

Fencing the Altar

by Edward Peters

For several years, Raymond Cardinal Burke, now Prefect of the Supreme Tribunal of the Apostolic Signatura, and I have been among the chief exponents of the view that Catholic sacramental and canonical discipline supports, and in some cases demands, that Catholic ministers withhold Holy Communion from certain Catholics in response to their public conduct. In particular, serious questions have arisen about the eligibility of some prominent political figures to receive Communion. Almost invariably, these questions focus on their personal, albeit public, conduct, rather than their beliefs, and are being decided, or conspicuously not decided, case by case.

While some earlier disputes about participation in Communion focused on the receiver's private conduct, recent disputes concern conduct that is particularly public, indeed often formally political or, at any rate, packed with societal consequences. These modern debates emerged first in regard to Eucharistic participation by the millions of Catholics who civilly divorced and remarried, followed by arguments about Catholic politicians such as Nancy Pelosi, John Kerry, Kathleen Sebelius, Andrew Cuomo, and Rudy Giuliani, and most recently Catholics participating in various forms of pro-homosexual activism.

Many Catholics who support untraditional marriages, Pelosi's near-perfect pro-abortion politics, or Rainbow Sash-style activism profess outrage at seeing the Eucharist "used as a weapon" against fellow Catholics. Others, however, are appalled

at seeing such markedly contrarian Catholics take Holy Communion.

The Eucharist is central to the identity, doctrines, and practices of the Catholic Church. As canon 897 of the *Code of Canon Law* puts it, "The most august sacrament is the Most Holy Eucharist in which Christ the Lord himself is contained, offered, and received and by which the Church continually lives and grows. The eucharistic sacrifice . . . is the summit and source of all worship and Christian life, which signifies and effects the unity of the People of God and brings about the building up of the body of Christ."

Canon 898 adds: "The Christian faithful are to hold the Most Holy Eucharist in highest honor, taking an active part in the celebration of the most august sacrifice, receiving this sacrament most devoutly and frequently, and worshiping it with the highest adoration."

Against Burke's view and mine stand some scattered negative episcopal demurrals (Cardinals Roger Mahony, emeritus of Los Angeles, and Donald Wuerl of Washington, D.C., come to mind) and some short essays by academics. Mostly, it seems, the opposition reflects an institutional reluctance to enforce ecclesiastical discipline when the public outcry might be loud.

Participation in Holy Communion is achieved by two related but distinct acts: the action of a member of the faithful in seeking Communion (reception) and the action of the minister in giving Communion (administration). These two

actions are not only performed by different persons, they are governed by different canon laws. Virtually all confusion over Communion can be traced to the failure to keep these two actions distinct.

The criteria for receiving Communion spark little disagreement. Canon 916 expressly states that a person "conscious of grave sin is not to . . . receive the body of the Lord without previous sacramental confession." To receive Communion with a guilty conscience is to commit the mortal sin of sacrilege, and to die with mortal sin on one's soul invites eternal damnation. As St. Paul wrote to the Corinthians, "Whoever eats this bread or drinks the Lord's cup in a way unworthy of the Lord will be guilty of the body and the blood of the Lord." Canon 916 leaves no doubt about the gravity of irreverent reception of the Eucharist.

This canon seeks to protect against sacrilege. Yet the human conscience is private, and the Catholic Church knows that some people can and will receive Communion sacrilegiously. The first such reception was committed, it seems, by Judas Iscariot at the Last Supper. St. Thomas Aquinas, however, ranks the sacrilegious reception of the Eucharist among lesser, albeit still grave, offenses and warns priests of his day against improperly withholding Communion from personally but not publicly unworthy Catholics. In doing so, they risk committing mortal sins themselves.

More recently, the Jesuit Felix Cappello, perhaps the greatest sacramental lawyer of the twentieth century, warned in his *De Sacramentis* that "certain writers, particularly those addressing ascetics, exaggerate the gravity of the sin of sacrilegious Communion. But all excess in this area should be avoided, lest the faithful, especially poorly informed and children, plunge into desperation" (my translation). Today it seems that this desperation arises not from personal fear of offending the Lord through

Edward Peters teaches canon law at Sacred Heart Major Seminary in Detroit. In 2010, he was appointed a Referendary of the Apostolic Signatura by Pope Benedict XVI. This article expresses his own views.

one's own sacrilege, but from a desire to see the Eucharist withheld from others lest they commit a sacrilege—not the desperation Cappello had in mind, but one every bit as erroneous.

The Church knows, as surely as did our Lord when he handed himself to Judas, that some Catholics will receive Communion sacrilegiously. To prevent ministers from too zealously safeguarding the Eucharist, canon 213, located in a part of the *Code* that many authors compare to an ecclesiastical Bill of Rights, declares the fundamental right of the Christian faithful to receive “the spiritual goods of the Church, especially the word of God and the sacraments.”

Canon 912 adds that any baptized person “not prohibited by law can and must be admitted to holy communion,” and canon 18 states that any laws that “restrict the free exercise of rights [especially fundamental rights to receive the sacraments] are subject to strict interpretation.” The burden of proof falls on ministers to explain why they are denying the sacrament to a member of the faithful.

There are, of course, certain prohibitions against the reception of Communion that would not upset Catholics. Non-baptized persons, most baptized non-Catholics, those known to have received Communion earlier in the day, and certainly those who have received twice that day, cannot be admitted to Communion. Someone eating in the Communion procession is obviously violating the Eucharistic fast. Someone asking for Communion as the pastor is leaving the rectory to catch a flight is not asking at “an appropriate time.” Neither enjoy a right to Communion to which ministers must defer.

To be sure, canon 843 allows the clergy to deny any sacrament based on one's improper “disposition,” but canon lawyers have long distinguished between *external* dispositions (such as sufficient catechetical formation, demeanor, and

even dress) and *internal* dispositions (such as fervor, faith, and grace). Questions about internal disposition are left to the individual and his or her confessor.

But the concerns for irreverent *reception* of the Communion contained in canon 916 must be distinguished from the concerns for the illicit *administration* of Communion to Catholics found in canon 915. Canon 915 states: “Those who have been excommunicated or interdicted after the imposition or declaration of the penalty and others obstinately persevering in manifest grave sin are not to be admitted to holy Communion.”

Crucial to a proper understanding of canon 915 is, first, the fact that it binds the ministers who admit persons to sacraments, not the recipients who approach the sacraments. Second, it both authorizes and requires Communion to be withheld from the faithful who approach under certain conditions, specifically “those upon whom the penalty of excommunication or interdict has been imposed or declared, and others who obstinately persist in manifest grave sin.” To read canon 915 as if it were a mere suggestion or exhortation instead of a command is to disregard the plain text of the law.

Third, the conditions requiring Communion to be withheld must be simultaneously satisfied before the minister may licitly withhold the Eucharist from a Catholic approaching for it publicly. To invoke canon 915 against a member of the faithful who does not satisfy all of the terms of canon 915 is, again, to disregard the plain text of the law and, as St. Thomas warned centuries ago, to violate the fundamental rights of the faithful.

Sacramental tradition allows for withholding Communion in two other cases: when a person reckoned to be in a state of unrepented grave sin (determined usually by the

individual's disclosure) approaches for the Sacrament *privately*, and when a person reasonably suspected of intending to desecrate the Eucharist approaches to receive. Both are rare events these days.

Those two exceptions aside, if a member of the faithful approaches Communion publicly and gives no indication of intending an external act of desecration, even the minister's moral certitude that the would-be recipient suffers grave moral disarray does not permit him to withhold Communion. His grief at being a material cooperater in sacrilege may be joined to our Lord's grief at so many unworthy receptions of himself.

Like canon 916, canon 915 works in part to prevent sacrilege, but it is oriented primarily to preventing scandal. In the Catholic moral tradition, scandal is not behavior that once known will embarrass or compromise the actor, but “an attitude or behavior which leads another to do evil,” as the *Catechism* puts it.

In a religious society animated by *communio* and possessed of few mechanisms for the external enforcement of discipline, the personal conduct of every individual affects the ability of every other individual to act for good or for evil. Bad examples in the Church have even more effect when ecclesiastical authority appears to be complicit with them by failing to impose any consequences.

A few years ago, then-Kansas governor Kathleen Sebelius' pro-abortion activism invited her bishop's private remonstrance against reception of Communion. Since he announced her exclusion publicly, she has apparently complied. Similarly, New York governor Andrew Cuomo, whom I argued last year was ineligible for Communion based on, if nothing else, his living arrangements, has apparently discreetly refrained from approaching for Communion since then. In

contrast, Nancy Pelosi's scandal drags on, and to ignore it is to provide her the veneer of ecclesiastical fellowship even as she invokes her Catholic faith to justify her cooperation with and promotion of evil public policies.

Canon laws do not affect only select national figures. For example, divorced Catholics living in civil marriages are, in most cases, not to be given Communion because their living together affirms in a very public way actions contrary to Church teaching and gives a bad example to other Catholics preparing for marriage or struggling in marriages that have become very difficult. Similarly, withholding Communion from those who actively

promote homosexual practice reduces classical scandal and helps protect the integrity of Catholic doctrine.

This is not to suggest that all cases of divorce and remarriage, or of any degree of political complicity in the culture of death, or of some level of promotion of homosexual activity by Catholics can be easily recognized and are severe enough to warrant withholding Communion. Difficult cases of law and fact will arise, and mistakes will inevitably be made in deciding them.

But a clear recognition of the fundamental differences between canon 916 on the reverent reception of the Eucharist and canon 915 on a minister's withholding of

Holy Communion is essential in assessing these cases. So too is recognizing that ambiguous cases *must* be decided in favor of reception of the Sacrament, even at the risk of sacrilege, while proven cases of public unworthiness as understood by Church law *must* result in withholding the Sacrament, even at the risk of public outcry. Both outcomes are required upon pain of dereliction of ministerial duties in regard to participation in the Eucharist.

Canon 915 is not a cure-all for wounds on the mystical body of Christ, but it does seem to cauterize certain wounds until deeper and more satisfying resolutions can be effected. ■

On Susan

by Elizabeth Corey

Susan was a colleague in Baylor's Honors College, not exactly a friend, though we were quite friendly. She was reserved and elegant, with a willowy figure all women couldn't help but envy. She was a fine scholar and a beloved teacher, but she never cultivated a following, eschewing celebrity and recognition. She never seemed to worry about whether people noticed what she was doing; she simply did it.

The last substantive conversation I had with her was in November 2011. Thomas Hibbs had just addressed a group of prospective students, making the point that in the modern world most people are ill-prepared to deal

with death. Either they sensationalize it, as in action movies, or they avoid thinking about it altogether. Many modern Americans, Hibbs pointed out, persist in the vain hope that healthy eating, regular exercise, and seatbelts will somehow protect them from the indignities of aging and death.

But when a loved one dies nevertheless, most of us don't know what to do. Former ages had rituals for accepting the natural transitions of life. Now, much of modern America has lost the faith that made death something comprehensible, natural, and even, at times, to be welcomed. Many people offer empty phrases like "She's gone to a better place," even though they have no sense of what that place might be.

Susan and I ran into each other a few days after Dean Hibbs' presentation and reflected on the prospective students we had talked with. A young man in my group had insisted that death was not a problem for *him*, because he had faith, and Susan said that her students had talked like this as well. Several had insisted that while death might be frightening for non-Christians, it would not be so for them. A few of these seventeen-year-olds even claimed to have no fear of death at all. We both smiled at this, and Susan commented that Plato, Augustine, and Dante might have something to show these students about the complexity of death and life alike.

But then the conversation turned serious, as we reflected that those students seemed to have overlooked

Elizabeth Corey is assistant professor of political science at Baylor University.