

Justice and Equity in Cases of Sexual Misconduct Involving Priests

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“The Church has always had its limitations and sinfulness but child sexual abuse by priests and religious is one of the saddest manifestations of this reality. Such exploitation of the vulnerability of children is a betrayal of trust of the gravest kind.”¹

While there are cases of true clerical pedophilic behavior there are a lot more of ephebophilic. Both are inappropriate for a cleric and in many countries are also considered criminal behavior. While many complaints are of recent times there are also many cases now coming before the courts of events that happened years ago. The victims can now reveal the pain, shame, guilt and horror of the activities that were perpetrated against them in their youth. The media has in no small way contributed to the awareness among the general public of the suffering of these victims. It must also be said that the apparent failure of the ecclesiastical authorities in the past contributed in its own way to the victims turning to the courts.

“Often parents or guardians instituted lawsuits in frustrated reaction to the Church’s apparent lack of public accountability and responsibility for its personnel.”²

¹ IRISH CATHOLIC BISHOP’S ADVISORY COMMITTEE, *Child Sexual Abuse: Framework for a Church Response*, (Dublin, Veritas Publications, 1996), p. 9.

² A.A.W., *Wolves Within The Fold – Religious Leadership and Abuses of Power*, (New Brunswick, Rutgers University Press, 1998), p. 25.

This apparent neglect of the Church authorities has added to the pain of the victims. It has also compounded the problem of the offending priest because in many cases he was just transferred from one parish to another, or one diocese to another, or even from one country to another only to continue molesting innocent children.³ When this came out in the media it generated pain, hurt, anger and even hostility not only against the offending priest and his ecclesiastical superior but also against the priesthood in general. There is no doubt that the priests brought before the courts did a lot of damage both to the victim(s) and his/their family(ies) and also to his own family as well as to the priesthood. What has cut deep is the betrayal of the trust and confidence that people implicitly placed in the men who were ordained to the priesthood. Yet a strange thing has to be noted. In the writings of the great Bernard Haring on moral theology there is no mention of the sin of sexual molestation of minors.⁴ It was only in the mid 1980s that the first lawsuits on sexual molestation of minors were tried and at the same time reported in the media. This was an area where many were learners especially the ecclesiastical authorities. Though there was advice offered to a group of bishops of things to come it appears that no effective action was taken so as to be prepared.⁵

This was to have costly consequences in the years ahead. As more and more cases became known it was not long before legislation was passed in many countries making it of obligation to report to the civic authorities not only actual cases of sexual molestation of minors but even *suspicion* of such molestation.⁶ By this time most dioceses should have some contingency plans in place so that if a case of sexual molestation of a minor is alleged against a priest justice may be seen to be done to all.

³ Ibid., p. 134.

⁴ B. HARING, *Free and Faithful in Christ*, (Great Britain, St Paul Publications, 1978).

⁵ PHILIP JENKINS, *Pedophiles and Priests*, (New York, Oxford University Press, 1996), p. 37.

⁶ IRISH CATHOLIC BISHOPS' ADVISORY COMMITTEE, *Child Sexual Abuse...*, *op. cit.*, pp. 20-22.

The Revised Penal Code of the Philippines

In the seminary formation and education there is the need to be made aware of laws of the country that are applicable to all who reside there. One such law in the Philippines is the one on rape and I quote:

“Rape is committed –

- 1) By a man who shall have carnal knowledge of a woman under any of the following circumstances:
 - a) Through force, threat or intimidation;
 - b) When the offended party is deprived of reason or is otherwise unconscious;
 - c) By means of fraudulent machination or grave abuse of authority;
 - d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances above be present;
- 2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another person’s mouth or anal orifice, or any instrument or object, into the genital or anal orifice of another person. (Republic Act No. 8353 which took effect on October 22, 1997)”⁷

A few comments may show just how relevant it is to the matter at hand. The offender is a “man”. And in the Code of Canon Law the requirement to be a cleric is that one be a male.⁸ Then there is the point of “grave abuse of authority”. The priest in most societies is looked up to as a person who has authority especially in the moral sphere.

“The priest is the man of God, the one who belongs to God and makes people think about God.”⁹

⁷ LUIS B. REYES, *The Revised Penal Code*, (Quezon City, Rex Publishing Company, Inc., 1998), art. 266, p. 526.

⁸ CIC. can. 1024.

⁹ POPE JOHN PAUL II, *Pastores Dabo Vobis*, (Pasay City, Philippines, Daughters of St. Paul, 1996), p. 130.

"The priest is a living and transparent image of Christ the Priest."¹⁰

Here are the images of the priest that the majority of the faithful expect to meet in the priest who serves them.

The next point is that if the woman "is under twelve (12) years of age" even without any of the previously enumerated circumstances the action is deemed to be rape.

When the offender has ascendancy or influence over a woman of eighteen (18) years of age or less and rapes her the penalty is death.¹¹

This country in 1995 passed into law Republic Act 7877. This is known as The Anti-Sexual Harassment Law. Basically it declares "sexual harassment unlawful in the employment, education or training environment, and for other purposes."¹²

Still keeping to the moral ascendancy Van Biliran writes:

"In the Philippines, being a very religious-conscious environment, every priest is a moral superior of every Filipino. Because of his moral ascendancy, every priest possesses what is required in R A 7877 of every perpetrator: that he is a superior of the victim"¹³

The same writer a little further on notes:

"All offensive sexual actions referred to in RA 7877 are violative of the clerics vow of chastity: touching (oneself [publicly] or others) of sexual nature, leering, peeking, acts of lasciviousness, embracing, kissing, sexual whispering, graffiti of a sexual nature, displaying sexually explicit drawings, pictures and written materials, sexual gestures, sexual or "dirty" jokes,

¹⁰ Ibid., p. 34.

¹¹ LUIS B. REYES, *The Revised Penal Code*, p. 530.

¹² VAN BILIRAN, SVD, "Coping with sexual Misconduct Allegation Against a Cleric: Canonical Implications and Church Response in the Philippine Context," in *DIWA*, vol. 24 (November 1999), pp. 127-143.

¹³ Ibid., p. 132.

etc. When committed by a cleric, these above-mentioned acts are punishable under the provisions of RA 7877.”¹⁴

For the priest it is clear from the Code of Canon law that:

“Ignorance or error is not presumed about a law, a penalty, a fact concerning oneself, or a notorious fact concerning another”¹⁵

The Bishop or Superior

Some preliminary remarks may be of help at this point. The Code of Canon Law states:

“Since Christ’s faithful are called by baptism to lead a life in harmony with the gospel teaching, they have the right to a Christian education, which genuinely teaches them to strive for maturity of the human person and at the same time to know and live the mystery of salvation.”¹⁶

There is no doubt but the priest is meant not only to be a teacher but also “a living and transparent image of Christ the Priest.”¹⁷ The power of good example has an enormous effect on the young who are looking for heroes and role models. Since the priest is a respected member in society he has to be conscious that he represents not only himself but Christ, the presbyterium and indeed the Bishop. The good or bad he does has an impact on how the faithful look at religion and the clergy.

Each person, and especially every one of Christ’s faithful, has the right to the good reputation, which he/she enjoys.¹⁸ Not only that but:

“Christ’s faithful may lawfully vindicate and defend the rights they enjoy in the Church before the competent ecclesiastical forum in accordance with law.

¹⁴ Ibid., p. 133.

¹⁵ CIC. can. 15.

¹⁶ CIC. can. 217.

¹⁷ POPE JOHN PAUL II, *Pastores Dabo Vobis*, op. cit., p. 34.

¹⁸ CIC. can. 220.

If any members of Christ's faithful are summoned to trial by the competent authority, they have the right to be judged according to the provisions of law, to be applied with equity.

Christ's faithful have the right that no canonical penalties be inflicted upon them except in accordance with law."¹⁹

This is an important canon because it applies to all Christ's faithful that is lay and cleric alike. With these points established it is now necessary to examine the role of the Bishop or Superior in the issue of an accusation of alleged sexual misconduct by a priest.

The Code of Canon Law makes it clear that "in exercising his pastoral office, the diocesan Bishop is to be solicitous for all Christ's faithful entrusted to his care".²⁰

Furthermore the law states that:

"He is to have a special concern for the priests, to whom he is to listen as his helpers and counselors. He is to defend their rights and ensure that they fulfill the obligations proper to their state...."²¹

And again it is stated:

"Mindful that he is bound to give an example of holiness, charity, humility and simplicity of life, the diocesan Bishop is to seek in every way to promote the holiness of Christ's faithful according to the special vocation of each...."²²

One other person who is to take care of the priests in his territory is the Vicar Forane. He is "to see to it that the clerics of his district lead a life befitting their state, and discharge their obligations faithfully."²³

¹⁹ CIC. can. 221.

²⁰ CIC. can. 383 § 1

²¹ CIC. can. 384.

²² CIC. can. 387.

²³ CIC. can. 555 § 1, 2°

The Vicar Forane "is to show particular solicitude for those who are in difficult circumstances or are troubled by problems".²⁴

Since this issue of sexual misconduct by clerics is at a new phase by which I mean that they are being accused in the public forum, brought to trial and in many cases convicted there is a need to have some priests trained so as to be able to respond appropriately to the many areas that need attention. These priests need to be truly pastoral and of great prudence. They also could be the ones to do the preliminary investigation, visit the family of the victim, visit the accused priest and assure him of solidarity. Above all a good media spokesperson needs to be employed so that a balanced report is given at appropriate times. There is need for a medical doctor, a psychologist, and a social worker. These will help in their own special fields. Above all the need for good civil lawyers will be obvious to advise all concerned on how the civil legal system works. And it goes without saying that good criminal trial lawyers are most important.

An Allegation

In most cases of sexual molestation of a minor the offender is generally someone who is close to the minor. In the case of a priest he may in fact be a friend of the family of the victim. This being so it may be supposed that the particular family is of a good Christian quality. It can now be imagined what courage is needed by a minor or the family to make an allegation of sexual misconduct against a priest. There is need that all priests are given some help in knowing how to receive and listen to such an allegation. There should be sincere sympathy, compassion and respect for the victim. No comment should be passed whereby the victim may go away believing that the priest to whom the complaint is made believes his fellow priest is guilty. Once the victim leaves the Bishop/Superior should be informed of the allegation. The impression the victim made should also be assessed as well as the probability of the accusation being true. As soon as possible the Bishop/Superior should go to the family to comfort them and to assure them that

²⁴ CIC. can. 555 § 2, 2°

appropriate steps will be taken to rectify what has happened. The civil authorities should also be notified. A visit by the Bishop/Superior to the accused priest should be of a pastoral nature. The priest should be informed of the details of the allegation. While it is the right of the victim to receive redress according to law it is also the same right of the accused to have his case handled according to law.²⁵

The Accused Priest

Doyle offers sound counsel to Bishops and Superiors:

"Lawyers and medical professionals agree that once a priest or religious is accused, he should be compelled to move from his residence immediately and take up residence in a monastery, seminary, with the bishop, or in some setting where there are other priests or religious present. In the first place, such a move will hopefully diminish the possibility of scandal. Secondly, it will be an indication to the family involved and to the civil authorities that the Church is doing something, and thirdly, it is necessary for the welfare of the accused."²⁶

This seems to be a prudent procedure and is certainly within the law and may easily be understood by clerics and those who have studied Canon Law. On the other hand many ordinary people would see removal of the accused priest from his ministry as implying some wrongdoing unless the Bishop/Superior were to speak to the people and explain why the removal is desirable. It is the right of the accused priest to have his good name respected.²⁷ He also has a right to privacy and certainly he would need a lot of help and spiritual advice not to mention his right to expert canonical help. He also has the right not to incriminate himself.²⁸

²⁵ C.I.C. can. 221 § 1, 2, 3

²⁶ THOMAS P. DOYLE, OP, "The Canonical Rights of Priests Accused of Sexual Abuse," in *Studia Canonica*, vol. 24 (1990), pp. 335-356.

²⁷ CIC. can. 220 and 221.

²⁸ JOHN G. PROCTOR, "Clerical Misconduct: Canonical and Practical Consequences", in *CANON LAW SOCIETY OF AMERICA, Proceedings of the 49th Annual Convention 1987*, pp. 227-244.

Furthermore even though an accusation has been made against the priest he is presumed to be innocent.²⁹ The accused priest should be fully apprised of his rights especially:

"It should also be noted in a canonical inquiry that the accused person is not bound to admit to an offence, nor may an oath be administered to the accused (c.1728 x 2) who should be informed of this provision before being questioned, even in a preliminary enquiry."³⁰

While in some countries there may be a law that states that if an accused remains silent when questioned then there is a presumption of guilt. This is not to be applied by the ecclesiastical inquiry and investigation of the alleged sexual misconduct accusation. There is the need to protect the accused priest from the media. This is so because in many countries the name of the accused may be mentioned in a report while the name of the complainant may not be mentioned. While I've no argument in mentioning the name of an accused that has been brought to trial and convicted I consider mentioning his name before that as putting the accused at a disadvantage. People will recognize the name and his reputation in the minds of many will be questioned. In the case of the priest all the people to whom he ministered may well be troubled. There is a further point and it concerns the ability of a person to recall accurately all the details of events in which they were the victims. This is relevant and material in the evaluation of the allegation because often the accuser is talking of things that happened in their childhood or early teens and now they are in their fifties and sixties and this is the first time that they mention it. There is also the danger of media or social workers planting ideas unintentionally in the memory of persons who are emotionally vulnerable to suggestions.

The need to have the accused priest evaluated by psychologists and psychiatrists as soon as possible after receipt of the complaint is imperative. The priest should be informed of the results and the Bishop or Superior should also be made aware. No matter

²⁹ F.G. MORRISEY, OMI., "Procedures to be Applied in Cases of Alleged Sexual Misconduct by a Priest", in *Studia Canonica*, Vol. 26 (1992), pp. 39-73.

³⁰ Ibid., p. 57.

what the report says it is ultimately the Bishop who will have to decide what to do with his priest. At the end of the investigation three things should be clear: (1) the facts of the case; (2) any relevant circumstances; and (3) imputability of the accusation to the specific priest.

Imputability

"The notion of imputability is crucial to the success or failure of a penal process. Imputability is the character of a moral act, which makes it attributable to a certain person. Canon 1321 §1 states:

No one is punished unless the external violation of a law or precept committed by a person is seriously imputable to that person by reason of malice or culpability.

The key factors in determining imputability are malice and culpability."³¹

And more relevant to the question on hand is what Canon Law states:

"The perpetrator of a violation is not exempted from the penalty, but the penalty prescribed by law or precept must be diminished, or a penance substituted in its place, if the offence was committed:

- 1°) By a person with only imperfect use of reason;
- 2°) By a person who lacked the use of reason due to drunkenness or another similar mental disturbance which was culpable;
- 3°) In the serious heat of passion which did not precede and impede all deliberation of mind and consent of will as long as the passion itself had not been voluntarily stirred up or fostered...."

...

- 10°) One who acted without full imputability, provided it remained grave."³²

³¹ T.P. DOYLE, OP, "The Canonical Rights of Priests Accused of Sexual Abuse," *loc. cit.*, pp. 335 – 356.

³² CIC. can. 1324 § 1, 1°, 2°, 3°, 10°.

It is necessary to hear the opinion of the experts in psychology and psychiatry as well as others in order to come to a just assessment as to the degree of responsibility the accused priest has for his deviant sexual behavior. It is clear that in many cases the behavior is compulsive and repetitive and only experts can evaluate whether or not the priest can be helped effectively so as to be neither a danger to himself nor to innocent children.

In some countries once a sex offender is released from prison he is "tagged" by the police so that his whereabouts and movements can be monitored. There is the further restriction that the community or area where he will reside will be informed that he is a convicted sexual offender of minors. Needless to say this carries an extra stigma and makes it very difficult for a priest to make a new start. It has to be noted that in cases in Ireland that once the priest was brought to trial and the charge sheet read out and when asked how does he plead most said "guilty". Once that word "guilty" was entered there was no need for a trial. Only sentencing remained. That plea of "guilty" was taken account of because it spared the victims from having to recall in detail in open court all their painful exploitation. They were also spared the cross examination by the defense which could be very traumatic. Unfortunately while the convicted priest is serving his time in prison he does not get professional psychological and/or psychiatric help. So there is urgent need on his release to have him get the best help possible. Since the beginning of this crisis in the public domain in the mid 1980s there has been a lot of harsh criticism of ecclesiastical authorities because of the way they handled clerics accused of sexual misconduct. In fact because of what appears to be a bias of innocence in favor of the accused cleric the ecclesiastical authorities have been accused of attacking the media,

"with claims of 'priest lashing', 'church bashing' or 'Catholic bashing' at any exposure of priestly malfeasance. For instance, Dr. Dermott Clifford, Archbishop of Caskel, led an unsuccessful effort to get the Irish Council of Priests to condemn *Intercom* and *The Furrow*, both prominent Catholic intellectual journals, Fergal Keane reported in 'Church Losing Its Former Influence' in the *Sunday Times* on November 28, 1994. Additional elements in the formula for responding to accounts of sexual malfeasance by Catholic priests are: (1) to protest that

it is a societal problem, not merely a problem of the Catholic Church; (2) to assert that the number of abusers in the priesthood is no greater, or even less, than in other groups of society; (3) to maintain that abuse of minors by clerics is simply a case of a few bad apples, unrelated to institutional structures, which thus have no responsibility for it; (4) to admit that the hierarchy should apologize to the victims and their families, reassuring them that it is not their fault; and (5) at the same time, to fight legal claims against the Church with every means possible, including humiliation of victims and accusations against them of instigating the abuse.”³³

This is certainly far from a helping situation. What never seems to have been thought of is to try something like the “Truth and Reconciliation Commission” that was started in South Africa after the apartheid era. This does not rule out responsibility or consequences for the offending cleric but it would certainly get the protracted and periodic legal cases out of the media and thereby hasten the healing process.

Record of an Experience

“Some time ago I was present at a gathering of clergy that included a colleague who had been convicted of child sexual abuse. Although I was glad that he was there, I felt uneasy and awkward. Being over-anxious to convey a sense of welcome, my handshake was firmer than usual. During prayer he spoke. He thanked us for allowing him to come. He expressed his sorrow for the hurt and offence he had caused, including to his colleagues.

Reflecting afterwards, I felt that as a group we had seldom been as present to one another, and as honest and open, as we had been during those few moments. Here we were with a colleague from whose life all the pretence had been stripped away. Through the prism of his sinful and broken humanity, we were each called to a deeper level of self-presence and authenticity. Why is it that despite years of formation and ministry we seldom reach such a level of openness and

³³ A.A.W., *Wolves Within the Fold* ..., *op. cit.*, p. 140.

honesty with one another and that when we do, we are uncomfortable about it? With appalling consequences for individuals who are injured by us as well as for the ministry and life of the church.”³⁴

Though this is a long quotation it captures what is a common human experience. There is the “uneasy and awkward” feeling in the presence of one whom we now perceive to be different. Yet he is our brother priest still sharing in the Priesthood of Christ. All the good qualities and gifts that he had in the past he still has them. There is only one aspect of his life that is new – he has served a prison sentence for what is now considered criminal behavior – sexual misconduct with a minor. Because of his expression of sorrow one can only conclude that he has come to an awareness of not only his inappropriate sexual misconduct but also how it has impacted on the lives of many other persons. He too must have felt “out” i.e., marginalized because he thanked the body of priests “for allowing him to come.” It does appear that there are faults that are “respectful” and ones that are “disgraceful”! Yet Christ came to heal the broken, to bring back the lost sheep AFTER HAVING SEARCHED FOR THAT SHEEP. While being a moving scene it is also a very sad one. There followed what could be called a moment of genuine communion when each felt connected to himself and to others and above all to the ex-convict brother priest. Then the writer makes a reference to the seminary training – many years – when people interacted apparently only at a surface level. What isolation, pain, loneliness in the midst of so many people all inspired to become other Christ and yet unable to relate in a meaningful way to one another. Let me conclude this reflection by what John Henry Newman wrote in 1839 during the Advent Season.

“It were well, if we understood all this, perhaps the reason, why the standard of holiness among us is so low, why our attainments are so poor, our view of the truth so dim, our belief so unreal, our general notions so artificial and external as this that we dare not trust each other with the secret of our hearts. We have each the same secret and we keep it to ourselves and we fear that as a cause of estrangement,

³⁴ A.A.W., *Child Abuse in Institutional Care: Learning from the Past and Hoping for the Future*, Dublin, NPCI Office, (2000).

which would really be a bond of union, we do not probe the wounds of our nature thoroughly; we do not lay the foundation of our religious profession in the ground of our inner man: we make clean the outside of things, we are amiable and friendly to each other in words and deeds but our love is not enlarged, our levels of affection are straightened and we fear to let the intercourse begin at the root: and in consequence our religion viewed as a social system is hollow, the presence of Christ is not in it.”³⁵

Role of the Bishop

The relationship between a bishop and his priests is one that starts when a candidate applies to enter the seminary with a view to becoming a priest for the service of the diocese. In canon 273 it is stated:

“Clerics have a special obligation to show reverence and obedience to the Supreme Pontiff and to their own Ordinary.”

In turn,

“the diocesan bishop is to attend to presbyters with special concern and listen to them as his assistants and advisers; he is to protect their rights and see to it that they correctly fulfill the obligations proper to their state....”³⁶

The Bishop is the person who provides for the ecclesiastical office of pastor by free conferral.³⁷ He also freely appoints the parochial vicars.³⁸ Both the pastor and the parochial vicars are to be outstanding in sound doctrine and uprightness of character, endowed with zeal for souls and other virtues and they are obliged to accept and faithfully fulfill the office committed to them.³⁹ Once an allegation of sexual abuse is made against a pastor or parochial

³⁵ JOHN HENRY NEWMAN, *Christian Sympathy, Parochial Plain Sermons*, (London, Rivingtons, 1869), Vol. 5, pp. 126-127.

³⁶ CIC. can. 384

³⁷ CIC. can. 157.

³⁸ CIC. can. 547.

³⁹ CIC. can. 521 and can. 274 § 2.

vicar it would be almost impossible to keep it a secret in the parish. There is also the problem of scandal and the difficulty of ministering to people who may have lost their respect and confidence in the priest. For that reason the Bishop should place the priest on "a kind of administrative" leave of absence. While in this state the priest is still considered in good standing and is presumed innocent. He also gets the benefits due him. However if indeed the priest is guilty of the alleged sexual misconduct then in all probability the law of the country will take its course. Once the trial is over and if the priest is convicted there is need to be supportive of him. Many will have abandoned him. Some will despise him and he will be an outcast. Even in prison child sex offenders are so despised and in such danger of being assaulted that they are incarcerated in a separate area. On release the priest needs to have a thorough assessment by a reputable psychiatrist or psychologist who is a specialist in the area of sexual abuse. Since the Bishop is the person who will have to decide what – if any – ministry may be assigned to the priest – he has to hear several people, e.g., the experts in the medical field who have accumulated a lot of data. Suffice to observe that:

"... at this point, it is not known for certain how or why a person becomes a pedophile. Researchers have advanced various theories on environmental, biological, and psychological causes, or more accurately, a combination of these"⁴⁰

It is also a fact that the experts point out that:

"a significant number of men being treated for pedophilia or pedophilic acts, were themselves involved sexually with an adult when they were children. This data applies also to clerics being treated for pedophilia. The important issue is why the phenomenon is repeated. Again, we are faced with theory, not conclusions:

"Some theorists have proposed that sexual involvements with children permit the pedophile to work out the effects of a trauma he experienced when he was a child. Now that

⁴⁰ BERLIN, F., "Treatment of Pedophilia" in *The Medical-Moral Newsletter*, 21 (1984), p. 23.

they are adults, they victimize children to reverse their earlier roles as victims."⁴¹

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Psychosexual Development

The psychosexual development and integration of the priest plays a crucial role in his life. The saints put a lot of emphasis on self-knowledge or what this writer would prefer to call self-awareness. There are many things we do or say and often we are not aware from where they come within us. Yet most have heard of the subconscious and how it can exert a powerful influence in our life, yet one may be totally unaware of it. The more one becomes aware of the influence of the subconscious world the more freedom one will have to act in a way that is really human. Many a pedophile develops a relationship with a child or adolescent not fully realizing that this is normally not considered appropriate. In fact the adult is often only at the sexual maturity level equal to that of the child or adolescent that he befriends.⁴³ Furthermore it appears that a pedophile develops such relationships because he experiences difficulty in relating to partners who are of his own age of the female sex. Before proceeding further it may be appropriate to make two observations. All clerics have to learn and be able to interact in a manner befitting their calling. Self-control is very important. However to put a pedophile priest in apostolate where he would have a lot of interaction with children and teenagers will be opening him to a lot of stress and temptation which, combined with his compulsive urge to interact sexually in an inappropriate manner, would create a burden he may not be able to carry. Has any person the right to place another where from past experience there is evidence that he will fail? As said earlier if a priest has "fed" his pedophile urges by overt inappropriate sexual activity there is the strong possibility he will do so again.

⁴¹ DOYLE, T.P., "The Canonical Rights of Priests Accused of Sexual Abuse", *loc. cit.*, pp. 335-356.

⁴² KELLER, G., "Sexual Abuse of Minors" in *Human Development*, 7 (1986), p. 32.

⁴³ Cf. KELLER, *op. cit.*, p. 32.

The Offending Cleric

There is the problem of the people to whom he is to minister. In many countries the law states that a sex offender may not be put in a community without that community being informed. Since the priest is meant to be a person who can be trusted it would surely create serious difficulties to let him be identified as a child sexual offender. His moral authority to preach the gospel would be undermined before he could begin to serve the people. In this regard let me quote from a person considered a canonical expert in this area:

"I am saddened to say it but I believe that probably the best service we can render to a priest today once he has been convicted of sexual misconduct, is to lead him to the realization that it will be many years – if ever – before he will be able to function again in ministry. Thus, we should be providing or offering some type of job retraining for him if he is not qualified to take up other work. Time magazine's article last summer on "Busybodies and Crybabies" explains the situation that many priests, and others, have to face because of certain persons who simply will not mind their own business.

My heart goes out for such priests, but our people are quite unforgiving when it comes to sexual matters involving clergy. Until attitudes are changed – hopefully, with some good nudging on our part – there is very little that can be done. We should be able to distinguish between a constitutional pedophile who has molested many children, and a person who made one serious mistake. We should be able to distinguish between a case where there was much publicity and one that was not publicized."⁴⁴

Having quoted from this expert and seeing the distinctions he has made it would follow that the case of each pedophile priest is unique. Surely a priest who offended only once and many years ago cannot be treated the same as a priest who over many years

⁴⁴ FRANCIS G. MORRISEY, "The Pastoral and Juridical Dimensions of Dismissal from the Clerical State and of Other Penalties for Acts of Sexual Misconduct" in *C.L.S.A. 53rd*, (1991), pp. 123-141.

had continued to abuse children wherever he was appointed to serve. There are priests who have gotten the best of professional help and are aware of their weakness and are open and sincere enough to realize how vulnerable they are and have the common sense and sincerity to go to a good priest and ask him to monitor him. Being aware that he can never fully be "cured" yet he may function well in certain pastoral ministries. For example if there was an understanding that where he may encounter children or young teenagers that a parent be always present then such a priest could be able to function in the pastoral ministry. In a parish setting it would mean that in the concrete reality an adult parent be with him at all times once he goes out in public. There would be also a need to have a clear guideline that no child or teenager ever goes to see him unless accompanied by a parent. As is only too clear from the experience of priests who are alcoholics and are rehabilitated they have shown themselves to be highly effective in their ministry. Of course they realize that they are not cured and so they must be prudent and always on the alert as even a single drink would be enough to trigger them to be active alcoholics once again.

Reality of Priestly Formation

A point worth considering is that during their priestly formation the seminarians – often in large numbers – lived together and probably developed some kind of friendship even if it were only a superficial one. There was at least companionship and the working towards the goal of priestly ordination. Once ordained a priest is often assigned to a parish where as a parochial vicar he lives alone often in a rural area and without companions of his own value system and orientation. Loneliness and emptiness and even a certain deflation may hit him. It is at times like this that he may become vulnerable and forget his ideals and his way of life as befits a priest. This is very true of priests in the service of a diocese.

The place of a practical spiritual life and a reasonable timetable in which there is balance in his life becomes only too apparent. There is an urgent need that a solid bonding, care and

concern should be initiated among priests who work in proximity to each other. The need for mutual support, understanding and encouragement is vital. The Bishop who is the pastor of all the people of the diocese should take care of his priests in a special way. He should not only visit them frequently but also spend some time with them in their place of assignment. The ideal is that such a spirit of trust and confidence and care should exist that the priest could bring any personal difficulty or problem to his bishop and be assured not only of a kind understanding ear but above all that he will get the best professional help he may need. The welfare of the diocese and Christian life of the faithful is influenced very much by the quality of life of the priest who serves them.

A few cases of which the writer is aware will press charges to the full unless the Bishop assures them that the offending priest will never be permitted to exercise the priestly ministry again. This is a serious issue as it is in fact a form of blackmail. In no way should a Bishop or Superior be pressured by such a demand. He is to maintain his independence and once he has consulted those he ought, e.g., professional medical staff, the parole people, some clergy and some members of Christ's faithful where he plans to assign the rehabilitated priest, he should do what is prudently indicated.

In the present climate there is need for an atmosphere of trust among the clergy and their Bishop. Since we are all brothers in the priesthood of Christ the bond between us should be such that we really care for each other. This presupposes a certain level of maturity and if it is not there then immediate steps need to be taken and if necessary to seek the help of professionals to enable all to come to the maturity level that is appropriate. It may take some years to achieve what is desired but money spent in helping a brother priest to wholeness is indeed money well spent.

The possibility of mature married couples bonding together to be a support group for the priest who serves the community could be explored. Elderly people have often an accurate pulse of the community and so can help the priest to adjust and come to an understanding of his people. It would be of immense help if in priestly formation the candidates would come to awareness that they need the help of the people of God to grow in the priestly

ministry. The laity know the local customs and traditions and above all the meaning and interpretation of them. A respectful listening to the laity can be a great help to effective ministry. □