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Restoring the Juridical Image: *Apologia for Ex Corde Ecclesiae*

Joseph R. Blaney

Image restoration theory is used to discover that Holy Cross Father James Tunstead Burthchaell's defense of the Papal Apostolic Constitution Ex Corde Ecclesiae was ineffective. Although he used attacks on accusers appropriately, his strategies of denial and transcendence were in conflict. He also failed to adequately address the accusation that the nature of American college charters make the American bishops' application of the document impossible. Finally, though perhaps through no fault of his own, he was "preaching to the choir." The study sheds further light on the role of transcendence in religious image repair. Keywords: image restoration, apologia, Ex Corde Ecclesiae, Catholic higher education.

As Blaney and Benoit (1997) noted, and Sullivan (1998) concurred, religious rhetors may have a natural tendency towards the transcendence strategy when attempting to restore their images. Indeed, Blaney and Benoit claimed:

Transcendence can be an especially apt strategy for those who defend theological doctrines. The ideas that earthly concerns are ephemeral, that the body is less important than the soul, that there are higher purposes, or that a wonderful reward awaits us in the afterlife are all clear instances of transcendence. Further rhetorical research of religious communicators is in order, keeping in mind the possibility that transcendence might permeate such communication by its very nature. (1997, p. 30)

Does the rhetorical strategy of transcendence permeate religious image restoration discourse? This paper will attempt to answer that question. Moreover, it will also analyze and evaluate the image restoration discourse of a comprehensive defense of the papal apostolic constitution *Ex Corde Ecclesiae* (From the Heart of the Church).

This topic merits study not only for its heuristic value in the area of *apologetic*/accounts/image restoration but because it examines a defining rhetorical struggle in Catholic higher education. The paper begins with an explanation of Benoit's (1995a) theory of image restoration and a review of relevant studies. The persuasive attacks against *Ex Corde Ecclesiae* will then be detailed. Finally, the persuasive defense will be described in detail and evaluated for rhetorical effectiveness.

Image Restoration Theory

Benoit's theory of image restoration strategies begins with two assumptions. First, communication is a goal-oriented activity. Second, the maintenance of a favorable image is one of the primary goals (Clark & Delia, 1979). The theory posits that rhetors who need to restore damaged reputations may engage in five rhetorical activities: denial, evading responsibility, reducing offensiveness, corrective action, and mortification. Additionally, three of these strategies are composed of sub-strategies. (See Table 1)

Denial can be divided into two sub-categories. *Simple denial* includes denial of perpetrating a misdeed or denial that a misdeed took place. Additionally, denial may include a *shifting of blame* where the deed is attributed to another party.

Evasion of responsibility includes four sub-categories. One may claim *provocation*, *defeasibility* (lack of information or ability), *accident*, or *good intentions*.

When one reduces the offensiveness of an event, one chooses from six sub-strategies. *Bolstering* is the stressing of good traits and/or past deeds that might mitigate the wrongdoing at hand. *Minimization* is the attempt to portray the malfeasance as minor and unimportant. *Differentiation* is the insistence that a deed is somehow less offensive and different from similar acts. *Transcendence* (mentioned at the beginning of this essay) is the attempt to place a misdeed in a larger context where more important values would pervade the situation. *Attacking one's accuser* attempts to reduce the accuser's credibility, thus reducing the offensiveness of the accusation. *Compensation* is an offer of payment or other restitution because of the misdeed.

Corrective action is the effort to solve or prevent the recurrence of the misdeed. Finally, *mortification* is the expression of sorrow or regret for the commission of an offensive act.

In short, the rhetor has 14 possible strategies at his/her disposal. For more detailed explanation of these strategies see Benoit's (1995a) initial explication.

This typology was used to examine Jesus' discourse in the Gospel According to John. Blaney & Benoit (1997) found that when accused of unorthodoxy Jesus engaged in transcendence in order to advance a higher order of religious devotion. Sullivan (1998) applied the strategies to Francis Schaefer's book *Pollution and the Death of Man* and discovered that apparent apologies for Christianity may not be *apologia* at all, but philosophical apologetics instead. These two articles comprise the literature of image restoration in religious communication.

However, this theory has also been employed to examine the discourse of politics (Blaney & Benoit, 2001; Benoit & Wells, 1998; Kennedy & Benoit, 1997), entertainment (Benoit, 1997; Benoit & Anderson, 1996; Benoit & Hanczor, 1994; Benoit & Nill, 1998), and corporate relations (Benoit, 1995b; Benoit & Brinson, 1994; Benoit & Czerwinski, 1997; Brinson & Benoit, 1996). As such, this theory is an appropriate rhetorical framework for the verbal defense under study.

The Persuasive Attack

The January 30, 1999 edition of the Jesuit-sponsored magazine *America* included a provocative article entitled "*Ex Corde Ecclesiae*' Creates an Impasse." Authors Donald Monan, S. J., and Edward A. Malloy, C.S.C., are Roman Catholic priests. Monan is chancellor of Boston College, a Catholic institution sponsored by the Society of Jesus (the Jesuits). Malloy is president of the University of Notre Dame, a Catholic institution sponsored by the Congregation of the Holy Cross. Because of their academic standards (not to mention a vigorous football rivalry) these two schools are among the most noteworthy in Catholic higher education.

As such, Monan and Malloy's resistance to juridically apply the 1990 papal directive *Ex Corde Ecclesiae* is significant.¹ They attacked the document on no less than 13 grounds:

- 1) The application was "juridical" in tone, in contrast to the pastoral spirit of the Pope's original work.
- 2) The application would threaten the Catholic university's ability to bridge secular and religious sensibilities.
- 3) The application would detract from institutional self-governance.
- 4) The application would require intrusion into institutional governing documents and mandate ecclesiastical approval.
- 5) The application would be binding upon schools sponsored by religious institutes (like the Jesuits and Holy Cross) whereas the original document only mentioned those institutions established ecclesiastically (through the Vatican, various diocesan agencies, etc.).
- 6) The application would attempt to control what is taught and written by theology faculty; Catholic faculty would not cooperate in seeking a juridical mandate; Catholic universities would not attempt to discipline faculty without such a mandate.
- 7) The application would repeal the influence of Catholic laity.
- 8) The juridical elements of the application are only made possible by respecting canons which had been dormant for many years.
- 9) Most Catholic universities are not canonically accountable. Most are church-related, but not "canonically Catholic."
- 10) The application is made impossible by the many charters of the universities which were given in diverse geographic states with varying educational purposes.
- 11) The application is stylistically weak.
- 12) The subcommittee which drafted the application was more interested in reviving Canon 812² than communicating the ideals of *Ex Corde Ecclesiae*.
- 13) The application, despite any good intentions, will divide the Church from its universities. (Monan & Malloy, 1999)

The charges are damning indeed. They assert that the bishops' juridical instrument is fundamentally flawed and cannot, indeed will not, be applied. In sum, Monan and Malloy opined:

It is not...the ideals and principles enunciated in *Ex Corde Ecclesiae* that make the subcommittee document unworkable. It is, rather, the failure of this document to safeguard qualities essential to the very nature of U.S. Catholic universities and its vigorous effort to enforce univocal application of the 1983 canons both to American universities and to their staffs. (1999, p.12)

The Persuasive Defense

Before a description of the persuasive defense can proceed, some recent developments in *Ex Corde's* fate must be explained. In November 2000, the National Conference of Catholic Bishops adopted guidelines by which this apostolic constitution would be applied beginning May 3, 2001 (Guidelines Concerning, 2000). The application includes strict rules requiring a *mandatum* for Catholic theologians to be procured from their local bishops. For this reason some would argue that the *kategoria* and *apologia* at hand are a moot point. Not so! First, the application is scheduled to be reviewed by the bishops after five years. As such, the document's character will attract ongoing scrutiny. Second, the exchange between the "liberals" and "conservatives" over this matter begs to be understood in image restoration terms. *Ex Corde* has provided one of the most instructive "dialogues" in Catholic higher education since the Second Vatican Council. With the intervening events addressed, the essay now turns to defensive discourse.

Following attacks by Monan and Malloy and others³, the orthodox Catholic magazine *Crisis* responded with a lengthy piece called "Everything You Need to Know About *Ex Corde Ecclesiae*." Written by Fr. James Tunstead Burtchaell, C.S.C., a Holy Cross priest, it served both to explicate the history of the embattled document as well as to defend it. As a comprehensive and typical defense of ecclesial orthodoxy in this matter, it is appropriate for analysis.

The article relied on the defense strategies of denial, attack accuser, and transcendence, in that order of emphasis. The strategies will be taken up in that order.

Denial

Burtchaell relied on the simple denial strategy to refute allegations that the document was problematic. For instance, he took on the presidents by denying that they currently enjoy the institutional autonomy which they fear they may be losing:

The presidents have been so accustomed to trumping this point with the dogma of "institutional autonomy" that they have evidently not realized the absurdity of their repeated claim that no "outside authority" could hold their institutions answerable. (Burtchaell, 1999, p. 28)

In support of his contention, Burtchaell cited a litany of agencies to which any college defers: the U. S. Department of Education, the Library of Congress, the National Institute of Health, and so on, *ad nauseum*. In fact, the list of agencies which limit institutional autonomy ran a full, comical page and a half (including the local fire inspector). He summarized his contention: "The point is clear. No university is an asteroid. It is an organic member of a complex, very endocrine community" (1999, p. 29). To be sure, he denied that any university had complete institutional autonomy.

Burtchaell used denial again when he dismissed any problems of church/state separation. After reviewing relevant law literature supporting the use of federal funds at religious, sectarian schools, he asserted: "The present has all the appearances of a time when the Catholic academics would be left with no external obstacle, other than their own derelict loss of nerve, to implementing the pope's reminder that they need Catholic scholars" (1999, p. 35). In short, there was no legal reason why *Ex Corde* could not be implemented.

Covering what was perhaps the strongest objection made by the presidents, Burtchaell denied that the theologian's mandate curtailed academic freedom:

Ex Corde Ecclesiae makes it very clear that the appointment of theologians belongs to the universities. It makes clear, as well, that Catholic theology takes as a primary source of knowledge the ancient and unfolding tradition created in, by, and for the Church. (1992, p.36)

In other words, the mandate does not hinder scholarship. Indeed, he claimed that the Church's role was necessary to primary, truthful discernment. In this sense, he *differentiated* between church meddling and church enabling. This denial/differentiation fusion will be addressed further in the conclusion of this essay.

Burtchaell further denied that the mandate posed any problem: "If tensions do not spring from hostile and contrary feelings, they can become a dynamic factor, a stimulus to both the magisterium and theologians to fulfill their respective roles while practicing dialogue" (1999, p. 37). In short, the mandate would not prove to be stifling, but rather, stimulating.

Finally, toward the end of his treatise, Burtchaell offered a blanket denial that the application was unworkable, as charged by Monan and Malloy: "For all these reasons [cited throughout the article] I do not believe that the Church's enactment for Catholic universities is unworkable, as the presidents want to believe and want us to believe" (1999, p. 38). Flatly, he denied such charges.

Attack Accuser

Burtchaell also relied heavily on attacking the accusers, i.e., the presidents. For instance, he took administrators to task for being secular, yet exploiting the Catholic sensibilities of their constituents. Referring to their public communications, he asserted:

When the target constituency was clearly Catholic, as in undergraduate recruitment, parent and alumni giving, most large capital campaigns, or presentations to the board, the Catholic icons and vocabulary were usually there. But graduate and professional programs and faculty recruitment began to be put forward in the motley of equal opportunity and equal manners. (1999, p. 13)

In short, Burtchaell attacked the secularization occurring at Catholic universities. The role of the presidents in this decline was implied.

He attacked the presidents for initially steam rolling the bishops into an application that had no binding effect (an application which John Paul II found unacceptable). He also attacked Monan and Malloy in particular:

The presidents, who had so easily mastered the bishops—only to be met by a pope who is not so easily mastered—continue to claim that the *sequelae* to *Ex Corde Ecclesiae* are thoroughly incompatible with their own autonomy and their faculty's academic freedom. Frs. Monan and Malloy, of Boston College and Notre Dame, respectively, who have been spokesmen for the resistance movement, have come out in print against the whole business. (Burtchaell, 1999, p.26)

This passage attacks the accusers as bullies of bishops, but unable to manipulate the pope.

A half page later Burtchaell attacked again: "The presidents' constant aim has been to make the Catholic character of their institutions autonomous and nonessential" (1999, p. 26). This passage attacked the accusers for frittering away the Catholic identities of their schools as irrelevant. In a related attack, he accused the presidents of wanting their schools' Catholic identities to "be unilaterally claimed and defined" (1999, p. 27).

He went on to attack the presidents' supposed intentions: "The presidents find it repugnant that their schools should need evaluation and then certification by the church" (1999, p.27). The attack here is implied. Because they resist the church's role in evaluation and certification, these administrators marginalize their own Catholicism. Burtchaell attacked again, displaying incredulity:

Course work in Catholic theology, they [the presidents] agree, should be "academically excellent and readily available," but not integral to the curriculum. Can one imagine them claiming that coursework in philosophy, mathematics, or foreign language should be "available" but not required for an integral education on their campus? (1999, p. 27)

Here, Burtchaell attacks the presidents for their general lack of stewardship of the Catholic tradition. Through analogy, he ridiculed the sheepishness with which Catholic colleges and universities present the tenets of the faith.

Finally, Burtchaell leveled a most disturbing charge—that the presidents were engaged in delay tactics, waiting for John Paul to die:⁴

When confronted by Rome's mandate to scrap the ordinances and rewrite, and then the canonists' no-nonsense Norms that were the result, several of the lead presidents agreed among themselves that the only sensible policy on their part will be to continue delaying still longer, until the "old man" dies. (1999, p. 38)

Obviously, if true, this would make the presidents appear rather opportunistic and exploitative of the Holy Father's age and fragile health.

Transcendence

While there was only one direct instance of transcendence, it encompassed the scope of the entire conflict. Borrowing the words of John Paul II, Burtchaell argued:

The pope will not allow pluralism to be used as an excuse. "The respect for persons which pluralism rightly envisions does not justify the view that ultimate questions about human life and destiny have no final answers or that all beliefs are of equal value, provided that none is asserted as absolutely true and normative. Truth," John Paul said briskly, "is not served in this way." (1999, p. 20)

In short, using the pope's words, Burtchaell argued for the higher purpose of "truth" (as offered by orthodox Church teaching) over the diversity of views manifest in pluralism and dissent. This transcendence proclaimed that pluralism was a matter of fact and that persons with differing views ought to be respected. However, make no mistake, the fact that different ideas exist does not mean they have equal merit. The Church offered truth. Dissenters offered deception. As such, concern for academic

freedom from ecclesial authority could only lead to mistruth. Accordingly, freedom and dissent for Catholic theologians were not necessary.

In sum, Burtchaell relied on denial, attack accuser, and transcendence in order to restore the image of the juridical instrument the bishops offered to apply *Ex Corde Ecclesiae*. Moreover, while denial and attack accuser were used most frequently, Burtchaell's use of transcendence, of course, transcended all other arguments.

Evaluation

In this section I will argue that Burtchaell's article in *Crisis* was largely ineffective for three reasons. First, although he used attacks on accusers effectively, his strategies of denial and transcendence were in conflict at times. Second, he failed to adequately address the accusation that the nature of college charters made the application impossible. Third, though perhaps no fault of his own, he was "preaching to the choir."

Appropriateness of Strategies

Burtchaell frequently attacked the presidents for their resistance to the application. He accused them of being secularists. This was a plausible attack due to their documented retreats from Catholic tradition. As Burtchaell pointed out, many did not even require Catholic theology anymore as part of a core curriculum. Moreover, Catholic vocabulary and trappings were displayed when wishing to exploit the generosity of Catholic alumni and benefactors, then discarded when assembling academic personnel.

He accused them of bullying the bishops into an initially weak application and subsequently dealing with the pope by delaying implementation until his death. Whether or not any such ill intentions can be verified, the attack is plausible due to the presidents' apparent resistance to all things ecclesial and orthodox in their curricula and hiring. In short, the attacks on the presidents were effective and appropriate.

However, his use of denial is in conflict with his ultimate argument for transcendence. He denied that the barriers to implementation voiced by the presidents existed, finally claiming through transcendence that nothing but Church teaching was accurate anyway. Specifically, Burtchaell said that the theologians' mandate did not curtail academic freedom. Considering his later transcendence argument, one is prompted to ask, "So what if it does?" Consider this conflict. He initially claimed no academic freedom was in jeopardy, but proceeded to dismiss pluralism (read: dissent) as not in the service of the truth. Such a conflict is glaring. Perhaps each of those strategies (denial and transcendence) could have been appropriate in isolation. For instance, he could have denied that academic freedom was limited in any way by the application and cited support from the relevant text. That strategy may have allayed the fears of some *Ex Corde* opponents. Likewise, appealing to the ultimate authority of the institutional Church (transcendence) may have been enough to persuade some critics. Of course, Lamoureux (1994) argued that American Catholics tend to reject Church authority as an inherent reason to accept particular doctrines. In any case, the denial of encroachments on academic freedom followed by an ultimate deferral to authority was an inappropriate rhetorical choice.

No Response

The next major problem with Burtchaell's response lies in his failure to adequately address the problem of charters. As Monan and Malloy (1999) indicated, colleges and universities are chartered in various legal territories (states) with various educational mission statements and justifications. While Burtchaell did adequately deny that church/state issues posed a problem for the application, he did not address the fact that governing bodies and charters of the schools were so unique that universal implementation of the application was not just a bad idea—it was not legally possible.

However, as I will intimate in the next section, perhaps his arguments (and those of like-minded Catholic academics) lack importance under current conditions.

Preaching to the Choir

With some exceptions previously noted, Burtchaell's discourse in *Crisis* was largely ineffective. Perhaps the greatest reason for this has nothing to do with Burtchaell's writing. He is clear, to the point, and in command of the issues. The problem is the audience that Burtchaell and other devout Catholics are reaching. Though laudable, it is not sufficient to address the readers of publications like *Crisis* that primarily reach members of the Cardinal Newman Society and Fellowship of Catholic Scholars.⁵

In his examination of the rhetoric of Bishop John Myers, Lamoureux (1994) points to the importance of understanding one's persuadable audience: "Non-compliant Catholics in the margins will either continue to ignore the messages or be alienated by them—authority appeals don't work on them" (p. 291). In short, if the orthodox wing of the Church wants to convert the doctrinally-challenged it needs to communicate within a context of shared assumptions. At the risk of sounding repetitious, authority appeals are effective when dealing with those who defer to authority.

Perhaps this evaluation is too harsh, given Burtchaell's limited rhetorical opportunities. After all, more liberal Catholic academics have access to the university administrations, their newsletters, the secular press, and even much of the Catholic press. For instance, readers of the *Catholic Key* of the Kansas City, Missouri diocese have learned about *Ex Corde Ecclesiae* from syndicated columnist Richard McBrien, C.S.C., who has already promised not to seek any mandate (*America*, 1999). This is an example of how even *mainstream* diocesan publications, with church oversight, serve to advocate dissent. It is possible that rhetors like Burtchaell write exhaustive essays for *Crisis* because they don't get calls from the liberal Catholic press exemplified by *National Catholic Reporter* and *America*.

Still, orthodox Catholics wanting to defend *Ex Corde* over the next five "probationary" years need to engage secular forces. Unfortunately, many of these secular media outlets include the *communiqués* of

Catholic colleges and universities which have already expressed hostility to the Church's overtures. As such, reaching the secular audience will be no small task for orthodox Catholics.

Contribution to Image Restoration

In addressing this essay's contributions, I'll begin by examining the initial question of whether transcendence permeates religious discourse. The present study supports Blaney and Benoit's (1997) contention that it does. Although Burtchaell relied more frequently on denial and attack accuser, his use of transcendence was more integral to his argument. As mentioned earlier, transcendence *transcended* the other strategies by claiming that Church teaching was the primary, and only necessary, source of truth. The presence of "truth" made the presence of pluralism and dissent unnecessary. The study of transcendence in religious discourse should remain a topic of scholarly inquiry.

Another contribution to image restoration theory lies in the aforementioned denial/differentiation couplet. Burtchaell demonstrated that a rhetor may achieve denial through the use of differentiation. For instance, in response to the attack that *Ex Corde Ecclesiae* would curtail academic freedom, he offered a denial which was contingent upon acceptance of the differentiation. In this case, he differentiated (unconvincingly, in this critic's opinion) dissent from academic freedom, saying that the right to dissent was not necessary to have freedom. The rhetorical theorist should surmise that the denial/differentiation couplet would be most effective when the differentiation offered is plausible.

Finally, Sullivan's (1998) claim that Christian *apologia* more closely resembles apologetics needs to be addressed. It is becoming clear that when religious rhetors address accusations of wrongdoing, the tendency toward theological responses emerges. For example, Jesus answered accusations that he blasphemed by asserting his divinity, which would make blasphemy from his mouth impossible (Blaney & Benoit, 1997). Likewise, Burtchaell responded to accusations that *Ex Corde* hindered the pursuit of truth by referring to Church Canon Law.

Perhaps this reliance on theological responses is due in large part to the transcendent nature of religious discourse as previously discussed. However, the religious rhetor is not limited to doctrinal arguments. For instance, Blaney and Benoit (1997) described how Jesus appealed to practical considerations when accused of violating the Sabbath.

For this reason, the critic opines that religious *apologia* may naturally employ apologetics. However, such rhetors are not limited to these types of arguments.

Conclusion

James Tunstead Burtchaell, C.S.C., offered an informative explanation of the history and character of *Ex Corde Ecclesiae*. However, it could not adequately serve to restore the application's image among Catholic college and university presidents. It was rhetorically flawed by the inherent conflict between denial and transcendence. Moreover, it was addressed to the converted.

However, the attacks leveled against the presidents were appropriate. They have allowed secularization to creep into their institutions to the point that many no longer require Catholic theology. Virtually all seek out diversity of race, gender, sexual orientation, etc., in hiring. Yet, the Catholic character of faculty and administration hires has become unimportant. To the chagrin of traditionalists, the presidents don't understand why this is an issue.

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Notes

¹A distinction must be made between John Paul's apostolic constitution and the U. S. Catholic Bishops subcommittee application of *Ex Corde Ecclesiae*. The presidents claim that their objections are not to the Pope's pastoral intentions. They argue that the application which the bishops would adopt is unacceptable and inconsistent with the papal directive.

²Canon 812 addresses the issue of *communio*, which orthodox clerics interpret as absolute ecclesial authority over Catholic institutions and which liberal clerics claim has been purposefully dormant.

³For the purpose of this essay, the accusers will be referred to generically as "the presidents," since virtually all the presidents of major Catholic colleges and universities are opposed to *Ex Corde Ecclesiae*. Fr. John Piderit, S.J., of Loyola University Chicago and Fr. David M. O'Connell, C.M., of the Catholic University of America are two notable exceptions. It is believed that Monan and Malloy spoke compositely for the opposing presidents in their *America* article.

⁴Burchaell offered no citation of support for his accusation that the presidents were exploiting the "old man's" age and questionable health. If this accusation is true, it is scandalous. If there is no evidence that the presidents are engaged in such tactics, the charge is irresponsible.

⁵As a matter of proper disclosure, the reader should know that the author is a member of the Fellowship of Catholic Scholars.

Table 1: *Image Restoration Strategies*

Denial

- simple denial
- shift blame

Evading Responsibility

- provocation
- defeasibility
- accident
- good intentions

Reducing Offensiveness of Event

- bolstering
- minimization
- differentiation
- transcendence
- attack accuser
- compensation

Corrective Action

Mortification

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