

ENCLOSURE 1.

PRESCRIPTION IN CANON LAW

Since the meeting in Rome in April a study has been made of 402 cases of sexual abuse of persons under the age of majority from all parts of Australia.

It was found that in only thirteen of these cases (3.23%) was the complaint lodged before the term of five years specified in canon 1362. If the faculties given to the U.S.A. and Ireland had been given to Australia and the age of 23 applied, the number of cases lodged before that age would have risen only to 49 (12.18%). Even for the future and a possible age limit of 28 (currently not retroactive), the figure would rise to only 77 (19.15%). If a time of ten years from the offence were established, only about 13% of cases would be admitted.

These facts place the bishops in an impossible situation. Victims sexually abused in childhood suffer for the rest of their lives, but almost all offenders are protected by the law of prescription. The bishops find themselves in the situation of concealing the fact of this law, for they know that a storm of criticism would be unleashed if the law became publicly known. It is not only opponents of the Church who would be outraged, but also the Catholic people of this country.

Canon 1362 is an exception to the general rules that prescription "is accepted by the Church in the manner in which it is adopted in the civil legislation of each country" (can.197) and that "no prescription is valid unless it is based on good faith" (can.198). The present law appears to assume that every victim of sexual abuse is aware that what the offender did to him or her was a crime, though this is normally not the case. It can also be argued that a victim has rights in divine law in relation to an offender and that these rights bear directly on his/her spiritual life (can.199).

In calling for the Church to adopt the civil legislation of each country in cases of sexual abuse, the 570 bishops who were represented at the meeting in Rome are, therefore, doing no more than applying the principles clearly stated in canons 197-199. The mature judgement on this matter of 570 bishops must surely constitute a convincing argument.

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