

Priest and Bishop: Implications of the Abuse Crisis

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Source: *The Furrow*, Vol. 57, No. 3 (Mar., 2006), pp. 131-141

Published by: The Furrow

Stable URL: <https://www.jstor.org/stable/27665307>

Accessed: 17-12-2018 14:42 UTC

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Priest and Bishop

– *implications of the abuse crisis*

Patrick Connolly

The fall-out from the clergy abuse crisis continues to reverberate, and nobody can even foresee all its long-term implications for the Church. What seems clear is that the crisis shows little sign of abating. One side effect of the present crisis could be a significant change in the way ordinary clergy relate to the hierarchy. There are already signs from other English-speaking countries, especially the United States, of growing concern and indeed sometimes suspicion on the part of what was historically called the 'lower clergy' about whether, in reaction to the present crisis, the episcopal leadership have their interests and their parishioners' interests primarily at heart, rather than the traditional preoccupation with institutional (and indeed perhaps occasional episcopal) self-protection which led to the crisis in the first place. This has not gone unnoticed by some bishops, as evidenced by the address of the president of the American bishops' conference at their meeting in November 2005.¹ Just as the scandals have seriously damaged trust between priest and people, the danger now is that the bond of trust between priest and bishop will become likewise undermined.

Although the last ten years have left priests feeling battered and vulnerable, they have no desire to see their concerns put in competition with those of victims. In fact priests are often unwilling even to articulate their worries in case it would be seen as somehow self-serving or taking away from the need to address the abuse problem correctly. Nonetheless, the continuing impact of the crisis on the priesthood deserves exploration, and this paper focuses on one particular aspect: the evolving nature of the priest-bishop relationship.

1. See William Skylstad, Presidential Address to the United States Conference of Catholic Bishops, 14 November 2005, in *Origins* 35 (2005), no. 24, pp. 389-397, especially p. 392.

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Reflecting a long ecclesial tradition, the Second Vatican Council spoke of the bond between bishop and priest as that of father, brother and friend, envisaging a relationship of mutual trust and dialogue.² As the domino effect of the crisis continues, such an understanding of the relationship between bishop and priest would seem no longer practicable or even tenable. We begin by observing how some clergy are coping with the scandals by distancing themselves from Church leadership, and more generally how practical concerns about confidentiality and allegations are quickly eroding the traditional understanding of the relationship between priest and bishop. Then we see how the Church's dealing with clergy offenders has profound implications for the theological understanding of this relationship and indeed even of the priestly office itself, while dealing also with the related issue of 'geographical justice', as it is called. Finally, the question of institutional self-protection is raised as it is now affecting the bishop-priest relationship in a different way than the past.

PRIESTS DISSOCIATING THEMSELVES FROM CHURCH LEADERSHIP

The first unfortunate consequence of the crisis worth noting is that at a pastoral level some priests seem to be dissociating themselves from the bishops and the so-called 'institutional Church'. This is hardly surprising on a human level, since it is an effort not to be painted with the same brush of institutional cover-up and incompetence. It is also allied to the loss of credibility of most institutions in Irish life, a phenomenon which has profound social implications in the longer term.

One of the roots of this clerical dissociation from the institution is a profound scepticism about the ability of the current collective episcopal leadership to lead the Church out of the crisis. The emphasis here is on the collective, because a few individual bishops have succeeded in impressing people and priests. This scepticism about the Church's collective leadership exists even among the many priests who realize that individual bishops are people of integrity now caught between a rock and a hard place, and who struggle to do what is right. Another root of this dissociation from the Church's leadership is a genuine effort by priests to maintain pastoral contact with the many Catholics who have become thoroughly disillusioned as the scandals continue to

2. See Vatican II, Dogmatic Constitution on the Church, *Lumen gentium*, no. 28; Decree on the Pastoral Office of Bishops in the Church, *Christus Dominus*, nos. 16, 28; Decree on the Ministry and Life of Priests, *Presbyterorum ordinis*, no. 7. A commentary on how the Church views the bishop-priest relationship can be found in the Congregation for Bishops Directory for the Pastoral Ministry of Bishops, *Apostolorum successores* (Vatican City: Libreria Editrice Vaticana, 2004), nos. 75-83.

mount. If this dissociation were to develop, the hierarchy could end up increasingly isolated and practically irrelevant within the Church, and that could not be good for its overall mission in society.

CONFIDENTIALITY

The media furore some time ago about confidential files in relation to allegedly offending clergy died down as bishops stated their willingness to provide relevant information to the civil authorities. Leaving aside the particular issue of child abuse, in the longer term there may be a major problem if clergy believe that information in their personnel files might become public or appear in the newspapers. It is no wonder that in the USA clergy are being advised by civil lawyers and canonists to seek access to their personnel files, to make sure there is nothing in them of which they might not be aware, or indeed that might be inaccurate. The latter is a matter of particular concern. A thinking priest must now wonder what exactly is in his file, if indeed there is one, and what would be the consequences if inaccurate information were to be given to outside authorities. This has already happened in the United States.

Aside from the issue of files, there is the much broader worry, namely, that matters a priest discusses with his bishop may not be ultimately confidential. If this is so, priests with all sorts of personal problems will be even more reluctant to turn to their bishop for help and advice. As a result, the relationship between bishop and priest moves to a different level, because there is no fundamental trust. In addition, bishops become unable to help priests who may need help. Without an assurance of confidentiality, it is hard to see how the special 'father-son' relationship between priest and bishop envisaged in Church documents can survive the present crisis.

VULNERABILITY TO FALSE ALLEGATIONS OR SUSPICIONS

Surveys of American clergy (in 2002, and more recent data published in October 2005)³ reveal among clergy a fear of false allegations, and especially concern among priests that they will be left 'to hang out to dry' by Church authorities in such circumstances. It is hard to believe the fear is significantly less here in Ireland. At the time of writing the new Irish Church document, *Our Children Our Church*, lacks any indication that it has received a Roman *recognitio*, so its exact status in canon law is as yet unclear. Its

3. See Katarina Schuth, 'A View of the Priesthood in the United States', *Louvain Studies* 30 (2005), pp. 17-19; Stephen J. Rosetti, 'Priestly Life and Morale Today', *The Priest* 61 (October 2005), pp. 12-21, 47.

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canonical section (chapter 10) simply repeats and summarizes the general provisions of universal law, without any indication whether the document or parts thereof constitute particular law for Ireland. The document seeks to deal with situations where abuse may be alleged or be simply suspected.⁴ In dealing with allegations when they first arise, the key phraseology is that there are 'reasonable grounds for concern that abuse may have occurred', and 'at least a semblance of truth to the allegation'. According to the document, action must be taken against the accused person unless it would have been impossible for the person complained of to have committed the alleged action or offence. In the case of suspicions (e.g. rumours, anonymous claims), again the key question is whether reasonable grounds for concern exist, and there must be an objective indication of abuse or neglect to constitute a reasonable suspicion.

However, the difficulty arises in the practical order, because when accusations or suspicions first arise, it is sometimes impossible to assess immediately whether there might be any truth in them, and the person is nonetheless immediately asked to step aside. The requirement of a preliminary investigation can be *de facto* set aside or reduced to a mere formality, in the effort to ensure that the Church authorities be seen to act immediately. Practically speaking, increasingly an accusation or suspicion is deemed credible unless it is manifestly groundless, so even anonymous or frivolous claims lead to the cleric's 'stepping aside' without more ado. Dioceses do now issue a reminder about the presumed innocence of the priest stepping aside, but in the real world the person is regarded as guilty until proved innocent. In the longer term if the accusations are denied and probative evidence is lacking, the person remains in a sort of clerical limbo.

This *modus procedendi* may have interesting consequences more generally for society. In any profession or job, if a person can be suspended or sent on leave on the basis of any kind of claim, no matter how frivolous and which inevitably requires time to resolve, the potential for injustice is quite worrying. Significantly, the Health Service Executive apparently admitted late last year that not every accused worker is being automatically sent on administrative leave: each is treated on a case by case basis.⁵ It is very difficult to defend oneself in the short term against an allegation or suspicion of abuse, since even spurious complaints take time to rebut, but in the meantime the accused's life is on hold and

4. See Irish Bishops' Conference / Conference of Religious of Ireland / Irish Missionary Union, *Our Children Our Church: Child Protection Policies and Procedures for the Catholic Church in Ireland* (Dublin: Veritas, 2005), ch. 8-9.

5. See *The Irish Independent*, 24 November 2005.

his/her reputation is in shreds. In the current climate it is probably better to be accused of murder and cleared, than be accused of abuse, and cleared.

For most priests, unlike other comparable workers, stepping aside also means that they must immediately move from their home and leave the area, and they don't have, for example, a trade union to support them. Priests shouldn't have more or fewer rights than anyone else; if they have fewer, then we will have a sort of 'clericalism in reverse'. The implicit logic of the evolving Church approach has already reached its ultimate conclusion in some dioceses in the United States where once a cleric has been accused, even if he has been subsequently cleared by both law-enforcement agencies and Church procedures, and restored to ministry, his name nevertheless remains forever on the published diocesan list of the accused (with a note) – this is justified in the interests of 'transparency'.

None of this is meant to deny the truth behind many if not most allegations, and that any set of procedures inevitably involves striking a balance between safeguarding the young and ensuring fair procedures and natural justice for the person accused. In short, the fear among priests of malicious and false allegations is growing, combined with a feeling that the Church authorities have now put themselves in a position whereby they cannot act in order to provide appropriate support to a priest in such a situation.

GETTING RID OF THE PROBLEM?

We now turn to consideration of those who have admitted offences or have been convicted of offences by the courts. What is the Church to do with these priests? Unlike Canada, the American Church has adopted a 'zero-tolerance' policy as instanced by the 2002 Dallas norms. The principle of proportionality has been abandoned: any cleric guilty of any offence whatsoever with minors is to be permanently barred from ministry, and that can sometimes involve forced laicization. This means that all sorts of cases have been conflated from a single incident of relatively minor but inappropriate behaviour to serial child rape. *De facto* all alleged offenders are treated the same. Also, in the USA there has been a rush towards dismissing abusers from the clerical state (colloquially called 'defrocking'). This is not surprising. The crisis has naturally led to anger – not just among people, but also among some priests and bishops, often even not properly acknowledged or expressed by themselves but internalized – against clergy offenders, because of the way that the latter have brought the clergy as a whole and the Church institution into disrepute. Both here and abroad, many commentators, some

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priests and bishops see the way forward as simply throwing many if not most of the offenders out of the clergy, purging the stables so to speak. This approach, superficially attractive and indeed institutionally convenient in the current atmosphere, has both theological and practical implications which need to be faced up to.

First, it has implications for the theology of priesthood. In a different context Cardinal Walter Kasper has noted

purely pragmatic solutions are often like comets, trailing theological implications and consequences in their wake. For those of us who have studied theology many clear and subtle distinctions have a certain degree of plausibility; but the faithful will either fail to understand them, despite all their efforts, or else reject them as nothing more than theological hairsplitting or verbal smokescreens. If we wish to avoid misunderstandings, we must think through the problems on the level of basic principles.⁶

Involuntary loss of the clerical state can be imposed by the sentence of an ecclesiastical court or by the special act of the Pope (and now sometimes the Congregation for the Doctrine of the Faith). But in traditional theological and canonical thinking such forced removal from the clergy was supposed to be very rare, since it obscures the meaning of ordination, which confers an indelible consecration according to Church teaching. Indeed, paradoxically, the major criticism of American episcopal policies has come from some conservative theologians usually very supportive of the bishops, worried that managerial pragmatism is trumping notions long dear to Catholic theology. For instance, Cardinal Avery Dulles has noted that widespread dismissal reinforces the growing popular impression among Catholics that the priesthood is a job or post dependent on a contract rather than a sacrament conferred by Christ.⁷

In addition, canonists have noted that in the US Catholic media there has been increasing mention of abusive priests 'no longer being in the employ' of a particular diocese. Tabloids here speak of priests being 'fired'. While such news may be reassuring to the people in the pews and the wider public, and moreover serves the purpose of keeping the media off the back of Church leadership, this type of employment language is disconcerting for those familiar with Church history and official Catholic teaching. Yet it is hard to deny there is a growing conventional wisdom that

6. Walter Kasper, *Leadership in the Church: How Traditional Roles Can Serve the Christian Community Today* (New York: Crossroad, 2003), pp. 47-48.

7. See Avery Dulles, 'Rights of Accused Priests: Toward a Revision of the Dallas Charter and the Essential Norms', *America* 190 (June 21/28, 2004), p. 19.

priests are 'employees' of the Church, even among educated Catholics and at least some clergy, despite the fact that while throughout its history the Church has described in various terms the relationship between a secular priest and his bishop, it was not described as an employer-employee association. Of course a priest may sometimes be an employee of some organization, but at least historically and theologically that's not how he was seen to relate to his own bishop and diocese. Aside from this new everyday language in Church circles and the particular case of abusers, one occasionally hears bishops colloquially speak of certain clergy, for all sorts of reasons, being 'unemployable', thereby expressing the frustration in Church leadership at the difficulty in getting rid of 'problem priests'. It is a curious fact that episcopal reaction to the current scandals may yet overcome centuries of canonical and theological resistance to the idea that a priest is a Church employee. As some canonists have noted, this may prove to be, for good or ill, the current crisis' single most significant outcome. In effect, leadership reaction to the current crisis may bring about a very functional view of the priesthood. Pragmatic solutions often have theological consequences.

There is a second problem with a policy of dismissal, a very practical one. In itself the voluntary or involuntary transfer of a priest-offender to the lay state frequently removes the priest from an environment in which his conduct could be more suitably supervised. Such a practice does little or nothing to ensure the safety of children, whose protection is supposed to be the decisive norm. Thus priests with such problems have little motivation to seek treatment that might prevent future acts of abuse. Once a priest is laicized, either voluntarily or involuntarily, it is hard to believe claims of Church authorities to have some oversight of him or any hold on him, unless there is still some financial connection with the diocese. The American Church's National Review Board reported:

Both experts and board witnesses have noted that the public may be protected more effectively if such priests remain under Church oversight rather than if they are laicized and live in the secular world without any oversight. In addition, some individuals with whom the board spoke question whether the policy discourages self-reporting that could preempt further acts of abuse ...⁸

It is worth noting that by and large religious orders apparently haven't been pursuing a dismissal policy. Even if a clerical

8. National Review Board for the Protection of Children and Young People, *A Report on the Crisis in the Catholic Church in the United States* (Washington DC: United States Conference of Catholic Bishops, 2004), p. 58.

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offender has not been formally laicized, it is possible to exclude him from public ministry. To a degree, religious orders may have found it easier than dioceses to deal with problem priests in this regard. A diocesan priest typically works in a parish, and dioceses do not have a significant number of non-ministry positions to which priests can be assigned. By contrast, the typical religious house has a variety of positions that involve no ministry or contact with children. In general terms, orders characteristically have a greater sense of solidarity with, and responsibility for, their failing brethren. All of this confirms the impression that pragmatic concerns may be driving diocesan bishops.

Nobody is denying that dismissal may be warranted in certain cases. However the question now for the Irish Church is whether dismissal is to be adopted on any significant scale when dealing with clergy offenders. There has been no official declaration from the Bishops' Conference about such an approach, though oral statements indicate that such will not be adopted, at least officially.⁹ It is hard to deny that its use on any significant scale will further undermine the notion of priestly permanence, which has already been diluted in the Irish Catholic popular mind by the ongoing and large number of resignations, official and unofficial, over the last forty years.

GEOGRAPHICAL (IN)JUSTICE

Then there is the related issue of 'geographical justice', in other words how an accused or convicted priest is treated by ecclesiastical authority seems to depend on where he lives. Cardinal Dulles has noted that the American Dallas norms are different from policies in other national Churches and that this could potentially undermine the nature of the Catholic Church as a universal society. However, the problem he identifies is not confined to disparities between nations. Within this country different bishops have taken widely different approaches to clergy offenders; some favour dismissal from the priesthood while others have helped the offenders in all sorts of practical ways, while barring them from pastoral work. When it comes to accused clergy, it is still possible to read of an Irish diocese apparently assuring the local media that its accused clerics are receiving no financial support from the diocese. The treatment meted out to either offending or accused clergy should not depend on a bishop's personality or the priest's locality. There should be some form of national policy which would guarantee equitable and uniform treatment.

9. For example, see the comments at a press conference by Bishop Donal Murray of Limerick, in *The Irish Independent*, 9 February 2005.

IS INSTITUTIONAL SELF-PROTECTION STILL GOVERNING POLICY?

Beneath all of the above lies a deeper question: is institutional self-protection still the deciding factor? Are dismissals prompted by the desire of a bishop to be able to say to the media, the general public, and committed Catholics, that an abuser is 'no longer on the books' and is 'defrocked'? Is the adoption of a policy of automatic 'stepping aside' accused clerics, no matter what the seriousness of the complaint, also motivated, at least in part by institutional concerns. Certainly in the United States there is now scepticism right across the theological spectrum about whether episcopal policy has really changed to one of promoting care for victims and offenders.¹⁰

In this context, it is worth noting that most of the limited rights of the clergy in traditional canon law had less to do with the benefit to the individual cleric who enjoyed them than with the preservation of the dignity of their state. Thus, clerics enjoyed the right to decent support not so much because sustenance was due them as a human right but because it would dishonour the clerical state if clerics were seen begging, and also take away from the idea of the priesthood as an ontological state rather than a functional status. Arguably, an overriding concern for the honour of the clerical state and institutional self-protection is still much in evidence in the recent but belated efforts of some bishops to purge sexually abusive clerics. Critics in the United States have noted that some bishops, having failed to maintain the honour of the clergy by keeping the crimes of clerics out of the public eye, seem to have decided to achieve the same goal by 'disappearing' any cleric who has tainted the honour of his state by becoming subject of an accusation of sexual abuse (or, for that matter, of sexual immorality of any kind whether it constitutes abuse or not), regardless of any evidence of repentance and reform or even of any clear evidence of guilt. In a nutshell, the suspicion is that in the past victims were sacrificed on the institutional altar, and now it is the turn of accused clerics, even those who vehemently assert their innocence, and that policies can have as much to do with episcopal protection as child protection.

The constant gospel challenge for the Church is that it needs to behave differently from secular organizations. What is needed today is the full recovery of the prophetic dimension of ecclesial leadership which was allowed to become subsumed under the

10. See, for instance, the comments of two authors coming from different parts of the theological spectrum: Richard John Neuhaus, 'In the Aftermath of Scandal', *First Things* (February 2004), no. 140, p. 60; John P. Beal, 'As Idle as a Painted Ship upon a Painted Ocean: A People Adrift in the Ecclesiological Doldrums', *Concilium* (2004), no. 3, pp. 87-97.

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perceived need to protect the organization's status and that of its ministers. What has undermined people's trust most is their realization that Church leaders have behaved like a company's officers, hiding and transferring its secrets, even when that continued to damage children. The bishops themselves have admitted that an instinct for discretion can lead to a failure to take necessary action, and that misplaced loyalty may contribute to the tendency to keep matters secret in the organization.¹¹ This implicit acknowledgement of the tendency for institutional self-protection is welcome, albeit expressed in somewhat cautious and minimalist terms.

Hence, while child-protection policies are important, we need to be wary of assuming that in themselves they are sufficient. An over-emphasis on new policies, structure and laws – institutional responses – is rarely ultimately convincing to a sceptical general public, unless it is convinced that there has been a more profound change in attitude. For organizations as much as individuals, it's always more comfortable to change the outside than the inside. It is more difficult to make sure there is a real change of heart, a true institutional *metanoia*. Throughout the crisis, there has been much talk of canon and civil law, but the fundamental issues are ethical and theological. Therefore, the Church's response to the crisis must ultimately be theological, as well as practical and legal, which is for instance why more attention needs to be given to the public liturgical expression of repentance led by the bishops.

CONCLUSION

All of this points to the consequences of pragmatism, and how in the longer term it can undercut an ontological theology of the priesthood and the special relationship between bishop and priest, both ideas dear to traditional Catholic theology. This is not to claim that there was ever in the past a golden age for the priest-bishop relationship. Nonetheless if you treat clergy like employees they will eventually behave likewise, and that will lead to a much different type of Church organization, for good or ill. The bishop becomes like any other boss dealing with disciplinary problems, and the other dimensions of his role in regard to clergy become merely aspirational, ideas remaining in Church documents but lacking any real meaning whatsoever.

None of the above is meant to make the task of episcopal leadership more difficult than it is already. The leadership of the Irish Church has significant strengths: availability, approachability, and little bureaucracy. Perhaps that will help balance out the

11. See Irish Catholic Bishops' Conference, Pastoral Reflection for Lent 2005, *Towards Healing* (Dublin: Veritas, February 2005), no. 2.

side-effects of policies. And being a bishop in Ireland today is certainly one of the most unenviable leadership positions in the Church in the developed world. The increasing 'tabloidization' of the Irish main-stream media has meant resistance to situating the problem of clergy abusers in a wider societal context, and the efforts of the bishops over the last ten years to address the problem have been given no credit, while they have also unfairly been assigned the entire blame for relying on the advice of mental health professionals who sometimes over-optimistically failed to recognize the obsessive, repetitive nature of child abuse. Moreover, no other Church, institution, or organization in the Western world faces the prospect of ongoing national government-sponsored inquiries about child abuse. So one can have some sympathy for Irish Church leaders wondering if a convenient national scapegoat has been found in themselves, making it easier for society to avoid facing up to even more frightening data than that revealed in the Ferns report: compare the aftermath of its release with the muted reaction to the SAVI report in 2002.

That all said, it's hard to deny the official reaction to the current crisis has the capacity to induce an undesirable relationship change between the presbyteral and episcopal orders in the Church. That is already fairly obvious in the US. It's hard to see how the traditional relationship between priest and bishop will not evolve significantly as the crisis continues. In fact, as we have seen, the leadership reaction to the crisis may have implications for the very understanding of the priesthood itself. Maybe that's all inevitable, but it remains to be seen if such a change would be good for the wider mission of the Church.

An Irish passion. I agree with the finding by Tom Inglis that Irish people have learned to find 'new ways' of meeting their spiritual needs and that they 'do not think more or less of others for being or not being a good Catholic'. Yet I do want to affirm the enduring profile in Irish life of the Christian faith that continues to inspire so many Irish women and men. This is indeed the faith that many commentators throughout history have perceived as an Irish passion. And, as noted earlier in respect of current work in theology, this faith too is finding 'new ways' and new languages in which to express its timeless truths. Its role in the civic space is no longer based on expediency or in mere compliance with a cultural norm but rather derives from the place of religious commitment in the heart and minds of the people of Ireland.

—KEVIN WILLIAMS, *Faith and the Nation* (Dominican Publications) p. 124