

Lay Preaching and Canon Law

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The community of faith that we call Church is a complex reality. When we gather as Church, we gather as a community of believers, called by God through Baptism to become the Body of Christ and witness to Christ's life, passion, death and Resurrection. Believers, however, are not only members of a community, but also active agents of transformation in society, laboring that God's reign might come and that God's will might be done, on earth as it is in heaven.

The Church is at the same time a structured institution with rules and patterns of organization that are intended to assist its mission of advancing the reign of God. The highest **law** in the Church is the law of love of God and neighbor found in Scripture. The detailed **laws** of the Church are found in the Code of Canon Law.

Unlike Sacred Scripture which was designated as a foundational source of the life of the Church in the first era of Christianity, the Code of Canon Law has undergone many revisions throughout the history of the Church as

an institution. These revisions have been made for the sake of "tradition." Allow me to explain.

The word tradition has two distinct meanings. Commonly, we think of tradition as "the way things have always been done." But tradition, from the Latin verb *traditio*, "to hand over," is also the process of conveying to a new generation the essential core of faith and practice in such a way that it may be kept alive in fresh and understandable ways.

The Church's Code of Canon Law was revised most recently in 1983. At that time, the community was seeking to reflect in its self-understanding and governance the graces of the Holy Spirit that had become evident during the Second Vatican Council. The 1983 Code replaced the Code in effect since 1917.

Attitude Towards the Law

In the introduction to the 1983 revision of the Code, Pope John Paul II wrote that the purpose of Canon Law was to order charisms, not to stifle them. The law, most positively speaking, is to be a servant of our theology. Jesus

offers us the possibility of cherishing the law as gift. He was eager to bring the law to fulfillment. He also manifested an enormous freedom of soul in acting, not in defiance of law, but beyond it, remembering, to paraphrase, that the law was made for the community, not the community for the law.

Values and the Law: Preaching and Preachers

The greatest tension which lay preaching makes evident is the tension between preservation of the identity of the ordained minister, and the needs of the worshipping people of God. Both realities have values deeply embedded within them, values that this discussion needs to reverence. These values need not be irreconcilable. But discussions of law which take as their point of departure "who may do what" invariably have a different pastoral perspective than discussions which ask the question, "what needs to be done."

The responsibility of pastoral leadership is to provide the community of the baptized with the ministry to which they have a right. The obligation of the Church's ministers to preach the Gospel flows from the corresponding right of the baptized to receive the Word of God. (cf. Canon 213)

The 1983 revision of the Code "does attempt to make it possible for bishops to provide these helps to Christians more readily despite the growing shortage of clergy relative to the total

Catholic population. The potential for non-priests to provide a range of services has been placed in the law, and bishops are empowered to take advantage of these options ---especially to provide the necessary help to the faithful entrusted to their care." (*The Code of Canon Law: A Text and Commentary*. Corriden, Green, and Heintschel, eds. Paulist Press, New York. 1985, 148)

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A significant theological grounding for lay preaching is the recognition of the charisms given the baptized for both ministry and mission. The community of faith is steward of these gifts given its members, and woe to the steward who buries the talent.

In pastoral situations in which preaching by the laity has come to be seen as of great benefit to the community, leadership has attempted to remain faithful to the intent of the law. They note the semantic distinction that "homily" is preaching by an ordained priest or deacon (bishop presumed) and that lay people, by definition, are incapable of preaching "homilies." The training program of Partners in Preaching, therefore, prepares candidates for lectionary-based, liturgical preaching. The genre of such preaching is "homiletic."

The Conciliar Liturgical Renewal emphasized the importance of Scriptural preaching within worship. A great gift of the Council was that the praying community was called to celebrate the

liturgy of the Word and the liturgy of Eucharist. No longer did we say that the “principle” parts of the Mass were the Offertory, the Consecration, and Communion. Instead, we came to acknowledge the presence of Christ in the Word and in the Assembly, as well as in the presider and the Eucharistic Feast of bread blessed and broken and cup poured out.

Again, lectionary-based, liturgical preaching and homily differ only in the ordained or lay status of the preacher. Lay preaching need not be witness preaching or catechetical preaching. When an ordained preacher develops a theme unrelated to the Scriptural or liturgical text, such preaching is not in accord with the renewal even though, in this case, the preacher is ordained.

The Code of Canon Law authorizes preaching by the unordained. Again, as a principle of interpretation, one is always invited to note the direction in which the law is moving. The 1917 code included a prohibition of preaching by lay persons. The 1983 revision not only drops the prohibition, but also incorporates a positive giving of permission. Only a mandate that preaching by the unordained would be **required** in every Church or oratory could reveal a stronger shift of direction.

Respect for National and Diocesan Authority

Canon Law is intended to shape the life and practice of the universal,

international Church. Many of its provisions need further refinement to adequately address the specific needs of local faith communities of different cultures and nationalities.

Here again we confront the tensions between centralized and local pastoral leadership. There will be differences in non-essentials, but unity in essentials, and in all things charity.

Canon 766, the Canon in which lay preaching is authorized, is one of those canons that conclude with a stipulation that it is to be implemented according to the prescriptions of the conference of bishops. Each national conference of Bishops was charged with the responsibility to determine what norms of implementation would enable the emerging ministry of lay preaching to best serve their local Churches.

The Canadian Bishops passed fairly straightforward norms of implementation in 1985. In the United States, the Bishops Conference brought possible norms for a vote several times before the process of approving norms, sending them to the Vatican for approval, and receiving that approval, was completed.

This article includes the text of the 1999 norms that were approved by the American Bishops but denied authorization, or *recognitio*, by Rome. Also included is the text of the implementation decree that was affirmed by the Bishops in 2001, received the

recognitio, and then was promulgated to take effect in January, 2002.

Examination of the two versions of these norms of implementation reveals some of the tensions discussed earlier. Much of the text is unchanged, but the changes that were made have been the subject of significant discussion by pastoral leaders.

Look carefully at the implementation decree. Note that it permits the lay person " 1) to preach, 2) to offer spiritual conferences, or 3) to offer instructions."

As a principle of interpretation of law, when something is positively permitted, logic dictates that there must be "a there, there." In other words, there may be some who would say that lay people can be engaged in the ministry of the word as catechists. True, but that ministry would fall within the category of instruction. Also, retreat preaching has for some time been a shared ministry of presbyters and lay people working in mixed teams. This form of lay preaching falls within the category of the offering of spiritual conferences.

So what, may we ask, is meant by the positive authorization that may be permitted for the lay person "to preach?" The basic form of preaching is experienced by the community of the Church when it gathers for worship.

The 2001 norms of implementation for Canon 766 were developed as a revision of the norms

passed in 1999 by the bishops of the United States. They do not dictate where lay preaching is to occur, but stipulate that it is not to take place "within the Celebration of the Eucharist at the moment reserved for the homily." This prohibition replaces the language of the 1999 norms which stated, "In every case, care must be taken that such preaching, conferences, or instructions not be confused with the homily."

A Liturgical/Pastoral Approach

How are pastoral leaders to address the internal inconsistency presented by these new norms? The most fundamental principles of liturgical prayer dictate that preaching occurs after the proclamation of the Word of God, so as to prepare the listeners to enter more fully into whatever liturgical action will take place as response to the Word.

When liturgical preaching by a layperson occurs during non-eucharistic worship, the placement of the preaching event after the proclamation of the Word is not in question. Such worship services are occurring with increasing frequency precisely because of the absence of ordained clergy. However, the other circumstances in which the norms anticipate the utilization of the lay preaching ministry expressly include not only the absence of clergy, but also the "shortage of clergy, particular language requirements, or the demonstrated expertise or experience of the lay faithful concerned." These circumstances envision times when lay

preaching would still be of benefit to the community within its celebration of Eucharist.

One valid pastoral approach to the revised norms is that respect for the traditional shape of the community's worship would take precedence over implementation norms emphasizing the identity of the minister of the Word. Relocating the preaching event alters and renders less effective its function within the prayer of the community.

As an alternative practice, pastoral leaders or presiders could offer an introduction to the entire Liturgy of the Word, or an introduction to the preaching event itself in "the moment reserved for the homily," i.e. the moment immediately following the proclamation of the Word. This introduction would not be confused with the homily, but rather would witness to lay preaching as a ministry of collaboration rather than substitution.

This solution would enable the faithful to be offered access to the Word of God to which they are entitled by baptism, while respecting the preaching gifts which the Spirit bestows on the Church for the common good. It remains the duty of the Church's pastors to determine how to most faithfully discharge their obligation of providing for the preaching of the Word of God in the pastoral setting for which they are responsible. Those offering pastoral leadership within the Church need to

desire profoundly the Spirit's graces of both fidelity and creativity.

Selected Relevant Canons, Taken from the 1983 Revised Code

Canon 759: In virtue of their baptism and confirmation lay members of the Christian faithful are witnesses to the gospel message by word and by example of a Christian life; they can also be called upon to cooperate with the bishop and presbyters in the exercise of the ministry of the word.

Canon 766: Lay persons can be admitted to preach in a church or oratory if it is necessary in certain circumstances or if it is useful in particular cases according to the prescriptions of the conference of bishops and with due regard for canon 767, § 1.

Canon 767: § 1. Among the forms of preaching, the homily is preeminent; it is a part of the liturgy itself and is reserved to a priest or to a deacon; in the homily, the mysteries of the faith and the norms of Christian living are to be expounded from the sacred text throughout the course of the liturgical year.

§ 2. Whenever a congregation is present a homily is to be given at all Sunday Masses and at Masses celebrated on holy days of obligation; it

cannot be omitted without a serious reason.

§ 3. If a sufficient number of people are present it is strongly recommended that a homily also be given at Masses celebrated during the week, especially during Advent or Lent or on the occasion of some feast day or time of mourning.

§ 4. It is the duty of the pastor or the rector of a church to see to it that

these prescriptions are conscientiously observed.

The Code of Canon Law: A Text and Commentary.
Corriden, Green, and Heintschel,
eds. Paulist Press, New York. 1985.
550-553.

Decree Implementing Canon 766 of the Code of Canon Law

**Approved: Plenary Meeting of the NCCB
November 17, 1999**

While preaching is particularly entrusted to those in sacred orders ((cc. 762-764), nonetheless, lay persons can be called upon to cooperate with the bishops and priests in the exercise of the ministry of the word (c. 759). The National Conference of Catholic Bishops, in accord with the prescriptions of canon 766, and while maintaining the discipline of canon 767§1 whereby the homily is reserved to a priest or deacon, hereby decrees the following:

The diocesan bishop, in particular cases or through a particular law, can permit well-qualified lay persons to preach or to offer spiritual conferences or instructions in churches, oratories, or other sacred places within his diocese when he judges it to be to the spiritual advantage of the faithful.

Warranting circumstances might be, among other reasons, the absence or shortage of clergy, special language requirements, or the expertise or experience of the lay person so deputed. In every case, care must be taken that such preaching, conferences, or instructions not be confused with the homily.

Denied Roman *Recognitio*, replaced by Implementation Norms approved by the American Conference in November, 2001.

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**DECREE OF PROMULGATION December 13, 2001
To take effect January 15, 2002**

On November 14, 2001, the Latin Church members of the United States Conference of Catholic Bishops approved complementary legislation for canon 766 of the Code of Canon Law for the Latin Church dioceses of the United States.

The action was granted *recognitio* by the Congregation for Bishops in accord with article 82 of the Apostolic Constitution Pastor Bonus and issued by a decree of the Congregation for Bishops signed by his Eminence Cardinal Giovanni Battista Re, Prefect, and His Excellency Most Reverend Franciscus Monterisi, Secretary, and dated November 27, 2001.

Preaching the Word of God is among the principal duties of those who have received the sacrament of orders (cc 762-764). The lay faithful can be called to cooperate in the exercise of the Ministry of the Word (c.759). In accord with canon 766 the United States Conference of Catholic Bishops hereby decrees that the lay faithful may be permitted to exercise this ministry in churches and oratories, with due regard for the following provisions:

If necessity requires it in certain circumstances or it seems useful in particular cases, the diocesan bishop can admit lay faithful to preach, to offer spiritual conferences or give instructions in churches, oratories or other sacred places within his diocese, when he judges it to be to the spiritual advantage of the faithful.

In order to assist the diocesan bishop in making an appropriate pastoral decision (Interdicasterial Instruction, *Ecclesiae de Mysterio*, Article 2§3), the following circumstances and cases are illustrative: the absence or shortage of clergy, particular language requirements, or the demonstrated expertise or experience of the lay faithful concerned.

The lay faithful who are to be admitted to preach in a church or oratory must be orthodox in faith and well-qualified both by the witness of their lives as Christians and by a preparation for preaching appropriate to the circumstances.

The diocesan bishop will determine the appropriate situations in accord with canon 772§1. In providing for preaching by the lay faithful the diocesan bishop may

never dispense from the norm which reserves the homily to the sacred ministers (c.767§1;cfr. Pontifical Commission for the Authentic Interpretation of the Code of Canon Law, 26 May 1987, in AAS 79 [1987], 1249). Preaching by the lay faithful may not take place within the Celebration of the Eucharist at the moment reserved for the homily.

Excerpts from the Apostolic Constitution **Sacrae Disciplinae Leges**, promulgating the 1983 Revised Code of Canon Law, John Paul II, June 25, 1983.

The instrument which the Code is fully corresponds to the nature of the Church, especially as it is proposed by the teaching of the Second Vatican council in general and in a particular way by its ecclesiological teaching. Indeed, in a certain sense this new Code could be understood as a great effort to translate this same Conciliar doctrine and ecclesiology into *canonical* language. If, however, it is impossible to translate perfectly into *canonical* language the Conciliar image of the Church, nevertheless the Code must always be referred to this image as the primary pattern whose outline the Code ought to express insofar as it can by its very nature.

From this, certain fundamental criteria are derived which should govern the entire new Code within the limits of its specific matter and of the language appropriate to that material. It could be said that from this there is derived that note of complementarity which the Code presents in relation to the teaching of the Second Vatican Council, in particular with reference to the two constitutions, the dogmatic constitution *Lumen gentium* and the pastoral constitution *Gaudium et spes*.

Here it follows that what constitutes the substantial newness of the Second Vatican Council, in line with the legislative tradition of the Church, especially in regard to ecclesiology, constitutes likewise the newness of the new Code.

Among the elements which characterize the true and genuine image of the Church we should emphasize especially the following: the doctrine in which the church is presented as the people of God (cf. dogmatic constitution *Lumen Gentium*, chapter 2) and hierarchical authority as service (cf. *ibid.*, chapter 3); the doctrine in which the Church is seen as a communion and which therefore determines the relations which are to exist between the particular churches and the universal Church, and between collegiality and the primacy; likewise the doctrine according to which all the members of the people of God, in the way suited to each of them, participate in the threefold priestly, prophetic

and kingly office of Christ, to which doctrine is also linked that which concerns the duties and rights of the faithful and particularly of the laity; and finally, the Church's commitment to ecumenism.

If therefore, the Second Vatican Council has drawn both new and old from the treasury of tradition, and the new consists precisely in the elements which I have enumerated, then it is clear that the Code should also reflect the same note of fidelity in newness and of newness in fidelity, and conform itself to this in its own subject matter and in its own particular manner of expression.

The Code of Canon Law: A Text and Commentary.

Corriden, Green, and Heintschel, eds. Paulist Press, New York. 1985. xxv-xxvi
