

Chief Justice Heffernan, writing for the majority, ripped this argument to ribbons. First of all, he said, "The hate crimes statute violates the First Amendment directly by punishing what the legislature has deemed to be offensive thought and violates the First Amendment indirectly by chilling free speech." He pointed out that "in any assault upon an individual there is a selection of the victim" and that is part of the underlying offense, the "intent" in committing the crime. The inherent problem with the hate crimes statutes is that they specifically target the "motive" or thought behind the selection, and do so in a subjective, and even political fashion.

The seemingly plausible defense of the statutes raised by the ADL and the National Gay and Lesbian Task Force (the other main sponsor of these laws), asserts that the statutes are the same thing as the anti-discrimination features of civil rights laws. The ADL, an openly racist organization, drapes these laws with the mantle of the civil rights movement.

Justice Heffernan correctly points out that "discrimination and bigotry are not the same thing" and can't be treated legally as if they were. In anti-discrimination statutes, for example, it is a discriminatory *act* which is prohibited. Additionally, he points out, "there is a difference between the civil penalties [of] anti-discrimination statutes and the criminal penalties imposed by the hate crimes law. . . . It is the objective conduct taken in respect to the victim which is redressed (not punished) by those [anti-discrimination] statutes, not the actor's motives."

Heffernan continues: "The hate crimes statute does not punish the underlying criminal act, it punishes the defendant's motive for acting. Taking the dissent's explanation that the statute is concerned with the 'decision' of the defendant, it is clear that the hate crimes statute creates nothing more than a thought crime. Apparently that dissent is comfortable with such an Orwellian notion; we are not."

In June, the U.S. Supreme Court struck down a hate crime ordinance passed by the city of St. Paul, Minnesota. That ordinance banned conduct which "arouses anger, alarm, or resentment in others on the basis of race, color, creed, religion or gender." The court ruled that the historic protections of the First Amendment, which has been interpreted to allow for the punishment of especially inflammatory or provocative speech, would be nullified if legislatures are allowed to selectively punish only certain classes of "fighting words" based upon the content of the expression, i.e., "bias-motivated" hatred.

This problem plagues the sentencing enhancement provisions of hate crime laws in general. The chilling effect on free speech cast by the hate crimes statutes is dangerously broad, the court notes. In effect, every personal association, every book ever read, every speech ever given or listened to by anyone charged with one of the underlying offenses, could be introduced as evidence that he or she held "bigoted" views and was acting upon them while committing the offense.

---

## Vatican Letter

---

# 'Homosexual rights' are not human rights

*In a statement sent to American Catholic Bishops in June, the Vatican opposed the moves in the United States to make homosexuality a legally protected and socially accepted way of life. The Vatican letter, entitled "Some Considerations Concerning the Catholic Response to Legislative Proposals on the Non-Discrimination of Homosexual Persons," was written in response to, among other things, laws like the District of Columbia's "domestic partners law," which would recognize homosexual marriages as equivalent to heterosexual ones. Although the letter is still technically an internal church document, it was released to the public by New Ways Ministry and was subsequently made available to EIR. The full text of the letter follows.*

Recently, legislation has been proposed in some American states which would make discrimination on the basis of sexual orientation illegal. In some Italian cities, municipal authorities have made public housing available to homosexual (and unmarried heterosexual) couples. Such initiatives, even where they seem more directed toward support of basic civil rights than condonement of homosexual activity or a homosexual lifestyle, may in fact have a negative impact on the family and society. Such things as the adoption of children, the hiring and firing of teachers, the housing needs of genuine families, landlords' legitimate concerns in screening potential tenants, for example, are often implicated.

While it would be impossible to foresee and respond to every eventuality in respect to legislative proposals in this area, these observations will try to identify some principles and distinctions of a general nature which should be taken into consideration by the conscientious Catholic legislator, voter, or Church authority who is confronted with such issues.

The first section will recall relevant passages from the Congregation for the Doctrine of the Faith's [CDF] "Letter to the Bishops of the Catholic Church on the Pastoral Care of Homosexual Person" of 1986. The second section will deal with their applications.

### I. Relevant passages from the CDF's 'Letter'

1. The Letter recalls that the CDF's "Declaration on Certain Questions Concerning Sexual Ethics" of 1975 "took note

of the distinction commonly drawn between the homosexual condition or tendency and individual homosexual actions," the latter which are "intrinsically disordered" and "in no case to be approved of" (no. 3).

2. Since "[i]n the discussion which followed the publication of the (above-mentioned) Declaration . . . an overly benign interpretation was given to the homosexual condition itself, some going so far as to call it neutral, or even good," the Letter goes on to clarify: "Although the particular inclination of the homosexual person is not a sin, it is a more or less strong tendency ordered toward an intrinsic moral evil; and thus the inclination itself must be seen as an objective disorder. Therefore special concern and pastoral attention should be directed toward those who have this condition, lest they be led to believe that the living out of this orientation in homosexual activity is a morally acceptable option. It is not" (no. 3).

3. "As in every moral disorder, homosexual activity prevents one's own fulfillment and happiness by acting contrary to the creative wisdom of God. The Church, in rejecting erroneous opinions regarding homosexuality, does not limit but rather defends personal freedom and dignity realistically and authentically understood" (no. 7).

4. In reference to the homosexual movement, the Letter states: "One tactic used is to protest that any and all criticism of or reservations about homosexual people, their activity, and lifestyle are simply diverse forms of unjust discrimination" (no. 9).

5. "There is an effort in some countries to manipulate the Church by gaining the often well-intentioned support of her pastors with a view to changing civil statutes and laws. This is done in order to conform to these pressure groups' concept that homosexuality is at least a completely harmless, if not an entirely good, thing. Even when the practice of homosexuality may seriously threaten the lives and well-being of a large number of people, its advocates remain undeterred and refuse to consider the magnitude of the risks involved" (no. 9).

6. "She (the Church) is also aware that the view that homosexual activity is equivalent to, or as acceptable as, the sexual expression of conjugal love has a direct impact on society's understanding of the nature and rights of the family and puts them in jeopardy" (no. 9).

7. "It is deplorable that homosexual persons have been and are the object of violent malice in speech or in action. Such treatment deserves condemnation from the Church's pastors wherever it occurs. It reveals a kind of disregard for others which endangers the most fundamental principles of a healthy society. The intrinsic dignity of each person must always be respected in word, in action, and in law.

"But the proper reaction to crimes against homosexual persons should not be to claim that the homosexual condition is not disordered. When such a claim is made and when homosexual activity is consequently condoned, or when civil

## 'True prophets' needed to oppose 'culture of death'

John Cardinal O'Connor of New York called for the emergence of "true prophets" to oppose the "abomination of desolation" in abortion, euthanasia, and assisted suicide, in remarks made in three talks on June 27 at the Canadian Pro-Life Conference in Toronto. He warned the pro-life conference of the common "threats to human life by way of euthanasia and assisted suicide. Euthanasia, you see, has begun with little things—we call them unborn babies. The language of denial by those who would threaten the life of anyone who does not meet their arbitrary standard of 'quality of life' now includes 'death with dignity.' It's all so nice and sterile. It's like calling abortion health care."

In a second talk the same day he remarked: "We are in enormously grave danger of becoming a culture of death as has never been known in history. Neither you nor I can ever be convinced that tearing a baby from his mother's womb, or encouraging a cancer-ridden elderly woman to commit suicide, are 'natural deeds.' Society has developed a truly unnatural culture that fulfills the prophetic 'abomination of desolation.' If ever in the world, if ever in history, true prophets were needed, we need them desperately today."

In condemning the movement to legalize euthanasia and suicide, the cardinal declared that similar attacks may soon be waged against the sick, the aged, the elderly frail, the retarded, and the handicapped. Such attacks, he said, "are really attacks on Christ, who refused to equivocate the truth, refused to be ambiguous."

legislation is introduced to protect behavior to which no one has any conceivable right, neither the Church nor society at large should be surprised when other distorted notions and practices gain ground, and irrational and violent reactions increase" (no. 10).

8. "What is at all costs to be avoided is the unfounded and demeaning assumption that the sexual behavior of homosexual persons is always and totally compulsive and therefore inculpable. What is essential is that the fundamental liberty which characterizes the human person and gives him his dignity be recognized as belonging to the homosexual person as well" (no. 11).

9. "In assessing proposed legislation, the Bishops should

keep as their uppermost concern the responsibility to defend and promote family life" (no. 17).

## II. Applications

10. "Sexual orientation" does not constitute a quality comparable to race, ethnic background, etc., in respect to non-discrimination. Unlike these, homosexual orientation is an objective disorder (cf. "Letter," no. 3).

11. There are areas in which it is not unjust discrimination to take sexual orientation into account, for example, in the consignment of children to adoption or foster care, in employment of teachers or coaches, and in military recruitment.

12. Homosexual persons, as human persons, have the same rights as all persons including that of not being treated in a manner which offends their personal dignity (cf. no. 10). Among other rights, all persons have the right to work, to housing, etc. Nevertheless, these rights are not absolute. They can be legitimately limited for objectively disordered external conduct. This is sometimes not only licit but obligatory. This would obtain moreover not only in the case of culpable behavior but even in the case of actions of the physically or mentally ill. Thus it is accepted that the state may restrict the exercise of rights, for example, in the case of contagious or mentally ill persons, in order to protect the common good.

13. Including "homosexual orientation" among the considerations on the basis of which it is illegal to discriminate can easily lead to regarding homosexuality as a positive source of human rights, for example, in respect to so-called affirmative action, the filling of quotas in hiring practices. This is all the more mistaken since there is no right to homosexuality (cf. no. 10) which therefore should not form the judicial basis for claims. The passage from the recognition of homosexuality as a factor on which basis it is illegal to discriminate can easily lead, if not automatically, to the legislative protection of homosexuality. A person's homosexuality would be invoked in opposition to alleged discrimination and thus the exercise of rights would be defended precisely via the affirmation of the homosexual condition instead of in terms of a violation of basic human rights.

14. The "sexual orientation" of a person is not comparable to race, sex, age, etc. also for another reason than that given above which warrants attention. An individual's sexual orientation is generally not known to others unless he publicly identifies himself as having this orientation or unless some overt behavior manifests it. As a rule, the majority of homosexually oriented persons who seek to lead chaste lives do not want or see no reason for their sexual orientation to become public knowledge. Hence the problem of discrimination in terms of employment, housing, etc. does not arise.

Homosexual persons who assert their homosexuality tend to be precisely those who judge homosexual behavior or lifestyle to be "either completely harmless, if not an entirely good thing" (cf. no. 3), and hence worthy of public approval.

It is from this quarter that one is more likely to find those who seek to "manipulate the Church by gaining the often well-intentioned support of her pastors with a view to changing civil statutes and laws" (cf. no. 5), those who use the tactic of protesting that "any and all criticism of or reservations about homosexual people . . . are simply diverse forms of unjust discrimination" (cf. no. 9).

15. Since in assessing proposed legislation uppermost concern should be given to the responsibility to defend and promote family life (cf. no. 17), more careful attention should be paid to the single provisions of the proposed measures. How would they affect adoption or foster care? Would they protect homosexual acts, public or private? Do they confer equivalent family status on homosexual unions, for example, in respect to public housing or by entitling the homosexual partner to the privileges of employment which might include "family" participation in the health benefits given to employees (cf. no. 9)?

16. Finally, since a matter of the common good is concerned, it is inappropriate for Church authorities to endorse or remain neutral toward adverse legislation even if it grants exceptions to Church organizations and institutions. The Church has the responsibility to promote the public morality of the entire civil society on the basis of fundamental moral values, not simply to protect herself from the application of harmful laws (cf. no. 17).

## ORDER IN BULK

### Three Startling Exposés of Corruption at the Highest Levels of Power in the U.S.

**Prepay your order  
of 10 books or more  
and get 20% off  
cover price:**

#### **Dope, Inc.**

The Book That Drove  
Kissinger Crazy.  
Third Edition, EIR, 1992.  
10 books for \$128.00

#### **George Bush**

The Unauthorized  
Biography.  
EIR, 1992.  
10 books for \$160.00

#### **The Franklin Cover-Up**

Child Abuse, Satanism, and  
Murder in Nebraska.  
AWP, 1992.  
10 books for \$64.00

Add \$9 postage and handling for first 10 books, and \$.50 postage and handling for each additional book. Make your check or money order payable to:

#### **Ben Franklin Booksellers**

107 South King St., Leesburg, VA 22075  
phone (703) 777-3661 fax (703) 777-8287  
MasterCard and Visa accepted.