

Crime or Forgivable Sin?

The current clerical paedophilia crisis affecting the Catholic Church in Europe and Ireland is a surprise only in that it seems to have taken so long for the events to have become public knowledge, given that similar problems in the US, Australia and Canada have been public knowledge for the past twenty years or so.

That there are priests who abused prepubescent or adolescent children is to be expected. They are prone to the same human frailties as the members of any other professional group. In the US, the evidence indicates that paedophilia (sexual attraction to prepubescent children) affects 0.3% of the entire population of clergy which is lower than the average for males, and homosexual attraction to adolescent boys affects around 2% of clergy, about the same proportion that affects married males.

The incidence of priests abusing their office in these ways is no greater than for doctors abusing their patients, lawyers abusing their clients, or teachers abusing their students. The main difference is that the community expects a higher standard of morality for clergy, and sexual crimes by clergy involves both hypocrisy and offence against their high office.

The public concern, rightfully, would seem to have focussed more on the way in which the Church authorities have responded to complaints and proven offences, especially where those involved are underage.

The concern that has been expressed by many victims, and those who support them, includes the claim that the Church authorities have been reluctant to report sexual misconduct involving underage victims to the police or child welfare authorities, that they have encouraged secrecy, that they have not acknowledged the gravity of the harm done, and that they have not removed the perpetrators from office and the latter have been able to reoffend.

Lay Catholics know that priests are as frail as the rest of us when it comes to committing sin, and we would be naïve if we thought that there would not be a proportion of those in the priesthood likely to commit the same sins in the various categories as in the general male community. Priests and religious are also similarly privileged as the rest of us with respect to the community being willing to forgive sin. It is not uncommon for parish communities to support their priests, even when their past sins are public knowledge.

What is difficult for lay Catholics to accept is that conduct that amounts to a serious crime against a child would not be reported by Church authorities to the police so that justice may be done. This is reflected in Official Vatican policy which is that civil law concerning reporting of crimes to the appropriate authorities should always be followed.

Professions such as doctors, social workers and teachers are in mandated professions and required by law to report that a child is at risk, but priests (and bishops) are not a mandated profession. The obligation to report crime for those not mandated to do so may

be a moral and social obligation but it appears not to be a legal obligation, except that if one helps to hide a crime then that may be considered to be an offence of aiding and abetting. Relevant to the issue of reporting obligations for clergy, including bishops, is that in many jurisdictions there is legal protection for the secrecy of the confessional. However Church authorities in an administrative position with respect to someone suspected of abuse are advised not to hear their confession precisely because that could generate a conflict.

As far as I am aware, no Church authority in Australia has been charged with aiding and abetting crime in this respect even though they have not always reported crimes against people who were underage. So the question of Church authorities reporting crime would seem to be a matter of a failure to meet a moral and social responsibility rather than a legal issue.

Leaving aside the obligation to report a crime, there is concern about the ways in which these matters were managed, particularly with respect to priests known to have committed crimes against children, and those with unresolved complaints against them, being appointed to circumstances where they had opportunity to re-offend. There is concern about what would seem in some cases to have been a failure to protect children, including a failure to warn others in authority about the risk.

The official Vatican policy is that during the preliminary stage a Bishop can act to protect children by restricting the activities of any priest in his diocese. According to the policy this is part of the Bishop's ordinary authority, which he is encouraged to exercise to whatever extent is necessary to assure that children do not come to harm, and this power can be exercised at the Bishop's discretion before, during and after any canonical proceeding.

The policy has been criticised because it permits but does not require a Bishop to suspend or remove the priest while the allegation is investigated.

In dealing with the Ireland situation, Pope Benedict said that the Irish Bishops had failed, at times grievously, to apply the long-established norms of canon law to the crime of child abuse, and serious mistakes and grave errors of judgment were made, and failures of leadership occurred. He also asked them to co-operate with the civil authorities.

The Pope has acknowledged the wrongs and repeatedly apologised and asked forgiveness on behalf of the Church for its own failures in responding to the child abuse by clergy. In recent years there has been a great deal of re-writing of policy by Bishops' conferences and the establishment of better mechanisms for investigating and responding to complaints. We can therefore expect the future to be different.

There remains a puzzle however over how it was that, in the past, known offenders or those who were reasonably suspected of grave offences against children were not at least suspended or removed from the priesthood. There is a need for the Church to explain its failure.

The response to offences against children appears to have been dealt with in a spirit of providing pastoral care to perpetrators and to victims and treating the wrong as a mental and or spiritual disorder requiring treatment and spiritual rehabilitation. The response appears to be more fitting for a judgment that the perpetrators were good men who had erred on an occasion out of human weakness. That they were more likely to be multiple offenders living a life of deception would not seem to have been known or suspected.

It is unfair to say that secrecy was preserved in order to protect the Church, because at that time it was generally accepted that confidentiality was in the interests of the victims. The change in psychiatric opinion to an understanding that promotes the need for admission and recognition of the harm done is more recent.

That spirit of therapy rather than punishment, the perceived needs of victims for confidentiality, and the lack of appreciation of the gravity of the harm to the victims might account for the failure to report crime and to seek justice in that respect. However it can only be considered now as a grave misjudgement.

The misjudgement concerns the needs of victims and their families to see that justice was done. They have a legitimate grievance that there appears to have been a failure to recognise and take account of the harm done. Many young people mistakenly felt that they rather than the adult perpetrator were to blame. The failure to recognise their predicament was to some extent a reflection of the thinking of the times. The fact that so much mental illness is attributable to sexual and other forms of abuse of children is a relatively recent inclusion in the psychiatric manuals. In fact, such abuse is now considered to be a diagnostic element for many mental and personality disorders. It would therefore appear that the severity of the harm done was not widely accepted by other professionals and that Church authorities were not alone in their mistake.

The misjudgement was also about the nature of the perpetrators and the tragic reality that a perpetrator in this respect seldom had only a solitary victim. In fact in some instances it would appear that perpetrators had lived a life of deception and may have joined the priesthood for the opportunities that it afforded. The high probability of recidivism is also a matter of more recent knowledge.

Finally, the misjudgement was in relation to the effect of gross immorality on the office of the priesthood. The therapeutic approach would seem to have missed the significance of the grave harm done to victims and the heinous nature of an offence against a child which could only have been addressed by severe penalties for the perpetrators. The failure to remove them from office, or at least suspend them, damaged the office of priesthood and has continuing effects on both laity and on other clergy. The notion that a perpetrator of such a grave offence and such a misuse of the office could be permitted to continue in office was a grave scandal.

The failure to report crime, the secrecy and the adoption of a therapeutic approach can be explained by the general lack of knowledge of the time about the grave harm done and

|| about the high risk of recidivism. The failure to impose penalties, however, is more difficult to explain. That the offences are hideous crimes is not new to the Church. Pope Pius V's Constitution of August 30, 1568 designates priestly abuse (sodomy) of children as 'horrendum illud scelus' - that horrendous crime! There was also a ruling by the 4th Lateran Council on violations of the clerical state requiring those who committed homosexual acts to be dismissed from the clerical state which then made them subject to the secular authority and the death penalty.

The public apologies have tended to be non-specific. Perhaps they need to address each of these aspects of the misjudgments.

There has been a complete change of sensitivity within the Church. It would now seem that we can be confident that those who have committed offences of this nature are not left in positions where they can re-offend. The remaining issue would seem to concern the social obligation to report crime to the civil authorities so that justice is done and can be seen to be done. This is not the first time in history in which the Church has been riven by scandal of this nature. It will survive, but the extent of the harm done by the scandals can be limited by the nature of the response and the restoration of confidence.

After the victims themselves and their families, those most harmed by what has occurred are the vast majority of priests who lead good and holy lives of great sacrifice and devotion. They benefit most from the adoption of rigorous approaches to those who have abused their office. However they can also become the victims of the change in sensitivity because now an allegation, whether or not it is well-founded, is likely to bring immediate suspension from public ministry for an indefinite time. Such allegations are often difficult to prove or disprove and, in the meantime, during the prolonged investigative process which may ultimately not end in resolution, both victim and accused remain in a state of limbo.

The cooperation with civil authorities that Pope Benedict urges that the Irish bishops take would seem to be advice that would best be taken generally. There would seem to be a need, for those appointed to manage responses to allegations against clergy by Church authorities, to cooperate closely with the civil authorities in order to expedite effective resolution as quickly as possible for the sake of all concerned. In this case justice deferred is justice denied for all. This would be helped if the Church authorities were mandated (with an exclusion for the confessional) to report so that there can be no question of an obligation to maintain confidentiality at the request of the victim or victim's family. It should be borne in mind, however, that the mandate for teachers, doctors, social workers, psychologists, etc, are only if there is perceived to be an ongoing risk of harm. That might not be the case if the perpetrator is no longer able to continue to offend against the victim, even if the evidence of past crime is clear.

JC: NTF to do as he sees best
(AF/GP)
what does she think?