

# ENGAGING THE ISSUES OF LAW, MORALITY AND HEALTH CARE

REVIEWED BY FR. THOMAS NAIRN, OFM, PhD

Cathleen Kaveny, professor in Boston College's department of theology and in the law school, is equally comfortable debating moral theology issues with other scholars, teaching graduate students or conversing with Jon Stewart on the "Daily Show" (and being both humorous and instructive). This versatility has enabled Kaveny, author of such scholarly works as *Prophecy without Contempt: Religious Discourse in the Public Square* (2016) and *Law's Virtues: Fostering Autonomy and Solidarity in American Society* (2012), to spend more than a decade as a popular columnist for *Commonweal* magazine — a Catholic lay-run review of religion, politics and culture. Her latest volume, *A Culture of Engagement: Law, Religion, and Morality*, is a compilation of 56 of her essays from the magazine.

Because the chapters of the book all began as articles for *Commonweal*, either in the magazine itself or on its blog, they are relatively short, each three to four pages in length. And because the material covers more than a decade, Kaveny has reworked some of the essays to help readers recall the importance of the issues and further understand their relevance for today. To this end, she includes source materials in each chapter and provides suggestions for further reading.

The book's title plays on a phrase frequently used by Pope Francis, "the culture of encounter." Kaveny explains that "encountering those who are different and who are suffering is a key theme of his papacy." Similarly, Kaveny uses the term "culture of engagement" to highlight the necessity of encountering differences through a critical conversation between religious traditions in this country and the larger political and social culture. The essays exemplify what such a conversation might look like.

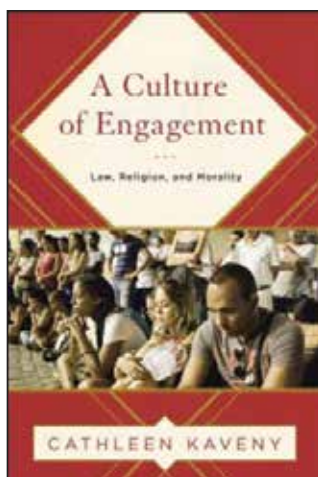
Kaveny has organized her essays around five themes, each of which becomes a section of the book: (1) Law as a Teacher, (2) Religious Liberty and Its Limits, (3) Conversations about Culture, (4) Conversations about Belief and (5) Cases and Controversies. These themes echo many of the concerns that Kaveny

has addressed in her more scholarly writings, but in a way accessible to the informed lay reader. Each of the five sections has an introduction to situate the essays that follow in a particular aspect of the critical conversation that Kaveny envisions.

The first section, on law as teaching, explains the pedagogical function of law, an idea more fully developed in her book, *Law's Virtues*. It shows the tensions between this ideal and what she calls the pragmatic quality of law, that of being sensitive to the actual situations of the people whom the law governs. Several essays in this section are of particular interest to those in Catholic health care, such as those on abortion, health care reform, assisted suicide and immigration.

Kaveny introduces the section on religious liberty by explaining her understanding of the establishment and free exercise clauses of the First Amendment. She follows it with essays on the Religious Freedom Restoration Act, conscience protection, the contraception mandate (along with the accommodation), the U.S. bishops' committee on religious liberty, and the Hobby Lobby decision.

In the next section, on conversations about culture, Kaveny addresses the culture wars that have arisen in the United States. She sees the phenomenon as an obstacle not only to the sort of conversation that she desires, but especially to the well-being of both political and religious communities within the U.S. The essays in this section challenge "either/or" reasoning and invite readers to engage in dialogue rather than



**A CULTURE OF ENGAGEMENT:  
LAW, RELIGION, AND MORALITY**  
BY CATHLEEN KAVENY

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the rancor of argument. Among the topics are pro-choice politicians, secularism and the new atheism.

The fourth section, on conversations about belief, reprises several elements of the preceding sections by looking at the culture wars within Catholicism. Kaveny speaks of a culture of openness as opposed to a culture of identity, suggesting that the latter is ill-equipped to deal with the nuances of doctrinal development. Within this section are essays devoted to the late Cardinal Joseph Bernardin's common ground initiative, feminism, the ban on contraception, the use of morality clauses in Catholic ministries, and clergy sexual abuse.

The final section deals with controversial moral cases, which Kaveny believes can sharpen moral reflection by forcing us to ask how well our moral categories allow us to deal with the messiness we encounter in the real world. She is indebted to her mentor, Judge John T. Noonan, Jr., and especially his book, *A Church That Can and Cannot Change: The Development of Catholic Moral Teaching*, as she reviews issues such as abortion and contraception, the bishops' election guide (*Forming Consciences for Faithful Citizenship*), American Civil Liberties Union lawsuits against Catholic hospitals, and the Affordable Care Act.

Those who have followed Kaveny's writing know she is not afraid to express an opinion — followed by the evidence to back it up. One may argue with her conclusions, but her writing is always thoughtful and thought provoking. Because of their short length, the essays in *A Culture of Engagement* often are more evocative than fully argued. They usually invite a response, however, which accomplishes the goal I believe she has for this volume — that of engaging the reader in thoughtful, critical conversation on topics important to us as both Americans and members of a faith community.

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