

CIRCULAR LETTER

To assist Episcopal Conferences in developing Guidelines for dealing with cases of sexual abuse of minors perpetrated by clerics

Among the important responsibilities of the Diocesan Bishop in his task of assuring the common good of the faithful and, especially, the protection of children and of the young, is the duty he has to give an appropriate response to the cases of sexual abuse of minors by clerics in his diocese. Such a response entails the development of procedures suitable for assisting the victims of such abuse, and also for educating the ecclesial community concerning the protection of minors. A response will also make provision for the implementation of the appropriate canon law, and, at the same time, allow for the requirements of civil law.

I. General considerations:

a) The victims of sexual abuse:

The Church, in the person of the Bishop or his delegate, should be prepared to listen to the victims and their families, and to be committed to their spiritual and psychological assistance. In the course of his Apostolic trips our Holy Father, Benedict XVI, has given an eminent model of this with his availability to meet with and listen to the victims of sexual abuse. In these encounters the Holy Father has focused his attention on the victims with words of compassion and support, as we read in his *Pastoral Letter to the Catholics of Ireland* (n.6): “You have suffered grievously and I am truly sorry. I know that nothing can undo the wrong you have endured. Your trust has been betrayed and your dignity has been violated.”

b) The protection of minors:

In some countries programs of education and prevention have been begun within the Church in order to ensure “safe environments” for minors. Such programs seek to help parents as well as those engaged in pastoral work and schools to recognize the signs of abuse and to take appropriate measures. These programs have often been seen as models in the commitment to eliminate cases of sexual abuse of minors in society today.

c) The formation of future priests and religious:

In 2002, Pope John Paul II stated, “there is no place in the priesthood and religious life for those who would harm the young” (n. 3, *Address to the American Cardinals*, 23 April 2002). These words call to mind the specific responsibility of Bishops and Major Superiors and all those responsible for the formation of future priests and religious. The directions given in the Apostolic Exhortation *Pastores Dabo Vobis* as well as the instructions of the competent Dicasteries of the Holy See take on an even greater importance in assuring a proper discernment of vocations as well as a healthy human and spiritual formation of candidates. In particular, candidates should be

formed in an appreciation of chastity and celibacy, and the responsibility of the cleric for spiritual fatherhood. Formation should also assure that the candidates have an appreciation of the Church's discipline in these matters. More specific directions can be integrated into the formation programs of seminaries and houses of formation through the respective *Ratio institutionis sacerdotalis* of each nation, Institute of Consecrated Life and Society of Apostolic Life.

Particular attention, moreover, is to be given to the necessary exchange of information in regard to those candidates to priesthood or religious life who transfer from one seminary to another, between different dioceses, or between religious Institutes and dioceses.

d) Support of Priests

1. The bishop has the duty to treat all his priests as father and brother. With special attention, moreover, the bishop should care for the continuing formation of the clergy, especially in the first years after Ordination, promoting the importance of prayer and the mutual support of priestly fraternity. Priests are to be well informed of the damage done to victims of clerical sexual abuse. They should also be aware of their own responsibilities in this regard in both canon and civil law. They should as well be helped to recognize the potential signs of abuse perpetrated by anyone in relation to minors;

2. In dealing with cases of abuse which have been denounced to them the bishops are to follow as thoroughly as possible the discipline of canon and civil law, with respect for the rights of all parties;

3. The accused cleric is presumed innocent until the contrary is proven. Nonetheless the bishop is always able to limit the exercise of the cleric's ministry until the accusations are clarified. If the case so warrants, whatever measures can be taken to rehabilitate the good name of a cleric wrongly accused should be done .

e) Cooperation with Civil Authority

Sexual abuse of minors is not just a canonical delict but also a crime prosecuted by civil law. Although relations with civil authority will differ in various countries, nevertheless it is important to cooperate with such authority within their responsibilities. Specifically, without prejudice to the sacramental internal forum, the prescriptions of civil law regarding the reporting of such crimes to the designated authority should always be followed. This collaboration, moreover, not only concerns cases of abuse committed by clerics, but also those cases which involve religious or lay persons who function in ecclesiastical structures.

II. A brief summary of the applicable canonical legislation concerning the delict of sexual abuse of minors perpetrated by a cleric:

On 30 April 2001, Pope John Paul II promulgated the *motu proprio Sacramentorum sanctitatis tutela [SST]*, by which sexual abuse of a minor under 18 years of age committed by a cleric was included in the list of more grave crimes

reserved to the Congregation for the Doctrine of the Faith (CDF). Prescription for this delict was fixed at 10 years beginning at the completion of the 18th year of the victim. The norm of the *motu proprio* applied both to Latin and Eastern clerics, as well as for diocesan and religious clergy.

In 2003, Cardinal Ratzinger, then Prefect of the CDF, obtained from Pope John Paul II the concession of some special faculties in order to provide greater flexibility in conducting penal processes for these more grave delicts. These measures included the use of the administrative penal process, and, in more serious cases, a request for dismissal from the clerical state *ex officio*. These faculties have now been incorporated in the revision of the *motu proprio* approved by the Holy Father, Benedict XVI, on 21 May 2010. In the new norms prescription, in the case of abuse of minors, is set for 20 years calculated from the completion of the 18th year of age of the victim. In individual cases, the CDF is able to derogate from prescription when indicated. The canonical delict of acquisition, possession or distribution of pedopornography is also specified in this revised *motu proprio*.

The responsibility for dealing with cases of sexual abuse of minors belongs, in the first place, to Bishops or Major Superiors. If an accusation seems true the Bishop or Major Superior, or a delegate, ought to carry out the preliminary investigation in accord with *CIC* can. 1717, *CCEO* can. 1468, and *SST* art. 16.

If the accusation is considered credible, it is required that the case be referred to the CDF. Once the case is studied the CDF will indicate the further steps to be taken. At the same time, the CDF will offer direction to assure that appropriate measures are taken which both guarantee a just process for the accused priest, respecting his fundamental right of defense, and care for the good of the Church, including the good of victims. In this regard, it should be noted that normally the imposition of a permanent penalty, such as dismissal from the clerical state, requires a penal judicial process. In accord with canon law (cf. *CIC* can. 1342) the Ordinary is not able to decree permanent penalties by extrajudicial decree. The matter must be referred to the CDF which will make the definitive judgement on the guilt of the cleric and his unsuitability for ministry, as well as the consequent imposition of a perpetual penalty (*SST* art. 21, §2).

The canonical measures applied in dealing with a cleric found guilty of sexual abuse of a minor are generally of two kinds:

- 1) measures which completely restrict public ministry or at least exclude the cleric from any contact with minors. These measures can be reinforced with a penal precept;
- 2) ecclesiastical penalties, among which the most grave is the dismissal from the clerical state.

In some cases, at the request of the cleric himself, a dispensation from the obligations of the clerical state, including celibacy, can be given *pro bono Ecclesiae*.

The preliminary investigation, as well as the entire process, ought to be carried out with due respect for the privacy of the persons involved and due attention to their reputations.

Unless there are serious contrary indications, before a case is referred to the CDF, the accused cleric should be informed of the accusation which has been made, and given the opportunity to respond to it. The prudence of the bishop will determine what information will be communicated to the accused in the course of the preliminary investigation.

It remains the duty of the Bishop or the Major Superior to provide for the common good by determining what precautionary measures of *CIC* can. 1722 and *CCEO* can. 1473 should be imposed. In accord with *SST* art. 19, this can be done once the preliminary investigation has been initiated.

Finally, it should be noted that, saving the approval of the Holy See, when a Conference of Bishops intends to give specific norms, such provisions must be understood as a complement to universal law and not replacing it. The particular provisions must therefore be in harmony with the *CIC / CCEO* as well as with the *motu proprio Sacramentorum sanctitatis tutela* (30 April 2001) as updated on 21 May 2010. In the event that a Conference would decide to establish binding norms it will be necessary to request the *recognitio* from the competent Dicasteries of the Roman Curia.

III. Suggestions for Ordinaries on Procedures:

The Guidelines prepared by the Episcopal Conference ought to provide guidance to Diocesan Bishops and Major Superiors in case they are informed of allegations of sexual abuse of minors by clerics present in the territory of their jurisdiction. Such Guidelines, moreover, should take account of the following observations:

a) the notion of “sexual abuse of minors” should concur with the definition of article 6 of the *motu proprio SST* (“the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years”), as well as with the interpretation and jurisprudence of the Congregation for the Doctrine of the Faith, while taking into account the civil law of the respective country;

b) the person who reports the delict ought to be treated with respect. In the cases where sexual abuse is connected with another delict against the dignity of the sacrament of Penance (*SST* art. 4), the one reporting has the right to request that his or her name not be made known to the priest denounced (*SST* art. 24).;

c) ecclesiastical authority should commit itself to offering spiritual and psychological assistance to the victims;

d) investigation of accusations is to be done with due respect for the principle of privacy and the good name of the persons involved;

e) unless there are serious contrary indications, even in the course of the preliminary investigation, the accused cleric should be informed of the accusation, and given the opportunity to respond to it.

f) consultative bodies of review and discernment concerning individual cases, foreseen in some places, cannot substitute for the discernment and *potestas regiminis* of individual bishops;

g) the Guidelines are to make allowance for the legislation of the country where the Conference is located, in particular regarding what pertains to the obligation of notifying civil authorities;

h) during the course of the disciplinary or penal process the accused cleric should always be afforded a just and fit sustenance;

i) the return of a cleric to public ministry is excluded if such ministry is a danger for minors or a cause of scandal for the community.

Conclusion:

The Guidelines developed by Episcopal Conferences seek to protect minors and to help victims in finding assistance and reconciliation. They will also indicate that the responsibility for dealing with the delicts of sexual abuse of minors by clerics belongs in the first place to the Diocesan Bishop. Finally, the Guidelines will lead to a common orientation within each Episcopal Conference helping to better harmonize the resources of single Bishops in safeguarding minors.

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