

CHAPTER NINE

*The Priest and Clustering: Law and Practice**Patrick Connolly**Introduction*

Christians have always felt somewhat ambivalent about the proper role of law in a life of faith, and in the church law is auxiliary in that its role ultimately is to assist people in the reception of God's saving mysteries. Nonetheless, a viable community needs not only goodwill and fraternal love, but also requires rules for the orderly conduct of its affairs, to delineate the functions of its leaders, and to govern relationships among its members. Without structures, vision lacks reality. So for as long as the church has existed, it has had some form of canon law in which it attempts to express its own self-understanding. This ecclesiological self-understanding can adapt itself to changed circumstances, leading to a change in canonical structures. Historically, parishes and indeed parish priests were seen as fairly independent of each other in a canonical sense, relating more directly to the bishop and the diocese than to each other. This is in contrast with the current thinking behind parish clustering. However, that is not to say that clusters of parishes have no canonical precedents or current canonical analogues.

Under the old canon law of the 1917 Code, the bishop had to divide the diocese into regions or districts which were called 'deaneries' or 'vicariates forane'. The 1983 *Code of Canon Law* makes this sort of division optional for the bishop: c. 374 §2 says that to foster pastoral care through common action, several neighbouring parishes can be joined into special groupings. The only example the canon gives of such a grouping of parishes is the vicariate forane, often still called the deanery in many places. The priest in charge of a deanery or vicariate forane is the vicar forane. He is to visit parishes in accordance with the arrangement made by the bishop, co-ordinate and promote common pastoral action, see that the clergy fulfil their duties and that the liturgy is celebrated properly, ensure that parish registers are kept correctly and church properties are properly

maintained, help clergy in difficulty, make sure care is provided for sick clergy and ensure that priests' funerals are worthily celebrated. The office of vicar forane is not attached to a particular parish and any suitable priest can be appointed, though it was (and sometimes still is) often customary to designate a parish in the deanery whose parish priest was automatically the vicar forane.

Practically speaking, deaneries often simply acted as area gatherings for the clergy of neighbouring parishes, and in some places the actual role of vicar forane was and is more nominal than real, with the tasks mentioned in the Code not being pursued too vigorously. This is perhaps not that surprising, because while the vicar forane acts as the bishop's agent in carrying out a number of responsibilities, including supervisory ones, ultimately the vicar's authority is pastoral, rather than legal or governmental in the strict sense, unless this is provided for in diocesan particular law. The Code says nothing about the relationship of the vicar forane with the laity or with the various forms of apostolate which involve all the members of the Christian community.

Therefore, the concept of deaneries or vicariates forane in the Code fundamentally revolves around the clergy, and presupposes the traditional independence of parishes. Thus it seems an inadequate vehicle for the developing concept of 'clusters of parishes'. It is important to note that while c. 374 §2 gives vicariates forane as an example of groupings of parishes, it doesn't restrict such groupings to these vicariates or deaneries. In other words, the bishop can establish other sorts of groupings of parishes. Also, the bishop can create a region or district in the diocese and place an episcopal vicar in charge (c. 476). Hence while the term 'clustering' receives no explicit mention in the Code, it doesn't exclude future developments about how parishes could be grouped together.

The Code is a document written for the universal church and the phenomena of clustering parishes is relatively new. Thus current canon law says nothing explicitly about the concept of 'clustering' *per se*, nor how priests are to relate to this idea, though, as we shall see, there are parts of canon law which do indirectly impinge on these new developments. Indeed, leaving aside the law currently in force, even in the scholarly literature of canon law, there is hardly anything written about parish

clustering as a concept in itself. From the point of view of clustering and parish governance issues, we are entering new territory about which there has been little canonical study in the formal academic sense.

This is not really surprising. Historically, in the church the experience of priesthood in relation to parish life has been very diverse, ranging for instance from feudal times, where the parish priest was almost a cultic serf, to the post-Tridentine model in which the laity were considered mere passive subjects of the activity of the parish priest – the model which dominated church life till after the Second Vatican Council. Indeed, the history of presbyteral ordination rites and prayers demonstrates different emphases in the role of the priest at different times.

The theme 'Priest and Clustering' is wide-ranging, so for our purposes, we will restrict our reflections to some thoughts on how the traditional role of parish priest may relate to these new developments whereby parishes are clustered together.

1. Appointment to and Stability in the Office of Parish Priest in the Context of Clustering

One cannot be validly appointed as a parish priest (*parochus*) unless one is in fact an ordained presbyter (C 521 §1). The Code sees each parish being entrusted by the bishop to a parish priest as its proper pastor. Even for a parish entrusted to a religious congregation, one priest must be named as parish priest or as the moderator mentioned in c. 517 §1.¹ The general canonical principle is 'one parish – one parish priest', and so the Code emphasises the importance of the office of parish priest. He is a holder of an ecclesiastical office in the church and thus he has both extensive responsibilities and also certain rights (e.g. he cannot be removed from office except for cause, and a formal canonical process is required for his removal). The church has through experience learnt that it is necessary for a parish priest to have the benefit of what is called 'stability' – a certain right of tenure or security in office. This is not just a comfort zone for the parish priest: it is also the parish's right to stability and continuity in the pastoral care it receives. Genuine pastoral care means that people need time to get to know their parish priest and he

1. See A. Palmieri, 'Parishes Entrusted to the Care of Religious: Starting Afresh from Christ', *Proceedings of the Canon Law Society of America* 64 (2002) 222-224.

needs time to learn their particular needs and circumstances. A rapid turnover of parish priests is hardly good for either parishioners or for the priests concerned.

The tenure rights of parish priests have been considerably reduced as a consequence of the Second Vatican Council's wish that the concept of 'irremovable and removable parish priests' be abolished. However, the preference of canon law (as specified in c. 522) is still that a parish priest be appointed for an indeterminate period of time, so that he will have the benefit of stability. The Code regards an indefinite appointment as the usual situation. It allows the bishop to make appointments for a specified period only if the Bishops' Conference with a two-thirds majority has provided by decree for such a term, which also must have been approved by the Holy See (in Ireland, it is six years).²

The general canonical principle still remains 'one parish – one parish priest'. So there cannot be more than one parish priest in the same parish (c. 526 §2). But the Code recognises that because of the shortage of priests a priest may be entrusted with the care of a number of neighbouring parishes (c. 526 §1). In other words it is possible for one priest to be parish priest of several independent parishes. Likewise a curate may be assigned to several parishes.

Parochial administrators have the same rights and duties as parish priests, except they do not enjoy stability in office – they serve *ad nutum Episcopi* and can be removed at will, unlike parish priests who can only be removed or transferred against their wishes by the bishop following a canonical process (cc. 1740-1752). Canon law sees that the normal method of provid-

2. Irish Bishops' Conference, Revised Decree No 5, promulgated in *Intercom*, September 2005: 'The primary provision of canon 522 that parish priests may be appointed for an indefinite period of time remains in force. Individual diocesan bishops may appoint parish priests to a six-year term of office. The possibility of renewing this term is left to the discretion of the diocesan bishop.' An accompanying commentary by M. Mullaney says a bishop may appoint a parish priest for a longer period, up to nine years. He refers to an unpublished letter from the Holy See which approved the Decree; this letter (whose text is not given) apparently indicated a flexibility in the term of between six and nine years. However, the text of the actual Decree itself is clear that the term is six years and it is the approved promulgated Decree which remains the law.

ing pastoral care for a parish is through a parish priest, while an administrator is seen to be more of a temporary arrangement. Historically, there has been a temptation for bishops to appoint many parochial administrators (e.g. in 19th century USA) because they can be removed or transferred very easily – this was resisted by the Holy See. History teaches us that a balance of rights is necessary in the church: a balance of rights among those of the bishop, the priest and the people.

If a priest has to look after a number of parishes, there are a number of ways in which this can be done. He can be administrator of all the clustered parishes. In the context of parish clustering, some have spoken of this approach as an 'interim juridical solution', but such an approach needs to be treated with caution, because it suffers from the disadvantage mentioned above. A diocese made up of clusters of parishes entrusted to parochial administrators is far from ideal, given the concern about balancing various rights and responsibilities.

The priest can be parish priest of each of the clustered parishes. The parishes do not have to be united or amalgamated. He can be parish priest of one or some of the parishes, and also in line with c. 517 §2 (see below) be the priest endowed with the faculties and powers of a parish priest, sometimes called the 'priest-director', for the other(s).

Another solution is that he can be parish priest of one parish and administrator of the others. It is interesting to note that this is the practice largely found in Spain.³ It gives the priest a certain stability and security in office, while allowing the bishop flexibility about the other parishes.

2. Clustering and Situations where there is no Parish Priest

A. Entrustment of a number of parishes to a group of priests *in solidum*, with one priest acting as Moderator (c. 517 §1)

The pastoral care of a number of clustered parishes can be entrusted to several priests jointly (*in solidum*), but one of the priests must be the moderator of the pastoral care to be exercised and be responsible to the bishop. The priests jointly carry out the pastoral care of the parishes under the direction of the

3. See A. S. Sánchez-Gil, Commentary on c. 526, *Exegetical Commentary on the Code of Canon Law*, ed Á. Marzoa, J. Miras, and R. Rodríguez-Ocaña, English language ed, gen ed E. Caparros, (Montreal: Wilson & Lafleur, Chicago IL: Midwest Theological Forum, 2004), vol II/2, 1312.

moderator. While he holds a particular leadership position in the group, exemplified in that he represents the parishes in juridical affairs (c. 543 §1 3°), nonetheless the moderator is simply a *primus inter pares*.⁴ This is a sort of 'team ministry', and some have spoken of 'joint parish priests' or 'co-parish priests'. This latter terminology can be misleading. While for the most part, the priests have the obligations of a parish priest and can exercise the functions and faculties of that office (cc. 542-544), there is actually no *parochus* strictly speaking. No one holds the ecclesiastical office of parish priest in the canonical meaning of the term.

This *in solidum* idea is new in canon law, and has received a mixed reaction from commentators. While recognising that it would provide for some pastoral circumstances, not everyone is convinced that it can lead to better ecclesiastical organisation. If things become difficult in the group of priests, who exactly is in charge and makes the ultimate decisions? Or, to take another example, we could have a cluster of three parishes being served by three priests, each living separately in one of the parishes and acting effectively as its *quasi-parochus*, making one wonder what is the difference in practice is from the traditional model of three parishes, except perhaps as a stepping stone to amalgamation of the parishes. Because the universal law of the Code is silent on the detail of the priests' joint action and co-responsibility, it is probably best if these are specified more concretely in a diocesan statute or ordinance, for example defining the competences of the moderator with greater accuracy, especially to deal with situations where there is no unanimity in the team.

B. Entrustment of a share of in the pastoral care of a parish to a deacon, to somebody is not a priest, or to a community of persons (c. 517 §2)

This entrustment is allowed by the Code when there is a shortage of priests. However, the bishop must appoint a priest with the faculties and powers of a parish priest to direct the pastoral care of the parish. A priest is to direct the care exercised by persons not ordained to the presbyterate, but this priest while enjoying the powers and faculties of a parish priest is not technically the *parochus* of the parish. Canonically, the ecclesiastical office is vacant. No title is given to the priest-supervisor, or

4. See the thinking of the Commission for the Revision of the Code in *Communicationes* 14 (1982) 222.

indeed to the deacon or other person(s) who participate(s) in the exercise of parochial pastoral care. In other words, part of the pastoral care of a parish can be given to a non-priest, but a priest must oversee it – he could be, for instance, a neighbouring parish priest or a priest working as a chaplain somewhere else.⁵

It is worth noting that when in 1997 eight departments of the Roman Curia together issued an Instruction on 'Certain Questions Regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priests', c. 517 §2 received a lot of attention in the document. It saw this canon as an extraordinary and exceptional form of collaboration, and forbade the use of titles like 'co-ordinator' or 'moderator' or 'pastor' for a person who is not a priest – this person shares in the exercise of pastoral care but does not 'direct', 'co-ordinate', 'moderate' or 'govern' the parish – these are the competencies of a priest according to the Instruction.⁶ It doesn't tell us what terminology to use, but certainly is clear on forbidden titles. The Instruction demonstrated a deep Roman unease with developments which in its view undermine the distinctiveness of priestly ministry, and clearly preferred other solutions than that mentioned in c. 517 §2 (e.g. by using retired priests, or entrusting several parishes to one priest or to a *coetus sacerdotum in solidum*). This is related to the ongoing Roman concern about the centrality of priestly ministry to parish life and the danger of reducing the priesthood to a functional existence.⁷

In short, when there is no parish priest, canon law tries to maintain a link between an ongoing constant priestly presence and the parish. The church herself has not yet worked out completely the relationship between priestly and lay ministry. For instance, canon law's hesitancy about *cura animarum* (to use the

5. See G. D. Yanus ('Part 1: The Parish') and T. G. Sullivan ('Part II: The Role of the Parish Administrator'), 'Sacramental Life of Parishes without a Resident Pastor', *Proceedings of the Canon Law Society of America* 66 (2004) 207-241.

6. See Articles 1 §3 and 4 §1 of the Interdicasterial Instruction, *Ecclesiae de mysterio*, On Certain Questions Regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priests, 15 August 1997, *Acta Apostolicae Sedis* 89 (1997) 852-877; English translation in *Origins* 27 (1997-1998) 397, 399-409.

7. See, for instance, the Instruction of the Congregation of the Clergy, *The Priest, Pastor and Leader of the Christian Community*, no 26, 4 August 2002, *Origins* 32 (2002-2003) 385-386.

traditional term for pastoral care) by the laity – see c. 150 which says that the holder of an ecclesiastical office ‘entailing the full care of souls’ must be a priest – has its roots in the equally tentative texts of Vatican II. What the council wished to avoid is often clearer than what it wished to say positively. Frequently, Vatican II was far more concerned with distancing itself from past frameworks than it was in constructing a new, internally coherent, theological framework.

Conclusion

In one sense we have to be patient and struggle with the uncertain, because we are living in the wake of an ecumenical council and a very changed Ireland. Socially, theologically and canonically we are in a state of flux about how priests, parishes and people relate, and that is not too comfortable. It would be much easier if someone could give us the new worked-out canonical model for clustering. However, that is not the way it has worked historically. Practice often comes before theological theory which then expresses itself in canonical structures. Pastoral practice in the church sometimes runs ahead of theological reflection and canonical order. Practical needs arise in the church and people try to respond to them, as we see in the discussion about parish clusters. Law follows life, in the sense that canon law follows on from the lived experience of church life, and often the law takes a while to catch up with that experience. Of course, that is not to say that everything which develops in pastoral practice is necessarily good or desirable in the longer term, which is why so much of canon law seems to be about curbing abuses which existed sometime in the past.