strong feelings in many quarters. For example, years ago the weekly journal *The Wanderer* urged its readers to write bluntly and systematically to Rome, denouncing Curran for his departure from magisterial documents. The same Catholic newspaper campaigned equally strongly against some leading progressive American bishops. The association called *Catholics United in Faith* has for years organised letters of complaint to the Roman authorities.

I wish to stress that it would be mistaken to lay the blame for this affair on the Prefect of the Congregation for the Doctrine of the Faith, Cardinal Joseph Ratzinger. The investigation began in the summer of 1979—long before Cardinal Ratzinger was called to Rome. Also, as president of the Congregation he is unavoidably dependent on those who work with him. In my view, he would need among his staff a number—and not too small a number at that—of people who combine expert scholarship with skill in dialogue.

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