

## Canon 1184 and the Internal Forum, Part I

By Dorothea Ludwig-Wang, 31 May 2018

As the undermining of the Catholic faith from within continues during this current crisis, it comes as no surprise that canon law is also being undermined in a similar way. After all, canon law must follow theology, so naturally, poor theology will lead to a poor implementation and application of canon law. The modern emphasis on a false sense of mercy, which is in fact downright cruelty as it is opposed to justice, is leading to an unfortunate trend: many today are willing to place subjective considerations over objective ones, considering the role of conscience before the moral law itself. This has led to countless compromises in current canonical praxis, wherein the principle *Ecclesia de occultis non iudicat* has been ignored in certain cases, leading to scandal and doctrinal confusion among the faithful.

Take, for example, the issue of suicide and the denial of ecclesiastical funerals. Under the 1917 Code of Canon Law, the law was exceedingly clear, as canon 1240 §1 unequivocally stated: “The following are to be deprived of ecclesiastical funerals, unless they gave some sign of repentance before death... [3°] those who have deliberately killed themselves” (author’s translation). The Church must find a delicate balance between emphasizing the fact that suicide is a grave sin and demonstrating her compassion. The fact remains that those who have deliberately killed themselves are to be denied ecclesiastical funerals as a general rule: objectively speaking, there is no doubt that suicide is a grave sin and that granting a church funeral to a suicide will inevitably cause scandal among the faithful.

Thus, the Holy Office declared that as a norm, those who have killed themselves out of despair or wrath (“*desperatione vel iracundia*”) are to be denied an ecclesiastical funeral. However, if insanity can be proven by the verdict of a competent physician, an ecclesiastical funeral with all of its usual ceremonies may be given. If insanity is suspected, but there is still doubt, a funeral may be granted and a private Mass said, but all pomp and solemn exequies should be omitted.<sup>1</sup> In the case of insanity, the information must be divulged to the general public in order to avoid scandal. This is also the case when concessions are granted to suicides who have given any “sign of repentance” before death, as it is with all those who are, generally speaking, to be denied such exequies. The Church recognizes that in certain cases, it is necessary to take potential mitigating factors into account and allow exceptions to be granted, provided that the risk of scandal is avoided.

In keeping with the principle that considerations of objective morality must take precedence over subjective culpability in the external forum, the concession made to allow suicides who were insane—or when insanity is suspected but uncertain—to receive ecclesiastical funerals must be regarded as the exception rather than the norm, even if it may be broadly interpreted. Generally speaking, exceptions to the law are subject to strict interpretation (1983 CIC, c. 18), but given that the denial of an ecclesiastical funeral is a restriction imposed upon a person’s rights (c. 1176 §1) and thus itself subject to strict interpretation, it would not be

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<sup>1</sup> C. A. Bachofen, *A Commentary on the New Code of Canon Law, Volume VI* (St. Louis, MO and London: B. Herder, 1921), 155.

unreasonable to apply the maxim that burdens are to be restricted and favors multiplied here.<sup>2</sup> As long as other precautions are taken to avoid scandal, one should err on the side of *not* denying an ecclesiastical funeral in a case of doubt.

Despite this generosity, the post-conciliar “reformers” believed that these concessions were not enough, and in modern-day praxis, the exception seems to have *become* the norm. Under the present canon 1184 §1, those to be denied ecclesiastical funerals in the absence of signs of repentance are notorious apostates, heretics, or schismatics (1°), those who chose the cremation of their bodies for anti-Christian reasons (2°), and other manifest sinners in whose cases the granting of an ecclesiastical funeral would give scandal (3°). Suicide is no longer explicitly mentioned, which has led to the routine granting of Catholic funerals to those who have committed suicide. However, an interpretation of canon 1184 §1 in accord with canonical tradition (c. 6 §2) would indicate not a change in the substance of the law, but merely its expression—namely, that more specific things are now grouped into larger categories.

Even if there is, strictly speaking, no change in law, what is the reason behind the change in praxis? Certainly the Church has not ceased to teach that objectively speaking, suicide is gravely immoral and directly contrary to the fifth commandment. However, a compromise has been made, allowing considerations of subjective culpability and mitigating factors to take precedence over objective morality even in the external forum. This is nothing other than defective moral theology, which in turn produces bad jurisprudence. Even pre-conciliar moral theologians admitted the possibility that the majority of those who commit suicide are not fully culpable for their actions,<sup>3</sup> but none of this changes the fact that suicide is an objectively grave sin, and that canonical legislation for the external forum must be primarily based upon objective considerations.

This is not to say, of course, that all persons who commit suicide are damned, as the Church has always recognized the existence of mitigating factors. Even under the 1917 Code, exceptions were granted for suicides who were insane and (to a lesser degree) those who were likely insane, as mentioned earlier, and it would not be unreasonable to argue that these exceptions grant favors which ought to be broadly interpreted. The denial of an ecclesiastical funeral is not a judgment upon the state of the person’s soul: those who oppose what they view as the Church’s unnecessary rigor frequently denounce the denial of an ecclesiastical funeral as a judgmental act, but nothing could be further from the truth. If the denial is based upon *objective* considerations, then unnecessary judgment is actually avoided—as the law does not intrude upon the internal forum.

It would be desirable if the supreme legislator were to change the discipline concerning the denial of ecclesiastical funerals back to the text of the 1917 Code, because the old legislation is certainly more *clearly* in accord with moral theology than the present one is. Although the current canon 1184 §1, 3° applies to those who commit suicide, the lack of an explicit reference to it has left many to erroneously conclude that these persons are, as a general rule, permitted to receive Catholic funerals, blurring the distinction between norms and exceptions.

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2 Boniface VIII, *Regulae Iuris*, 15.

3 J. McHugh and C. Callan, *Moral Theology* (New York: Wagner 1929), 2:1852.