

The Church and Human Rights and Theology

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Christian Courier, Nov. 9, 2020

Perhaps it is not a surprise that the mere installation, at Neland Avenue Christian Reformed Church (CRC) in Grand Rapids, Michigan, of a deacon who is in a same-sex marriage has **stirred a controversy** in the CRC. However, as a lawyer and member of the CRC, it concerns me that my faith community routinely lags behind the culture in asserting even the most basic human rights of its individual members. My church granted women the right to vote in 1957, some 40 years after the federal government granted suffrage to Canadian women. The right of women to participate in exhortation and governance in the CRC had to wait until 1995 – another 40 years. Even now, in 2020, church polity allows individual congregations and Classes to discriminate against women.

Presently the church is studying its treatment of its sexual minorities. Our Church's position currently is that members who engage in same-sex relations are disqualified from full participation in the church. In 2016, Synod established a "Committee to Articulate a Foundation-laying Biblical Theology of Human Sexuality." Unfortunately, the committee is comprised only of persons "who adhere to the [church's] biblical view on marriage and same sex relationships," which is not only confusing but places a significant limitation on the scope of the inquiry.

Why is the church consistently delinquent in conferring basic human rights to all its members – most recently to those of us who are LGBTQ? Why does church polity lag civil law and jurisprudence in the area of basic human rights? This is a puzzle.

Overlapping Lessons

Not long ago, I attended a presentation by seminary professor Jeff Weima under the topic “Same-Sex Sex: What does the New Testament Say?” Dr. Weima is a member of the current synodical committee. His message was straightforward. He provided a literal translation of the notorious Pauline texts – Romans 1:24-27, 1 Corinthians 6:9 and 1 Timothy 1:10 – and pronounced those texts as the authoritative and absolute final word on the matter. He juxtaposed that supposedly clear reading and meaning of Paul against what he called an erroneous revisionist reading of the texts. Lastly, in reference to the fact that Jesus never spoke about same-sex sex, Dr. Weima simply said that Jesus was, like Paul, a practicing first century Palestinian Jew bound by the Levitical laws prohibiting sex between males.

The message was breathtaking in its simplicity and stark intractability.

Is theology this simple? Is this what theologians do – merely translate ancient script and apply it conclusively across the millennia? If that is true, then it is no wonder that the Church finds itself lagging behind civil society and civil jurisprudence in its ethics.

There are some basic affinities between theology and civil jurisprudence.

First, both disciplines are concerned with Justice – in theological idiom, “righteousness.” Civil jurisprudence is engaged in maintaining right and peaceful (“just”) relations between people. Theology is principally concerned with relationship between God and his creation but in both the Decalogue and in the words of Christ, the human praxis of loving God and honouring neighbour are the same.

Secondly, both theology and jurisprudence are inherently conservative; both disciplines are grounded in past authoritative wisdom and pronouncement.

Jurisprudence is bound by Stare Decisis – the rule of precedent. Jurists must apply the body of law developed over many centuries unless the cause of justice manifestly requires them to depart from that precedent. Theology is grounded in authoritative ancient Scripture. Though this conservatism may make both disciplines less nimble and receptive to change, it is also a strength in that it provides a safeguard against ill-considered or hasty activism, or populist fitfulness.

Why, then, do the disciplines of jurisprudence and theology, both concerned with Justice, and both bound to honour and prosecute past wisdom and authority, come to different conclusions on some of the basic ethical questions of our time? And, more importantly, why does the civil authority always appear to be in the relative vanguard? Why can jurisprudence evolve, transform and lead in the area of ethics, where theology appears to be stuck?

The reason for this may be that civil jurists have some tools in their toolbox that theologians do not.

Wisdom & Circumstances

The first of these is that though precedent imposes restraint on judicial action, judges may, in a given case, diverge from precedent if justice demands it. Judges must remain alive to changing circumstances. For instance, jurisprudence must consider the evolved learnings of many other disciplines, including the social sciences. It would be wrong, for instance, for a jurist not to take notice of the new medical, psychiatric and psychological learnings which resulted in the depathologizing and decriminalizing of homosexuality, and that a person's sexuality is integral to their very identity. Conceptual Justice may be universal and abiding, but the practical expression of justice is a living, breathing and evolving thing.

By contrast, the theology that I witnessed in the address by Dr. Weima did not notice changed circumstances or developments in interdisciplinary expertise. He was speaking within a closed system, without reference to anything other than the historic Scriptural text and decree. For him the last word on the ethics of same-sex sex was written in the year A.D. 65. End of story.

The other significant difference between the practice of jurisprudence and theology is that the jurist bumps up against the blood and bone of real cases. Though jurists must maintain professional distance, they cannot remain oblivious to the on-the-ground results of their decisions. Binding precedent is constantly tested by whether its application produces a just result in the case at hand. The difficult art of judicial decision-making is to find the sweet spot; that decision which gives due consideration to both the wisdom and principles handed down in judicial precedent and the specific circumstances of the case at hand.

The theology that I witnessed, on the other hand, appeared to be practiced from above the fray. The scope of theological enquiry appeared to be the identification of an overarching divinely ordained order, decreed by ancient script, without regard for real cases.

This disconnect from real cases was born out during the Q&A session which followed the theologian's speech: in the quaking voice of the mother whose lesbian daughter was experiencing the discrimination of the Church, and the anguished grandfather who wanted to know how he could possibly exclude his grandchild from full Church membership.

The answer the theologian offered is perplexing. Though those who engage in same sex relationships must be excluded from full fellowship by the dictate of Saint Paul, they must nevertheless be treated with compassion, and provided pastoral care. If the Church has been at fault, he said, it is not because of its

exclusionary polity, but rather because of the Church's lack of compassion for the excluded.

Magnanimous at first blush. Who will speak against compassion or pastoral care? However this is a distraction. The basic problem is the exclusion itself. Compassion and pastoral care are, at best, poor substitutes for justice. At worst the beneficence of an oppressor towards the victim may be the greater insult.

Dr. Weima's application of a strict analytical and literal reading of Paul appears analogous to the literalism of the six-day/6,000-year-old world creationist in the area of cosmology. We as Reformed Christians agree that Scripture is neither a science text nor an ethical rulebook. Rather it is the revelation of God's historical redemptive plan on a cosmic scale. Our assignment is to discover the best expression we can, in our time and circumstances, of the Christ-ordained imperative to love our neighbour as we love ourselves.

It appears that our present theology is consistently not up to the task of including everyone in the embrace of the Church.

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