

DO PARISHES HAVE RIGHTS?

James A. Coriden

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P.O. Box 85, Southampton, MA 01073, arccangel@charter.net <http://arcc-catholic-rights.net>
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The question refers to Catholic congregations, both parochial and other local Eucharistic communities. Do they have rights and duties precisely as *communities*? If so, what are those rights and obligations? If so, how can those rights be vindicated and the duties enforced?

To ask these questions is more than a speculative exercise. Parish communities today are frequently faced with serious challenges. Some are suppressed, some merged, some divided; others have their pastor removed and not replaced; sometimes they are ill-served by a priest who is ill or "burned-out." At the very least parishes have fewer priests and religious than previously, and must search hard and pay more to secure good staff for good ministry. Many parishes are under extraordinary duress, and their legitimate rights are a practical concern.

One of the new and distinctive features of the 1983 *Code of Canon Law* is a list of the "obligations and rights of all of the Christian faithful" (cc.208-23). [The list was restated in the 1991 *Code of Canons of the Eastern Churches* (cc. 10-26).] But this canonical "bill of rights" pertains to individual Catholics; it was not written for parish congregations or local communities of the faithful. Does that mean that parishes as such do not have rights? Hardly.

Roman Catholic parishes are defined in the Code as "definite communities of the Christian faithful established on a stable basis within a particular church" (c. 515.1). By the very fact of their official establishment, parishes enjoy juridic personality in canon law (c. 515.3). "Juridic persons," which are akin to corporations in civil law, by definition "are subjects in canon law of obligations and rights which correspond to their nature" (c.113.2). So, it is quite clear that parishes do have rights and duties in the Church's legal system. The trouble is that those rights are nowhere spelled out.

Local communities of the faithful which are not parishes, like quasi-parishes, missions, shrine churches, campus congregations, chaplaincies, and the like are in a slightly different situation. They may not have the formal status of juridic person by the law itself, as parishes do, but they are explicitly recognized in canon law (e.g., in cc. 516, 556, 564, 813). They are legitimate local Churches, and their rights and obligations must be acknowledged, both by their own members, and by the larger Church, i.e., the diocese.

The Basis for Parish Rights

What are the foundations of the rights of local Churches? In addition to their recognition in canon law, which is the Church's system of rules, do parish rights and obligations have deeper grounding? That is to say, are they creatures of positive ecclesiastical law, or do they have deeper roots?

The rights and obligations of local Catholic congregations are solidly founded on biblical, historical, theological, and philosophical sources.

BIBLICAL ROOTS

From the very beginning, "Church" has always meant a *community* of believers, rather than simply a number of individuals. In the New Testament the Greek word for "Church" *ekklesia*, means those who are summoned or gather together, an assembly or congregation. The predominant use of the term is to refer to local Churches, that is, the community of the faithful in a given place, like Jerusalem, Antioch, Corinth, Ephesus, etc. The expression is also used in a regional or more universal sense a few times. However, the primary and originating meaning of "Church" refers to the followers of Christ in a specific location.

The closest equivalent today of those earliest New Testament Churches is not the diocese, but the parish. It is the local community of believers which constitutes the primary reality of Church. The canonical rights and duties of this basic community are undeniable.

HISTORICAL FORMS

Local communities of Christians have taken many forms, sizes and configurations throughout the centuries. There were titular Churches, baptismal Churches, private Churches (the German *Eigenkirchen*), collegiate Churches (related to religious houses or chapters of canons), and cathedral Churches. Since the industrial revolution, huge urban parishes sometimes included thousands of members, anonymous masses of people.

History and canon law tended to focus on the role of the pastor. The rights and duties of the priest-leader of the parish were spelled out and legislated. Reform councils make rules for the care of souls (the *cura animarum*). However, the prerogatives of the pastor and those of the people were seen as correlative: the duties of the pastor implied the rights of the people. The life of the local community of believers was always the central reality. Christians heard God's word and celebrated the mysteries of their faith together in parochial communities. These local congregations of the faithful have always been the fundamental realizations of ecclesial life.

THEOLOGICAL DESCRIPTIONS

In recent decades Roman Catholic theology has paid closer attention to the local Church. Yves Congar compared the parish to the family because its members are born and nurtured as Christians within it. He said that the parish is not merely a means for organizing or delivering pastoral care, it is a realization of the Church. The parish is the holy people (*plebs sancta*) who make up the Church "from below", just as its hierarchical structure reaches down to the parish "from above" (Congar 1949:55).

Karl Rahner taught that the parish is the local actualization of the Church. The theology of the parish begins with this concept of the local materialization of the Church. In the parish the Church becomes most fully an actual event, perceptible in space and time, an event as the communion of the saints. The parish is the primary realization of the Church as an event (Rahner 1956:31).

The Second Vatican Council spoke of parishes as the representations of the visible Church established throughout the world (Sacrosanctum Concilium, 42). Portions of the Lord's flock are made visible in their own localities (*Lumen gentium*, 28).

This church of Christ is truly present in all legitimate local congregations of the faithful, which ... are themselves called churches in the New Testament. For in their own locality these are the new people called by God, in the Holy Spirit, in much fullness (1 Thes. 1,5). In them the faithful are gathered together by the preaching of the gospel of Christ, and the mystery of the Lord's Supper is celebrated In these communities, Christ is present (*vere adest*). By virtue of Him the one, Holy, catholic and apostolic church gathers together (*Lumen gentium*, 26).

It should be noted that, at the time this document was discussed in the council, the Doctrinal Commission explicitly acknowledged that the passage referred to parishes and other worshipping communities *within* the diocese.

More recently, Joseph Komonchak summed the theological state of the question as

A common agreement (among theologians) that the local Church is a full realization of the distinctive reality of the one Church, its representation in various spaces and times. . . . in terms of the spiritual reality nothing more is realized on any wider or higher level of the Church's life than is realized in the local Church what occurs in the local Churches is an event universal, catholic, in its innermost dimensions. (Komonchak 1992:420-21).

We must affirm the theological centrality of the local communities. Parishes and other stable congregations of the Catholic faithful are the constitutive elements of the Church, they are the basic building blocks which make up the whole communion. It is imperative to recognize their rights and obligations.

SOCIAL TEACHING

Several specific strains of the Church's social teaching undergird the dignity, rights, and duties of the local communities of faith and worship. These include the human right of association and the operative notion of the common good, both of which are recognized in the Code of Canon Law (cc.215 and 223), as well as in other official documents. The recently articulated principle of solidarity (John Paul II 1987:38) also supports the legitimate autonomy of parishes. Solidarity recognizes the interdependence of those who form a community, and insists that every member participate in the life of that community out of a sense of mutual responsibility and care.

The principle of subsidiarity may be the chief philosophical support for the integrity of parishes and other local faith communities. This principle is deeply imbedded in the Church's social teaching. It has been solemnly restated for over six decades (Pius XI 1931:79; John XXIII 1961:53; John Paul II 1991:48). The application of subsidiarity within the Church's own structures has been affirmed by our highest authorities (Pius XII 1946:45; Paul VI 1969: 729; Synod of Bishops 80-82).

The principle of subsidiary function means that : A community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to coordinate its activity with the activities of the rest of society, always with a view to the common good. (*Centesimus Annus* 48)

Just as it is gravely wrong to take from individuals what they can accomplish by their own initiative and industry and give it to the community, so also it is an injustice and at the same time a grave evil and disturbance of right order to assign to a greater and higher association what lesser and subordinate organizations can do. (*Quadragesimo Anno* 79)

The Rights of Parishes

What specifically are the rights and duties of parishes? Some can be found within the Code of Canon Law, explicitly or implicitly, and others can be derived from the nature of local Churches.

EXISTENCE

A parish right more fundamental than all others is the right to come into existence, to have that existence acknowledged, and to continue in existence.

Dioceses are required to be divided into parishes (c. 374.1). Hence parishes and other local Christian communities are not optional; they are legitimate and requisite manifestations of the Church.

Once a community has been formed and recognized, it should remain. It should be permitted to live, be active and grow. There is a strong presumption in favor of its endurance in being.

MAINTAIN COMMUNION

The Church is a communion of local communities. The visible linkages of full communion are summarized in canon 205 of the Code: profession of a common faith, celebration of sacraments, and ecclesiastical governance. In addition to the invisible bonds of grace, the presence of Christ, and the powerful action of the Holy Spirit, these are the ties which bind local congregations together "in communion."

Each local community has the right and the obligation to maintain active communion with the rest of the Church; it is to fulfill diligently its duties towards the universal Church and the diocese (c. 209). The community is to observe the common discipline of the Church (c. 392.1), to receive the teaching and observe the rulings of the diocesan bishop (c. 212.1).

EQUALITY

Each local congregation of the faithful, like the individual members who belong to it, enjoys "true equality in dignity and action" (c.208). Each community contributes to the upbuilding of the Body of Christ.

Among Catholic Communities, in other words, there is a fundamental equality which transcends the real but secondary differences between them. Parishes differ widely in number of members, size of territory, age of establishment, quality of buildings, financial resources, urban or rural location, ethnic identity, and so on. But they may not be treated as "privileged" or "second rate," some carefully attended to, and other relatively neglected.

Catholic congregations are equal "in virtue of their rebirth in Christ" (c.208), although their situations and needs may vary greatly. Each community has the right to be treated with the respect and dignity due to equal members of the diocesan family of faith communities.

HEAR THE WORD OF GOD AND CELEBRATE THE SACRAMENTS

God's holy people are nourished by God's word and the sacraments *in and as communities*. Among the rights of Christian faithful, the right to preaching of the word and celebration of the sacraments is basic, and obviously communal rather than personal.

The Christian faithful have the right to receive assistance from the sacred pastors out of the spiritual goods of the Church, especially the word of God and the sacraments. (c. 213)

The responsibilities of the pastor of a parish to see that the word of God is well preached and the sacraments devoutly celebrated (c.528) underline and reinforce the rights of the parish community to these vital sources of spiritual nourishment. What is true of parishes also holds for other local communities of the faithful.

The right of a community to the Eucharist is a special and intense example of the more general right to word and sacrament. The Eucharistic celebration is close to the very heart of the Catholic tradition. The Lord's Supper is a central symbol of our faith, a primary presence of Christ with his people. "The Eucharistic Sacrifice . . . is the summit and source of all Christian worship and life " (c.897).

PASTORAL LEADERSHIP AND MINISTRY

The ordinary expectation is that the pastoral care of every parish is entrusted to a priest as its pastor (c. 515.1). In cases of need, the pastoral care of parishes and other communities of the faithful can be and is entrusted to others (cc. 516.2; 517.2). In either event, the community has a right to pastoral leadership and ministry.

Whoever is charged by the diocesan bishop with the task of pastoral care in a parish or other local community must abide by the canonical standards for that leadership. These requirements and expectations reveal the implicit rights of the congregation to ministry.

The pastor or pastoral team is to reside within the parish (c.533), share the lives of the families entrusted to their care, get to know them personally, advise, support, and assist them, especially the poor and afflicted among them (c.529.1). This personal relationship and rapport with the people is a high priority for pastoral leadership.

The pastor and those who substitute for him or assist him must preach the word of God and teach the truths of the faith (c.528.1). The Christian community needs to be continually reminded of its heritage and identity (c. 217). The teaching office in its various modes and manifestations is a primary ministerial responsibility (c.762).

Those responsible for pastoral leadership are "to see to it that the Most Holy Eucharist is the center of the parish assembly of the faithful," that the people are nourished by the sacraments, that they actively participate in the liturgy (c.528.2). The congregation has a strong claim on its ministerial leaders for spiritual assistance (cc. 2134-14).

INITIATE ACTIVITIES AND SERVICES

Each Catholic congregation expresses itself in distinct modes of Christian witness and works of Christian service. The local community can and does initiate, promote and sustain apostolic

activities, evangelical outreach, projects of justice, and services of charity (cc. 211, 215, 216). They are manifestations of the faith and love of the community, and they can be different and distinctive, depending on the composition and abilities of the individual community.

The community has the duty to promote social justice and assist the poor (c.222.2), and it should be encouraged to find its own ways to do so.

INFORMATION AND CONSULTATION

Parish communities and other local Catholic congregations have the right to be informed about those matters which concern them as communities. Whether it is about plans and prospects originating within the community or arising from without but affecting their life, they are entitled to timely and accurate information.

The Christian faithful, individually and collectively, have the right to make their needs and their opinions known to their pastors and to one another (c.212.2 and 3). Implicit and presumed within this right of expression is the right to be informed in a timely manner about matters which affect the community.

FORMATION AND EDUCATION

A basic need and obligation of every Christian community is the formation of its new members and growth in faith and love of all of its members. This is a fundamental *corporate* right and responsibility of the entire congregation (c.217). The Code recognizes education as an ecclesial, not simply individual, duty and right (c.794.1).

EVANGELIZATION

The church is missionary by its very nature (c.781). The charge to proclaim the gospel to the nations is fundamental to the very identity of the Church. Canon 211 restates this basic right and duty, and it rests upon congregations as well as individuals:

All the Christian faithful have the duty and right to work so that the divine message of salvation may increasingly reach the whole of humankind in every age and in every land.

SPIRITUAL GROWTH

All the Christian faithful must make an effort, in accord with their own condition, to live a holy life and to promote the growth and continual sanctification of the Church. (c.210)

The Christian faithful have the right . . .to follow their own form of spiritual life consonant with the teaching of the Church. (c.214)

These closely related duties and rights are communal as well as individual. Each community must continually attend to its own spiritual condition; it must be concerned with its ongoing repentance, conversion and spiritual growth.

OWN AND USE PROPERTY

The canonical provisions regarding temporal goods make clear that parishes and other juridic persons have the right to acquire, retain, administer and dispose of their own goods and property

(cc.1255-56). They do so in keeping with the norms of the Code and of the particular Church, i.e., the diocese (c.1276.2), but they do so on their own authority. Dominion over the goods belongs to the parish community. This is the reason that each parish or other juridic person must have a finance council (cc.537,1280).

Local congregations of the Catholic faithful possess a legitimate autonomy and responsibility over their monies, investments, buildings, lands, and furnishing. These goods are not owned by the diocese, rather they are the property of the parish community which purchased or inherited them.

VINDICATE RIGHTS

Just as individual members of "Christian faithful can legitimately vindicate and defend the rights which they enjoy in the Church before a competent ecclesiastical court" (c. 221.1), so too do communities of the faithful have standing to uphold their rights. The local congregations must be judged according to canon law, and punished only in accordance with law. They too must be treated with canonical equity (c. 221.2 and 3).

Parishes are juridic persons; there is no question as to their standing in canon law (c.515.3) But other local congregations, not yet formally erected as parishes, also must be accorded rights and must fulfill duties in canon law.

Limitations on Rights and Responsibilities

Assertions of rights and duties and their actual exercise are subject to certain limitations. They are not absolute; they are conditioned by circumstances, by the rights of others, and by the common good of the Church.

Parishes and other local congregations live in the real world, and they must operate within realistic possibilities. Resources of personnel, time and money are limited; sometimes they can be stretched no further. Similarly, the prerogatives of one community cannot be pushed to the detriment or jeopardy of another. Fairness and equity must enter to the equations.

Finally, the principle of the common good governs and balances claims of rights and demands of obligations. The notion of the common good is well established in Catholic social teaching (Hollenback 1989). It serves as a principle of inclusion, equality, and participation, but it also calls for coordination. That is, the common good demands that all communities have a place at the table, and must be heard from and accounted for, but each one must also show consideration for all the rest and the good of the entire Church.

In exercising their rights the Christian faithful, both as individuals and when gathered in associations, must take account of the common good of the Church and of the rights of others as well as their own duties towards others.

In the interest of the common good, church authority has competence to regulate the exercise of the rights which belong to the Christian faithful. (c.223)

Claiming the Community's Rights

Who can vindicate the rights and obligations of the parish? And how can they do so? These two questions have easy answers at one level, but are quite problematic on another level.

Who can act as the agent or representative of the local congregation in these matters? The Code clearly states that "the pastor represents the parish in all juridic affairs" (c. 532). However, what happens when there is no pastor, or when he neglects or refuses to act on behalf of the parish community, or when a conflict arises between the pastor and the congregation? Is the local community prevented from having any representation? Not at all. The canons allude to the active participation of the laity in the life of their parish (e.g., cc.519; 529.2; 536; 537; etc.), and the Church's highest court, the Apostolic Signatura, has recognized, and even individual parishioners in cases involving the rights of parishes.

How can parishes and other local faith communities vindicate their rights? The canons assert that there is access to Church courts for this purpose (cc. 221.1; 1491). These courts do exist in most dioceses, but, with rare exceptions, they accept only petitions related to the matrimonial status of individuals, i.e. "marriage cases." They are simply not positioned or prepared to render justice in claims of community rights. So, although a system of courts exists, it does not provide effective forum of claiming the rights or enforcing the duties of local communities.

"Administrative recourse" (cc. 1732ff.) offers a slightly greater opportunity than judicial appeal. Some dioceses provide an office for conciliation or mediation, as the Code recommends (c.1733). If that is absent or appeal to it fails, administrative recourse calls for a request to the author of the decision (e.g., to close a parish) to reconsider the action. If that requests is rejected, then appeal can be made to the hierarchic superior of the decision maker, e.g., from the pastor to the bishop, from the bishop to the Congregation for the Clergy in Rome. In sum, it is not easy to vindicate the rights of parishes in most parts of today's Church.

Conclusion

This essay has attempted to raise the issue of canonical rights and obligations of local Church Communities. They have firm basis in history and theology. The rights can be articulated; this is one effort to do so. They do relate to the real life of the Church. There are some means for claiming these parish rights and duties, but this is the most difficult feature of the present scene.

The purpose for emphasizing the legitimate rights and obligations of parishes is not to foster a congregationalist movement within Catholicism. The hierarchical principle is clearly acknowledged. Nor is this an attempt to play into the American penchant for litigation, the privatized, adversarial mode of rights assertions. The purpose is to spotlight the dignity and centrality of the local Church. Local congregations are not like branch office of a central bank or local outlets of a fast-food chain. The local Church is the place where disciples know and care for one another, where Christ is present in word and sacrament. The Church is built up from these primary communities. They command our respect.

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James Coriden is a presbyter of the Diocese of Gary, Indiana. He serves as the Academic Dean and Professor of Church Law at the Washington Theological Union in Silver Spring, Maryland.

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413-527-9929
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