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## **The Perils of Celibacy: Clerical Celibacy and Marriage in Early Protestant Perspective**

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### **Abstract**

*The recent scandals over clerical pedophilia have raised anew ancient church battles over the propriety of clerical celibacy. Using a sensational sixteenth-century case as a laboratory, this Article analyzes the traditional Roman Catholic arguments in favor of clerical celibacy and the attacks on those arguments by the sixteenth-century Protestant reformers. It then draws from this historical battle several modern lessons about clerics, children, and sexual crimes.*

**Keywords:** celibacy; clerical pedophilia; married priests; sex; lust; sexual sin; Johann Apel; Martin Luther; priesthood of all believers; marriage

The current battles over clerical celibacy are nothing new. When mandatory celibacy was first universally imposed on the clergy a millennium ago, clergy and laity alike broke into riotous rebellion for more than two generations, and a good number of bishops and priests flouted these laws for several generations more. When the Protestant Reformation broke out half a millennium ago, clerical celibacy and marriage were among the most bitter grievances over which the Western Church ultimately splintered. Today, the exposures of child abuse by some enterprising Catholic priests has rejoined these ancient battles within Catholicism and between Catholics and Protestants -- and triggered all manner of media exposes, private law suits, and criminal prosecutions.

In this Lecture, I would like to revisit the original Protestant case against clerical celibacy and for clerical marriage in its sixteenth century Lutheran Reformation context. I shall then draw out a few implications of the significance of these historical battles for the theology and law of clerical celibacy and marriage today.

### **The Case of Johann Apel**

In good lawyerly fashion, let's begin with a concrete case. Our case comes from 1523. This is six years after Luther posted his 95 Theses, three years after Luther's excommunication from the Church, and two years after the Diet of Worms. Luther is

back in Wittenberg from the Wartburg Castle. The Lutheran Reformation is gaining real revolutionary momentum in Germany and beyond.

Our case involves a priest and lawyer named Johann Apel. Apel was born and raised in Nuernberg, an important German city, still faithful to Rome at the time of the case. In 1514, Apel enrolled for theological studies at the brand new University of Wittenberg, where he had passing acquaintance with a new professor of theology there, an Augustinian monk named Martin Luther. In 1516, Apel went to the University of Leipzig for legal studies. He was awarded the doctorate of canon law and civil law in 1519. After a brief apprenticeship, Apel took holy orders and swore the requisite oath of clerical celibacy.

One of the strong prince-bishops of the day, Conrad, the Bishop of Wuerzburg and Duke of Francken, appointed Apel as a cathedral canon in 1523. Conrad also licensed Apel as an advocate in all courts in his domain. Apel settled into his pastoral and legal duties.

Shortly after his clerical appointment, Apel began romancing a nun at the nearby St. Marr cloister. (Her name is not revealed in the records.) The couple saw each other secretly for several weeks. They carried on a brisk correspondence. They began a torrid romance. She apparently became pregnant. Ultimately, the nun forsook the cloister and her vows and secretly moved in with Apel. A few weeks later, they were secretly married and cohabited openly as a married couple.

This was an outrage. Clerical concubinage was one thing. The records show that at least three other priests in Conrad's diocese kept concubines and paid Conrad the standard concubinage tax for that privilege. Earlier that very same year of 1523, another priest had fathered a child and paid the Bishop the standard cradle tax and oblated the infant in the very same St. Marr's cloister that Mrs. Apel had just forsaken. Clerical concubinage and even fatherhood were known and were tolerated by some obliging bishops of the day. But clerical marriage? That was an outrage, particularly when it involved both a priest and a nun -- a prima facie case of double spiritual incest.

Upon hearing of Apel's enterprising, Bishop Conrad annulled the marriage and admonished Apel to confess his sin, to return his putative wife to her cloister, and to resume his clerical duties. Apel refused, insisting that his marriage, though secretly contracted, was valid. Unconvinced, the Bishop indicted Apel for a canon law crime and temporarily suspended him from office. Apel offered a spirited defense of his conduct in a frank letter to the Bishop.

Bishop Conrad, in response, had Apel indicted in his own bishop's court, for breach of holy orders and the oath of celibacy, and for defiance of his episcopal dispensation and injunction. In a written response, Apel adduced conscience and Scripture in his defense, much like Luther had done two years before at the Diet of Worms. "I have sought only to follow the dictates of conscience and the Gospel," Apel insisted, not to defy episcopal authority and canon law. Scripture and conscience condone marriage for fit adults as "a dispensation and remedy against lust and fornication." My wife and I have availed ourselves of these godly gifts and entered and consummated our marriage "in chasteness and love."

Contrary to Scripture, Apel continued, the church's canon law commands celibacy for clerics and monastics. This introduces all manner of impurity among them. "Don't you see the fornication and the concubinage" in your bishopric, Apel implored Conrad. "Don't you see the defilement and the adultery ... with brothers spilling their seed upon the ground, upon each other, and upon many a maiden whether single or married." My alleged sin and crime of breaking "this little man-made rule of celibacy," Apel insisted, "is very slight when compared to these sins of fornication" which you, "excellent father," "cover and condone if the payment is high enough." "The Word of the Lord is what will judge between you and me," Apel declared to the Bishop, and such Word commands my acquittal.

Bishop Conrad took the case under advisement. Apel took his cause to the budding Lutheran community. He sought support for his claims from Luther, Philip Melancthon, Martin Bucer, and other Evangelical leaders who had already spoken against celibacy and monasticism. He published his remarks at trial adorned with a robust preface by Martin Luther, and an instant best seller.

Shortly after publication of the tract, Bishop Conrad had Apel arrested and put in the tower, pending further proceedings. Apel's family pleaded in vain with the Bishop to release him. The local civil magistrate twice mandated that Apel be released. Jurists and councilmen wrote letters of support. Even Emperor Charles V sent a brief letter urging the Bishop not to protract Apel's harsh imprisonment in violation of imperial law, but to try him and release him if found innocent.

Apel was finally tried. He was found guilty of several violations of the canon law and of heretically participating in "Luther's damned teachings." He was defrocked and was excommunicated and evicted from the community. Thereafter Apel made his way to Wittenberg where, at the urging of Luther and others, he was appointed to the law faculty at the University. Two years later, Apel served as one of the four witnesses to the marriage of ex-monk Martin Luther to ex-nun Katherine von Bora.

This was a sensational, but not an atypical, case in Reformation Germany in the 1520s. Among the earliest Protestant leaders were ex-priests and ex-monastics who had forsaken their orders and vows, and often married shortly thereafter. Indeed, one of the acts of solidarity with the new Protestant cause was to marry or divorce in open violation of the Church's canon law and in open contempt of episcopal instruction. As the church courts began to prosecute these offenses of its canon law, Protestant theologians and jurists rose to the defense of their budding co-religionists.

### **Classic Arguments for Clerical Celibacy**

Bishop Conrad's position in the Apel case was in full compliance with the prevailing Catholic theology and canon law of marriage and celibacy.

Prior to the sixteenth century, the Church regarded marriage as "a duty for the sound and a remedy for the sick," in St. Augustine's famous phrase. Marriage was a creation of God allowing man and woman to "be fruitful and multiply." Since the fall into sin, marriage had also become a remedy for lust, a channel to direct one's natural passion to the service of the community and the Church. When contracted between Christians, marriage was also a sacrament, a symbol of the indissoluble union between

Christ and His Church. As a sacrament, marriage fell within the social hierarchy of the Church and was subject to its jurisdiction, its legal power.

The Church did not regard marriage as its most exalted estate, however. Though a sacrament and a sound way of Christian living, marriage was not considered to be so spiritually edifying. Marriage was a remedy for sin, not a recipe for righteousness. Marriage was considered subordinate to celibacy, propagation less virtuous than contemplation, marital love less wholesome than spiritual love. Clerics, monastics, and other servants of the church were to forgo marriage as a condition for service. Those who could not were not worthy of the Church's holy orders and offices.

This prohibition on marriage, first universally imposed on clerics and monastics by the First Lateran Council of 1123, was defended with a whole arsenal of complex arguments.

The most common arguments were based on St. Paul's statements in I Corinthians 7. In this famous passage, Paul did allow that it was better to marry than to burn with lust. But Paul also said that it was better to remain single than to marry or remarry. "It is well for a man not to touch a woman," he wrote. For those who are married "will have worldly troubles." It is best for you to remain without marriage "to secure your undivided attention to the Lord." These biblical passages, heavily glossed by the early Church Fathers, provided endless medieval commentaries and commendations of celibacy. They were buttressed by newly discovered classical Greek and Roman writings extolling celibacy for the contemplative as well as by the growing medieval celebration of the virginity of Mary as a model for pious Christian living.

Various philosophical arguments underscored the superiority of the celibate clergy to the married laity. It was a commonplace of medieval philosophy to describe God's creation as hierarchical in structure -- a vast chain of being emanating from God and descending through various levels and layers of reality down to the smallest particulars. In this great chain of being, each creature found its place and its purpose. Each institution found its natural order and hierarchy. It was thus simply the nature of things that some persons and institutions were higher on this chain of being, some lower. It was the nature of things that some were closer and had more ready access to God, and some were further away and in need of mediation in their relationship with God. Readers of Dante's *Divine Comedy* will recognize this chain of being theory at work in Dante's vast hierarchies of hell, purgatory, and paradise. Students of medieval political theory will recognize this same theory at work in the many arguments of the superiority of the spiritual sword to the temporal sword, of the pope to the emperor, of the church to the state.

This chain of being theory was one basis for medieval arguments for the superiority of the clergy to the laity. Clergy were simply higher on this chain of being, laity lower. The clergy were called to higher spiritual activities in the realm of grace, the laity to lower temporal activities in the realm of nature. The clergy were thus distinct from the laity in their dress, in their language and in their livings. They were exempt from earthly obligations, such as paying civil taxes or serving in the military. They were immune from the jurisdiction of civil courts. And they were foreclosed from the natural activities of the laity, such as those of sex, marriage, and family life. These natural, corporal activities were literally beneath the clergy in ontological status and thus

formally foreclosed. For a cleric or monastic to marry or to have sex was thus in a real sense to act against nature (*contra naturam*).

### **The Lutheran Position on Celibacy and Marriage**

Johann Apel's arguments with Bishop Conrad anticipated a good deal of the Lutheran critique of this traditional teaching of marriage and celibacy.

Like their Catholic brethren, the Lutheran reformers taught that marriage was created by God for the procreation of children and for the protection of couples from sexual sin. But, unlike their Catholic brethren, the reformers rejected the subordination of marriage to celibacy. We are all sinful creatures, Luther and his followers argued. Lust has pervaded the conscience of everyone. Marriage is not just an option, it is a necessity for sinful humanity. For without it, a person's distorted sexuality becomes a force capable of overthrowing the most devout conscience. A person is enticed by nature to concubinage, prostitution, masturbation, voyeurism, and sundry other sinful acts. "You cannot be without a [spouse] and remain without sin," Luther thundered from his Wittenberg pulpit. You will "test your neighbor's bed" unless your own bed is happily occupied and used.

"To spurn marriage is to act against God's calling ... and against nature's urging," Luther continued. The calling of marriage should be declined only by those who have received God's special gift of continence. "Such persons are rare, not one in a thousand [later he said one hundred thousand] for they are a special miracle of God." The Apostle Paul has identified this group as the permanently impotent and the eunuchs; very few others can claim such a unique gift.

This understanding of marriage as a protection against sin undergirded the reformers' bitter attack on traditional rules of mandatory celibacy. To require celibacy of clerics, monks, and nuns, the reformers believed, was beyond the authority of the church and ultimately a source of great sin. Celibacy was a gift for God to give, not a duty for the church to impose. It was for each individual, not for the church, to decide whether he or she had received this gift. By demanding monastic vows of chastity and clerical vows of celibacy, the church was seen to be intruding on Christian freedom and contradicting Scripture, nature, and common sense. By institutionalizing and encouraging celibacy the church was seen to prey on the immature and the uncertain. By holding out food, shelter, security, and economic opportunity, the monasteries enticed poor and needy parents to oblate their minor children to a life celibacy, regardless of whether it suited their natures. Mandatory celibacy, Luther taught, was hardly a prerequisite to true clerical service of God. Instead it led to "great whoredom and all manner of fleshly impurity and ... hearts filled with thoughts of women day and night."

Furthermore, to impute higher spirituality and holier virtue to the celibate contemplative life was, for the reformers, contradicted by the Bible. The Bible teaches that each person must perform his or her calling with the gifts that God provides. The gifts of continence and contemplation are but two among many, and are by no means superior to the gifts of marriage and child-rearing. Each calling plays an equally important, holy, and virtuous role in the drama of redemption, and its fulfillment is a

service to God. Luther concurred with the Apostle Paul that the celibate person "may better be able to preach and care for God's word." But, he immediately added: "It is God's word and the preaching which makes celibacy--such as that of Christ and of Paul--better than the estate of marriage. In itself, however, the celibate life is far inferior."

Not only is the celibacy no better than marriage, Luther insisted. Clergy are no better than laity. To make this argument cogent, Luther had to counter the medieval chain of being theory that naturally placed celibate clergy above married laity. Luther's answer was his famous theory of the separation of the earthly kingdom and the heavenly kingdom. For Luther, the fall into sin destroyed the original continuity and communion between the Creator and the creation, the natural tie between the heavenly kingdom and the earthly kingdom. There was no series of emanations of being from God to humanity. There was no stairway of merit from humanity to God. There was no purgatory. There was no heavenly hierarchy. God is present in the heavenly kingdom, and is revealed in the earthly kingdom primarily through "masks." Persons are born into the earthly kingdom, and have access to the heavenly kingdom only through faith.

Luther did not deny the traditional view that the earthly kingdom retains its natural order, despite the fall into sin. There remained, in effect, a chain of being, an order of creation that gave each creature, especially each human creature and each social institution, its proper place and purpose in this life. But, for Luther, this chain of being was horizontal, not hierarchical. Before God, all persons and all institutions in the earthly kingdom were by nature equal. Luther's earthly kingdom was a flat regime, a horizontal realm of being, with no person and no institution obstructed or mediated by any other in access to and accountability before God.

Luther thus rejected traditional teachings that the clergy were higher beings with readier access to God and God's mysteries. He rejected the notion that clergy mediated the channel of grace between the laity and God—dispensing God's grace through the sacraments and preaching, and interceding for God's grace by hearing confessions, receiving charity, and offering prayers on behalf of the laity.

Clergy and laity were fundamentally equal before God and before all others, Luther argued, sounding his famous doctrine of the priesthood of all believers. All persons were called to be priests their peers. Luther at once "laicized" the clergy and "clericized" the laity. He treated the traditional "clerical" office of preaching and teaching as just one other vocation alongside many others that a conscientious Christian could properly and freely pursue. He treated all traditional "lay" offices as forms of divine calling and priestly vocation, each providing unique opportunities for service to one's peers. Preachers and teachers in the church must carry their share of civic duties and pay their share of civil taxes just like everyone else. And they should participate in earthly activities such as marriage and family life just like everyone else.

This same two kingdoms theory also provided Luther with a new understanding of the place of marriage within this earthly life. For Luther, marriage was one of the three natural estates of the earthly kingdom, alongside the church and the state, and was essential to the governance of the earthly kingdom. The marital household was to teach all persons, particularly children, Christian values, morals, and mores. It was to exemplify for a sinful society a community of love and cooperation, meditation and discussion, song and prayer. It was to hold out for the church and the state an example

of firm but benign parental discipline, rule, and authority. It was to take in and care for wayfarers, widows, and destitute persons--a responsibility previously assumed largely by monasteries and cloisters.

The marital estate was thus as indispensable an agent in God's redemption plan as the church. It no longer stood within the orders of the church but alongside it. Moreover, the marital estate of marriage was as indispensable an agent of social order and communal cohesion as the state. It was not simply a creation of the civil law, but a Godly creation designed to aid the state in discharging its divine mandate.

The best example of such an idealized marital household was the local parsonage, the home of the married Lutheran minister. The reformers had already argued that pastors, like everyone else, should be married--lest they be tempted by sexual sin, deprived of the joys of marital love, and precluded from the great act of divine and human creativity in having children. Here was an even stronger argument for clerical marriage. The clergy were to be exemplars of marriage. The minister's household was to be a source and model for the right order and government of the local church, state, and broader community. As Adolf von Harnack put it a century ago: "The Evangelical parsonage, founded by Luther, became the model and blessing of the entire German nation, a nursery of piety and education, a place of social welfare and social equality. Without the German parsonage, the history of Germany since the sixteenth century is inconceivable."

### **Contemporary Reflections**

In one sense, these ancient battles over clerical and monastic celibacy and marriage are a world away from our common experience today. In another sense, they are the stuff of the very latest headlines. The recent sensational media exposures of child abuse by selected Catholic clergy, and clumsy coverups by some of their episcopal superiors has rejoined many of these old issues, and redrawn many of the old battlelines between Protestants and Catholics.

It is, of course, easy for us Protestants today to sit back, content with the knowledge that we pointed out the perils of celibacy five hundred years ago, and replaced this odious institution with a happy system of marriage and family life for all. Just turn on CBN, tune in Sunday sermons, or read some Protestant periodicals, and you cannot help but sniff a thickening new air of Protestant smugness, sometimes even triumphalism, about our great reforms of marriage and family life. If only those Catholics would follow us.

Before we Protestants become too content with ourselves, however, it is worth remembering that some of these early Protestant marital reforms, however meritorious, were not without their own enduring problems.

Yes, the Protestant reformers did outlaw monasteries and cloisters. But these reforms also ended the vocations of many single women and men, placing a new premium on the vocation of marriage. Ever since, Protestant single women and men have chafed in a sort of pastoral and theological limbo, objects of curiosity and pity, sometimes even suspicion and contempt. These are stigmata which singles still feel today in more conservative Protestant churches, despite the avalanche of new ministries to help them.

Yes, the Protestant reformers did remove clerics as mediators between God and the laity, in expression of St. Peter's teaching of the priesthood of all believers. But they ultimately interposed husbands between God and their wives, in expression of St. Paul's teaching of male headship within the home. Ever since, Protestant married women have been locked in a bitter struggle to gain fundamental equality both within the marital household and without—a struggle that has still not ended in more conservative Protestant communities today. Add to this, the ample evidence of wife and child abuse, within traditional Protestant homes -- Protestant minister's home notably included, and the story is more sober than might be imagined.

We Protestants are not without our own institutional sins and shortcomings on matters of sex and marriage. We would do well stop throwing stones at Catholics and start bringing bricks to help in the reconstruction of a better Christian understanding of sex, marriage, and family life.

That said, it must also be said that there seems to be something gravely amiss with the American Catholic Church's insistence on maintaining mandatory clerical celibacy -- despite the mounting evidence of homosexual and heterosexual abuses among its clergy, and despite the rapid dwindling of eligible novates within its seminaries. There is something strangely anomalous with a hierarchy that will ordain married Anglican and Orthodox priests to fill its vacant parishes, yet deny Catholic priests and novates any such marital option.

To be sure, the First Amendment free exercise clause mandates that the Catholic hierarchy be free to conduct its internal affairs without interference by the state. And to be sure, this constitutional protection frees the Church to find its own internal resources to repeat, repair, or replace its rules of clerical celibacy as it sees fit. The First Amendment is one of our most cherished freedoms, which protects popular and unpopular religious practices alike.

But the First Amendment does not license violations of the life and limb of another, and does not protect corporate complicity and conspiracy. Child abuse is a very serious felony which the modern criminal law now punishes severely. And even mutually consensual sexual contact with a minor is a strict liability offense called statutory rape. Priests who engage in such sexual acts with minors must be aggressively prosecuted and severely punished if found guilty after receiving full due process. Bishops who harbor and hide such sex felons are accomplices after the fact and are just as guilty under modern criminal law as the sexual perpetrator himself. Church corporations who conspire in such subterfuge invite serious charges of corporate criminality and corruption.

The American church hierarchy today needs to stop hiding behind constitutional walls and sacramental veils and take firm public responsibility for its actions and omissions -- ministering first and foremost to the abused victims and their families, exposing and evicting the clerical sex felons and accomplices within their midst, and getting on with their cardinal callings of preaching the word, administering the sacraments, catechizing the young, and caring for the needy.

In medieval centuries past, the church and its clergy may have been above the law of the state, and thus privileged to deal with such clerical abuses by their own

means, in their own courts, at their own times. No longer. Privilege of forum and benefit of clergy have been dead letters in this country for more than a century. Clergy are not above the law. They should exemplify its letter and its spirit. The church is not above the state. It should set a model of justice and equity.

Few issues are as sublime and serious today as those involving sex and sexuality. Few crimes are as scarring as rape and child abuse. To rape a child is to destroy a child. To abuse a child is to forfeit one's office. No cleric found guilty of child abuse can continue in office. No Christian church found complicit in child abuse is worthy of its name. Bureaucratic wrangling and political lobbying are no way for the church to respond to recent events. Repentance, restitution, and reformation are the better course.

This text is drawn in large part from his *From Sacrament to Contract: Marriage, Religion, and Law in the Western Tradition* (Westminster John Knox Press, 1997) and *Law and Protestantism: The Legal Teachings of the Lutheran Reformation* (Cambridge University Press, 2002).