

Is 'new legalism' costing the church?

By Father Richard P. McBrien
Syndicated columnist

Catholic moral theology in the years preceding the Second Vatican Council was often accused of legalism, that is, of equating the moral life with obedience to laws rather than with the following of Christ (discipleship).

One rarely hears that criticism today because Catholic moral theology has generally heeded the council's call for renewal. But there is a new form of legalism in the church today, and it may prove more harmful than the previous form. It is a legalism that places the church's legal defense against actual and possible lawsuits above the people's pastoral needs and above justice's demands.

It is a legalism that interposes lawyers between pastors and people.

A concerned parishioner, for example, writes to the pastor and the parish's pastoral council suggesting a process of reconciliation between the parish and a parish staff member whom the pastor has fired. The parishioner receives a reply not from the pastor or from the president of the parish council, but from the diocesan lawyer.

A second example. The fired parish employee writes a letter to the bishop assuring him that he is not, and never was, the personal target of her legal action against the pastor and the parish, and pledging to him her prayers.

Her lawyer receives a letter from the diocesan lawyer, noting that her



ESSAYS IN THEOLOGY

letter to the bishop was "inappropriate" and that it would be similarly "inappropriate" for him to reply to her.

But these are relatively tame examples of this new legalism. The more egregious instances involve countersuits and the threats of countersuits against victims of alleged injuries, whether by firing or by sexual abuse.

The Wall Street Journal, a conservative, non-church-bashing paper of national and international stature, recently carried a front-page story on this new and sad development in the Nov. 24, 1993 issue. One of the headlines reads: "While It Pledges Compassion, Its Lawyers Play Rough Defending Lapsed Priests."

The report begins with the case of a Catholic layman on the East Coast

who alleges that, as a young boy, he had been sexually abused by a priest for more than eight years. As soon as he filed suit against the archdiocese in question, its lawyers countersued the man's parents, blaming them for failing to discover their son's relationship with an alleged child abuser.

When a layman in the Southwest brought suit against his archdiocese on the same grounds, church lawyers there took a similar tack. They sent private investigators rummaging through the man's past, asking former friends if he was homosexual.

"I felt like they were trying to wear me down," the layman told *The Wall Street Journal*, "like they were going to break me."

Those who have dared even to consult a lawyer in a case involving the church know exactly what the man means. The institutional defenses immediately go up and communication on a pastoral level is cut off.

Matters get much worse, however, if, after unsuccessful efforts to secure justice or a fair compromise, the aggrieved parties bring legal action against a church institution.

The counteroffensive tactics are depressingly familiar. They are designed to bring the full force of the church's institutional resources to bear against the individual litigant. Their purpose is to wear the person down psychologically and financially.

The lawyers insist that the church would win its case if the case were ever to get to court, but their tactics indi-

cate that they don't want the case to go to court where a jury might find for the plaintiff — at high cost to the diocese, not only in dollars but in reputation.

The Wall Street Journal article cites Cardinal John O'Connor's stirring comment that, when faced with these terrible scandals involving sexual abuse by priests, church leaders must "get on our knees, to beat our breasts, to ask God's mercy ... Justice, compassion and charity," he continued, "comprise the foundation of our policy."

"Yet many victims," the *Journal* points out, "have found this pledge stops at the courthouse door." Worried about losing such cases, "the church has adopted bruising, bare-knuckle tactics more common to corporate defenses in high-stakes personal-injury suits."

To be sure, as the *Journal* concedes, some allegations are false. The church has the right and the duty to defend itself against them.

But too many cases have already proved to be true. Why, then, the scorched-earth approach to all cases? On what moral grounds does the church do that? On the basis of what teachings of Jesus?

Unfortunately, morality and Jesus' teachings too often take a back seat to legal considerations. Lawyers, not pastors, call the shots.

And when those lawyers are told to do whatever they have to do to win, they do exactly that.

But at what cost to the church?

Single people often bear brunt of the work

By Gregory F. Augustine Pierce
Syndicated columnist

Katherine Smith, the vice president for consumer affairs and public relations at the Quaker Oats Company, is a "swoc" — a "single without children." Although she is a great proponent of the "family-friendly" workplace, she also warns companies not to forget the needs of employees who are single and have no children.

In the current issue of *Hard Choices*, the newsletter of the Business Executives for Economic Justice, Smith notes: "Single people without children also need to integrate their work, personal and family lives, but often we are ignored — or worse, taken advantage of — in the new, supposedly sensitive work environment."

"Very often, it is those of us who are single with no children who are expected to pick up the workload when others are given the flexibility they need to deal with their families," she says. "We are the ones who often end up staying late and coming in on week-



FAITH AND WORK

ends to get the reports out, finish the budget, and care for the patients, clients or customers that are married or parent colleagues must leave in order to make sure their lives are 'balanced.'"

Smith herself has experienced this subtle discrimination. "How many times," she asks, "have we 'swocs'

missed having dinner with a dear friend because a project at work has to get done and co-workers announce they have to leave to pick up a spouse from work or child from school?"

"Believe it or not, we have legitimate reasons for wanting to leave work on time and have our weekends off! We have household responsibilities — often with no one to share them with. We have dear friends who need our presence and attention — often as much as family members do. We often are the ones with primary responsibility for caring for an aging parent or a sick relative. We do volunteer work with our churches and civic organizations. (And here too we are often taken for granted.) Just like married people and people with children, we need time for ourselves — to read, to exercise, to pray, to recreate, to pursue our hobbies."

Smith suggests that "family-friendly" companies develop policies that are more equitable to employees without spouses or children. For example, instead of offering "parental leave," com-

panies can offer additional "personal leave" to all workers, allowing each employee to choose to use his or her time as needed. If "flex time" is offered to some workers, it should be an option for all. A "cafeteria" approach to benefits allows single people and those without children to choose those benefits they need and want. Rather than calling policy initiatives "family-friendly," Smith suggests they should be called "work/life" programs to emphasize that they are inclusive of all workers and their needs.

"The most important change, however," Smith says, "is for managers to just be aware of 'swocs.' Don't assign us all the last-minute work, don't expect us to always be available for overtime or out-of-town trips, and, mostly, don't assume that our work is our entire life."

"Like our colleagues, we, too, want to be the best, most well-rounded people we can be. We, too, need time and energy to integrate all the dimensions of our life. In this we have a great role-model: Jesus was a 'swoc' himself!"

We, the students, staff, faculty, administration, volunteers, and trustees of Notre Dame High School are so grateful for the many ways YOU, the people of the Diocese of Rochester, have encouraged and supported us during 1993. This most important mission of Catholic education can only be accomplished with the help of "elves" like YOU, throughout the year.

We shall continue to remember you in our Masses, prayer services, and prayers during 1994. May our Lord Jesus extend His blessings upon YOU, your families, and loved ones all year long. May His Mother, Our Lady, Notre Dame, continue to intercede, on your behalf, to the Prince of Peace.



Notre Dame
High School
73 Union Street
Batavia, NY 14020

DiMaria Travel

1521 MONROE AVE

271-0100

Thanks for making our 1993 trips a great success. Call us today for information about our personally escorted tours for 1994.

