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*Irish Theological Association Reflection Initiative*

## **Issues of Episcopal Governance in the Light of the Murphy Report<sup>1</sup>**

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**I**T OFTEN takes a major tragedy to bring us to our senses and make us face realities that we would prefer to ignore or deny. The fact that so many innocent and vulnerable children have been the victims of physical and sexual abuse by those from whom they should have expected protection and compassion, namely bishops, priests and religious, has shocked and appalled us for the best part of two decades.

The cataloguing of these appalling events in the Ryan<sup>2</sup> and Murphy Reports removes the possibility of anyone denying that a major crisis confronts the Church, not just in Ireland but worldwide. While we extend our sympathy to the victims, we can also express our gratitude to them for enduring the painful processes of retelling their stories before tribunals and the media. Without their forthrightness and courage we would still be in denial. One can only hope that what they have done to date will enable all the other countless victims (there were 2,379 reported cases of sexual abuse in Ireland during 2008 according to the CARI Annual Report<sup>3</sup>) to find some support and comfort as they process their pain and anguish.

1. *Commission of Investigation: Report into the Catholic Archdiocese of Dublin, July 2009*, Volumes 1-3, (Dublin: The Stationery Office, 2009). It is also referred to as the *Murphy Report*, after the Commission's chair, Judge Yvonne Murphy.

2. *Report of the Commission to Inquire into Child Abuse*, Volumes 1-5, Dublin: Stationery Office, 2009. (Commonly referred to as the *Ryan Report*, after the Commission's chair, Mr Justice Seán Ryan).

3. [http://www.laurencemechan.com/pdf/Annual\\_report\\_20082009.pdf](http://www.laurencemechan.com/pdf/Annual_report_20082009.pdf)

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While the issues raised by these various reports are ones for whole societies to address, here I want to look at just one theological problem that has been thrown into sharp relief by the Murphy Report, namely, the issue of episcopal governance.

Towards the end of its first chapter the Murphy Report says that the conclusion reached by the Attorney General in Massachusetts following his investigation of the Archdiocese of Boston was equally applicable to Dublin. It said that the abuse was

due to ... a massive and pervasive failure of leadership. For at least six decades successive Archbishops, Bishops and other in positions of authority ... operated with tragically misguided priorities. They chose to protect the image and reputation of their institution rather than the safety and well-being of children entrusted to their care. They acted with misguided devotion to secrecy (1:110).

When Robert S. Bennett *et al.*, published their *Report on the Crisis in the Catholic Church in the United States*,<sup>4</sup> for the National Review Board for the Protection of Children and Young People, they said:

[T]he crisis besetting the Church is not a legal crisis, a media crisis, or a personnel crisis, but a crisis of trust and faith; and it is only by the living out of their faith by bishops, priests, and the laity that the Church will be able to regain trust and fulfill its mission (10).

In other words, they acknowledged that the crisis is, essentially, a theological one.

Here I want to focus on the episcopal ministry, not just in response to media or public commentary on the hierarchy but also in the light of the fact that some of the harshest words in Benedict XVI's letter to the Catholics of Ireland were reserved for the bishops. He told them:

Grave errors of judgement were made and failures of leadership occurred. All this has seriously undermined your credibility and effectiveness ... Only decisive action carried out with complete honesty and transparency will restore the respect and good will of the Irish people towards the Church ... This must arise, first and foremost,

4. Washington DC: USCCB, 2004

from your self-examination, inner purification and spiritual renewal ... I therefore exhort you to renew your sense of accountability before God, to grow in solidarity with your people and to deepen your pastoral concern for all members of your flock.

One could also say he does not go far enough in that some of the problems which he identifies have their roots in the relationship that exists between the bishops and the See of Rome – an issue to which I will return later.

Murphy identified a wide range of leadership issues:

- bishops did not follow the legal structures available to them and when processes were set in motion, they did not complete them;
- they were preoccupied with secrecy and there were very poor communications among the bishops, with their priests, with parishioners, with religious, and with the victims;
- there was no open discussion even among the bishops about the serious issues that they were encountering;
- there was poor monitoring of priests who were accused of abuse;
- there was nothing resembling a management structure in the Archdiocese;
- it is not known what criteria are used when an archbishop is being chosen, but doctrinal orthodoxy seems to be the primary criterion;
- the role of the auxiliary bishops was ill-defined, with no clarity about their power or responsibility;
- there was no external critique or oversight of what was being done by diocesan leadership;
- generally the archbishops didn't ever meet the victims of abuse;
- the focus of their attention seemed to be, in Murphy's words, 'on the avoidance of scandal and the preservation of the good name, status and assets of the institution and of what the institution regarded as its most important members – the priests' (1.113).

#### FROM VISION TO ACTION

Perhaps from an ecclesiologist's perspective it might be convenient to claim that the various problems that have been identified would not

have arisen if the ecclesiological vision of Vatican II had been faithfully implemented both in law and in practice. This is too simplistic a solution.

Giles Routhier has sounded a timely warning against such a tempting approach.<sup>5</sup> The smooth transition from a vision to action is neither easy nor inevitable. While we have a theological corpus with which to work we also have to take seriously both the experience of the Church at any

given time and the reflection upon that experience. This can lead us back to discover hidden insights and values that have not previously surfaced or have been long neglected.

Yves Congar illustrated this dynamic between theology and experience by reference to two significant moments in the life of the Church,

one ancient, one new: Acts 11:1-18 and Vatican II, respectively. Peter first had a vision of the unclean foods which the Lord invited him to eat. When he protested he was told: What God has made clean, you have no right to call profane (11:9). However, it was only when three men arrived from Caesarea and invited him back to their house that he 'remembered what the Lord had said'. In other words, the experience and his reflection on it allowed him to arrive at a new insight into the vision which convinced him about the genuinely universal nature of the community and its mission. Similarly, at the Council, the bishops experienced the universal and collegial nature of the Church in practice. It was the experience that enabled them to appropriate some of the ecclesiological values that were being proposed. Here vision and experience interacted with one another in a fruitful manner.

The problem, Routhier suggests, is not so much that the memory of the vision of Vatican II has lapsed as that the practice and the experience remain to be verified. Declarations in themselves do not suffice to construct the lived consciousness or reality. He says:

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5. 'A Forgotten Vision? The Function of Bishops and its Exercise Forty Years after the Second Vatican Council', *The Jurist* 69 (2009), 155-169

[T]he construction of lived experience is the result of the encounter of a ... situation and an experience with that which is latent, ... and enveloped in the memory of the Church or its tradition.<sup>6</sup>

It is only when something which puts these two in motion, the experience and the memory, that the lived consciousness develops. So, efforts at reform will not happen simply by appeal to conciliar texts or theological constructs. We have to look honestly at the challenges of the moment and consider other practices, situations and institutional models that may help us. Then the texts, together with the vision and the values that they enshrine, can begin to prove their worth and validate new approaches in areas of governance.

#### CHALLENGES

So what are the challenges then that we face in the light of what the Murphy Report has lain bare and what are the memories to which we can appeal for hope? Here we can keep in mind that the challenges raised by Murphy are not confined to the Church in Ireland but pertain to the whole Church.

#### *Centralization*

The exercise of the Petrine ministry continues to promote the centralization of authority in the Church, causing serious difficulties for bishops and other office holders in the local churches. The memory of the Church provides ample evidence for local and provincial synods taking initiatives and regulating discipline without having to have recourse to Rome in the first instance. In fact many important doctrines and disciplines decreed by local councils were subsequently received by Rome and by the universal Church.

#### *Episcopal appointments*

Episcopal appointments have become the exclusive prerogative of the Pope. This has not always been the case and for more than a millennium no one could be appointed bishop without the approval of the people and clergy of the diocese. Patristic literature, conciliar decrees and liturgical texts attest to this fact. From about 1485 the consent of

6. *Ibid.*, 159

the people and clergy was replaced by the papal mandate as the only necessary element of approval of a candidate before his ordination as a bishop.

One of the current criteria for appointment is 'loyalty and docility to the Holy Father'. Bishop Thomas Gumbleton, retired auxiliary in Detroit, commented that the current criteria preclude the advancement of persons with initiative, courage and imagination and who are open to new things. To this extent there is a Roman dimension to the current crisis because the system of episcopal appointments almost precludes people who will challenge the operative systems of governance.

#### *Accountable – to whom?*

Benedict XVI urged the bishops to renew their 'sense of accountability before God'.

It is also important that they renew their sense of accountability before the local and universal Church. Whatever their legitimate claims to divinely given authority and apostolic succession, this does not legitimate them being humanly unaccountable. They show some accountability to the Pope through their *ad limina* visits, but even here Murphy shows how unsatisfactory this is in practice. In 1999, Archbishop Connell submitted a 100-page *ad limina* report with ten lines on the problems around child sexual abuse. Bishops have not become accustomed to accountability or to explaining any of their decisions, actions, or lack of action.

However, neither clergy nor faithful to date have been particularly forceful in pressing the issue of accountability. The media have facilitated the initiation of the process, but the media cannot be relied on, in the long-term, to ensure that there are proper structures of accountability in the Church. It is not the role of the media to do so, nor does the nature of the mass media allow them to sustain their focus on a single issue for prolonged periods.

Again the memory of the Church provides ample evidence for structures of accountability: cathedral chapters, diocesan synods, provincial synods, oversight by metropolitans, the separation of functions in a diocese, where, for example, the finances were handled by the archdeacon and the chapter, and not by the bishop. There is no

reason why a bishop is not more accountable to the metropolitan, subject to a regular and thorough audit of his governance, similar to accreditation procedures in the universities. The visitation processes operative in religious orders and congregations provide another possible memory or model.

A bishop who says that 'nobody will tell me how to run my diocese' is not only arrogant, but risks the well-being of all the people in his diocese, the reputation of the Church, and the credibility of his fellow bishops.

#### *Episcopal conferences*

Episcopal conferences emerged in the nineteenth century as a way of circumventing the perceived excesses of Roman supervision of provincial or national synods. They allowed bishops an opportunity to meet and discuss issues of common concern. These were given proper recognition by Vatican II and for some time were a reasonably successful instrument for the exercise of episcopal collegiality by national or local hierarchies until *Apostolos suos*,<sup>7</sup> rendered them practically ineffective; their teaching and legislative functions are tightly circumscribed by law. A conference can only enact binding legislation if the universal law already allows it or the conference receives Roman approval to do so.

For instance, the complexities of this situation mean that to date we do not have binding norms for child protection in place in Ireland; we just have guidelines. Furthermore, at a local level no bishop is answerable to the episcopal conference and it has no jurisdiction over his actions. Nevertheless, the memory of the Church is that regional synods consistently regulated the life and practice of the Church and ensured levels of collegial responsibility at a local level.

#### *Trusting the clergy*

Presbyteral councils and colleges of consultors are mandatory in every diocese. However, the agendas for these can be controlled by the bishop. They have the potential to be useful fora for discussing issues of governance and sources of guidance and accountability for the bishop. It is evident from the Murphy Report that the serious is-

7. [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/motu\\_proprio/documents/hf\\_jp-ii\\_motu-proprio\\_22071998\\_apostolos-suos\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/motu_proprio/documents/hf_jp-ii_motu-proprio_22071998_apostolos-suos_en.html)

sues with which the archbishops of Dublin were struggling were not discussed comprehensively even at meetings with the auxiliary bishops, much less the presbyteral councils.

This raises issues of trust. Other bodies have to discuss sensitive and confidential material and have to be trusted not to breach professional codes of confidentiality. Again, the memory of the Church provides ample evidence, from the time of Ignatius of Antioch, through the medieval period, to show that the college of presbyters is an important body of advisors and counsellors for the bishop. This ancient practice was articulated again in the documents of Vatican II.

#### *Shared accountability*

Other instruments of local governance such as Diocesan Pastoral Councils and Finance Councils can be instruments of shared accountability and transparency. It is only when the faithful and the clergy begin to insist more forthrightly on these instruments of shared governance that the experience will be tested and the vision and the practice refine one another for the greater advancement of the reign of God among us.

#### ALTERNATIVE MODELS

There are several other issues that one could address here, such as the status of auxiliary bishops in a diocese, the use of titles of honour and insignia, the convocation and workings of synods, lessons to be learned from good leadership and management practices. The list could be extended, but it is sufficient to indicate the scope of the reflection that needs to be undertaken.

However, the issues concerning episcopal governance that have been raised here, while indicative, are nevertheless real and pressing. Vatican II in several of its documents did much to retrieve the memory of other approaches to episcopal governance. It certainly attempted to balance the excesses of Vatican I, with its excessive emphasis on Petrine primacy, by emphasising the collegiality of all the bishops, including the Bishop of Rome. It validated the status and importance of episcopal conferences and brought back into prominence the collegial nature of the presbyterium of a diocese and its intimate bonds with the bishop in the governance of the diocese. It accented the role of all baptised

members of the Church and the responsibilities that they have for its life and mission. In doing this the Council appealed to the great tradition of the Church which provides ample evidence for a less centralized and more locally responsible forms of governance.

So, as the Church, local and universal, reflects on the fundamental issues that the current crisis has thrown up, it can begin to rediscover the rich resources and alternative models for ecclesial governance that Vatican II already offers on the basis of historical precedents. Maybe it takes some harrowing experiences, like those of recent times, for us to experience again the breath of the Spirit blowing among us, stirring up a new springtime.

***Separation of powers – One of the great acquisitions of modern democratic constitutional states is that of the division of the legislative, executive and judicial powers. Where that distinction begins to unravel, inevitably the door opens for totalitarian rule to prosper and for a culture of corruption to thrive.***

***✠ Diarmuid Martin, preaching at the Red Mass, for the opening of the legal year***