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Taking Responsibility for Processing Cases of Sexual Abuse Crisis and for Prevention of Abuse

Introduction

The way we Bishops exercise our ministry at the service of justice in our communities is one of the fundamental tests of our stewardship and, indeed, of our fidelity. To quote the Lord in Luke 12:48: “Everyone to whom much is given, of him will much be required; and of him to whom men commit much, they will demand more.” We have been entrusted with the care of our people. It is our sacred duty to protect our people and to ensure justice when they have been abused.

In his letter to the People of God in Ireland, issued on 19 March 2010, Pope Benedict XVI had this to say: “Only by examining carefully the many elements that gave rise to the present crisis can a clear-sighted diagnosis of its causes be undertaken and effective remedies be found. Certainly, among the contributing factors we can include: inadequate procedures for determining the suitability of candidates for the priesthood and the religious life; insufficient human, moral, intellectual and spiritual

formation in seminaries and novitiates; a tendency in society to favour the clergy and other authority figures; and a misplaced concern for the reputation of the Church and the avoidance of scandal, resulting in failure to apply existing canonical penalties and to safeguard the dignity of every person. Urgent action is needed to address these factors, which have had such tragic consequences in the lives of victims and their families, and have obscured the light of the Gospel to a degree that not even centuries of persecution succeeded in doing.” (n. 4b)

http://w2.vatican.va/content/benedict-xvi/en/letters/2010/documents/hf_ben-xvi_let_20100319_church-ireland.html

My address this morning intends to go through the main phases of processes of individual cases of sexual abuse of minors by members of the clergy with some practical suggestions dictated by prudence, best practice, and the paramount concern for the safeguarding of the innocence of our children and young people.

Reporting Sexual Misconduct

The first phase is the Reporting of Sexual Misconduct. It is essential that the community be advised that they have the duty and the right to report sexual misconduct to a contact person in the diocese or religious order. These contact details should be in the public domain. It is advisable that if and when a case of misconduct is referred directly to the Bishop or Religious Superior, they refer the information to the designated contact person. In every case and for all the phases of dealing with cases these two points should be followed at all times: i) protocols established should be respected. ii) civil or domestic laws should be obeyed. It is important that every allegation is investigated with the help of experts and that the investigation is concluded without unnecessary delay. The discernment of the ecclesiastical authority should be collegial. In a number of local churches review boards or safeguarding commissions have been established and this experience has

proved to be beneficial. It is such a relief for us bishops when we are able to share our sorrow, our pain and frustration as we face the terrible effects of the misconduct of some of our priests. Expert advice brings light and comfort and helps us arrive at decisions that are based on scientific and professional competence. Tackling cases as they arise in a synodal or collegial setting will give the necessary energy to bishops to reach out in a pastoral way to the victims, the accused priests, the community of the faithful and indeed to society at large. All these persons require special attention and the Bishop and Religious Superior needs to extend his pastoral solicitude to them either in person or through his delegates. As shepherds of the Lord's flock we should not underestimate the need to confront ourselves with the deep wounds inflicted on victims of sex abuse by members of the clergy. They are wounds of a psychological and spiritual nature that need tending with care. In my many meetings with victims around the world I have come to realise that this is sacred ground where we meet Jesus on the Cross. This is a Via Crucis we bishops and other Church leaders cannot miss. We need to be Simon of Cyrene helping victims, with whom Jesus identifies himself (Matt. 25), carry their heavy cross.

Investigating Cases of Sexual Misconduct

According to the *Motu Proprio* Sacramentorum Sanctitatis tutela the result of the investigation of sexual misconduct of clergy with minors under the age of 18 years should be referred to the Congregation for the Doctrine of Faith. In these cases the Ordinary is authorized by Canon Law to apply precautionary measures (CIC 1722) limiting or prohibiting the exercise of ministry. The Ordinary should consult his canonical experts in all cases of sexual misconduct so that referral is done when it needs to be done and proper procedures are adopted on the local level when the case is not reserved to the Holy See (for example, when misconduct occurs between consenting adults). Experts will furthermore help the Bishop or Religious Superior share all the necessary information with the CDF and will help him express his

advice on the merits of the allegations and the procedures to be adopted. It is advisable that the Ordinary follow up the case with the CDF. The Bishop or Religious Superior is best placed to discern the potential impact of the outcome of the case on his community. The CDF takes the advice of the Bishop seriously and is always available to discuss individual cases with the competent ecclesiastical authorities.

Canonical Penal Processes

In most cases referred to the CDF a canonical penal process is authorised by the Holy See. The majority of canonical penal processes are of the extra-judicial or administrative type (CIC 1720). Judicial penal processes are authorized in a lesser number of cases. In both types of process the Ordinary has the duty to nominate Delegates and Assessors or Judges and Promoters of Justice that are prudent, academically qualified and renowned for their sense of fairness. In our system, as it obtains at the present, the role of the victim of sexual abuse in canonical proceedings is limited. The pastoral solicitude of the Ordinary will help make up for this lacuna. The person responsible for Safeguarding in the Diocese or the Religious Order should be able to share information on the progress of the proceedings with the victim or the victims in the case. In the judicial penal process the victim has the right to institute a case for damages before the ecclesiastical judge of First Instance. In the case of an administrative penal process this initiative should be taken by the Ordinary on behalf of the victim, requesting the Delegate to award damages in favour of the victim as a subordinate consequence of an eventual decision of guilt. The essence of a just process requires that the accused is presented with all arguments and evidence against him; that the accused is given the full benefit of the right of presenting his defence; that judgement is given based on the facts of the case and the law applicable to the case; that a reasoned judgement or decision is communicated in writing to the accused and that the accused enjoy a remedy against

a judgement or decision that aggrieves him. Once the Ordinary, following the instructions of the CDF, nominates a Delegate and his Assessors in an administrative process, or nominates the members of the tribunal in a judicial penal process, he should let the persons nominated do their work and should refrain from interfering in the process. It remains his duty, however, to ensure that the process is done in a timely manner and according to canon law. A canonical penal process, whether judicial or administrative, ends with one of three possible outcomes: a *decisio condemnatoria* (where the *reus* is found guilty of a canonical delict); a *decisio dimissoria* (where the accusations have not been proven); or a *decisio absolutoria* (where the accused is declared innocent). A *decisio dimissoria* may create a dilemma. The Bishop or Religious Superior may still be uncomfortable with reassigning the accused to ministry in a case where the allegations are credible but the case has not been proven. Expert advice is essential in these cases and the Ordinary should use his authority to guarantee the common good and ensure the effective safeguarding of children and young people.

The Interface with Civil Jurisdiction

An essential aspect of the exercise of stewardship in these cases is the proper interface with civil jurisdiction. We are talking about misconduct that is also a crime in all civil jurisdictions. The competence of the state authorities should be respected. Reporting laws should be followed carefully and a spirit of collaboration will benefit both the Church and society in general. The Civil courts have jurisdiction to punish crime and another jurisdiction to award damages under laws concerning civil matters. Civil thresholds or criteria of proof may be different from those exercised in canonical proceedings. The difference of outcomes for the same case is not a rare occurrence. In a number of canonical proceedings the acts presented or produced during civil proceedings are presented as an element of proof. This happens quite frequently in cases of the acquisition, possession, or divulging of pornography

featuring minors where the State authorities possess better means of detection, surveillance and access to evidence. The difference in laws concerning the statute of limitations or prescription is another motive for a diversity of outcome in the same case decided under different jurisdictions. The power of the CDF to derogate from the twenty-year prescription is still invoked in a number of historical cases, but admittedly this should not be the norm but rather the exception. The *ratio legis* here is that the establishment of the truth and the guarantee of justice require the possibility of the exercise of judicial jurisdiction in favour of the common good even in cases where the crime was committed a long time ago.

Implementing Canonical Decisions

The Bishop and the Religious Superior have the duty to supervise the implementation and execution of the legitimate outcomes of penal proceedings. Allowance has to be made for the right of the accused to resort to the remedies allowed by law against a decision that aggrieves him. Once the appeal stage is exhausted, it is the duty of the Ordinary to inform the Community of the definitive outcome of the process. Decisions that declare the guilt of the accused and the punishment imposed should be implemented without delay. Decisions that declare the innocence of the accused should also be given due publicity. We all know that it is very difficult to restore the good name of a priest who may have been unjustly accused. The question of aftercare in these cases also involves the care of victims who have been betrayed in the most fundamental and spiritual aspects of their personality and their being. Their families are also deeply affected and the whole community should share the burden of their grief and move together with them towards healing.

The words of Benedict XVI to the Bishops of Ireland on 28 October 2006 sound the more prophetic today: “In the exercise of your pastoral ministry, you have had to respond in recent years to many heart-rending cases of sexual abuse of minors. These

are all the more tragic when the abuser is a cleric. The wounds caused by such acts run deep, and it is an urgent task to rebuild confidence and trust where these have been damaged. In your continuing efforts to deal effectively with this problem, it is important to establish the truth of what happened in the past, to take whatever steps are necessary to prevent it from occurring again, to ensure that the principles of justice are fully respected and, above all, to bring healing to the victims and to all those affected by these egregious crimes. In this way, the Church in Ireland will grow stronger and be ever more capable of giving witness to the redemptive power of the Cross of Christ. I pray that by the grace of the Holy Spirit, this time of purification will enable all God's people in Ireland to "maintain and perfect in their lives that holiness which they have received from God" (*Lumen Gentium*, 40).

The fine work and selfless dedication of the great majority of priests and religious in Ireland should not be obscured by the transgressions of some of their brethren. I am certain that the people understand this, and continue to regard their clergy with affection and esteem. Encourage your priests always to seek spiritual renewal and to discover afresh the joy of ministering to their flocks within the great family of the Church."

http://w2.vatican.va/content/benedict-xvi/en/speeches/2006/october/documents/hf_ben-xvi_spe_20061028_ad-limina-ireland.html

The Prevention of Sexual Abuse

Our stewardship should also embrace the urgent and long-term issue of the prevention of sexual misconduct in general and of sexual abuse of minors in particular. Notwithstanding the lack of candidates to the priesthood in certain parts of the world, but also to the background of a flourishing of vocations in others, the question of screening of future candidates remains of the essence. The more recent documents of the Congregation for the Clergy on programmes of human formation should be studied and implemented thoroughly. To quote from the more recent *Ratio Fundamentalis* (8 December 2016):

“The greatest attention must be given to the theme of the protection of minors and vulnerable adults, being vigilant that those who seek admission to a Seminary or to a House of Formation, or who are already petitioning to receive Holy Orders, have not been involved in any way with any crime or problematic behaviour in this area. Formators must ensure that those who have had painful experiences in this area receive special and suitable accompaniment.

Specific lessons, seminars or courses on the protection of minors are to be included in the programmes of initial and ongoing formation. Adequate information must be provided in an appropriate fashion, which also gives attention to areas dealing with possible exploitation and violence, such as, for example, the trafficking of minors, child labour, and the sexual abuse of minors or vulnerable adults” (n. 202).

A just and balanced understanding of the demands of priestly celibacy and chastity should be underpinned by a profound and healthy formation in human freedom and sound moral doctrine. Candidates for the priesthood and the religious life should nurture and grow in that spiritual fatherhood that should remain the basic motivation for the generous giving of oneself to the faith community in the example of Jesus the Good Shepherd.

The Bishop and the Religious Superior should exercise their spiritual fatherhood vis-à-vis the priests entrusted to their care. This fatherhood is fulfilled through accompaniment with the help of prudent and holy priests. Prevention is better served when Protocols are clear and Codes of Conduct well known. Response to misconduct should be just and even-handed. Outcomes should be clear from the outset. Above all, the Ordinary is responsible in guaranteeing and promoting the personal, physical, mental and spiritual well-being of his priests. The documents of the magisterium on this issue stress the need for permanent formation and for events and structures of fraternity in the *presbyterium*.

A good steward will empower his community through information and formation. There are already instances of best practice in a number of countries where whole

parish communities have been given specific training in prevention. This valid and positive experience needs to grow in accessibility and extension around the world. Another service to the community is the ready availability of user-friendly access to reporting mechanisms so that a culture of disclosure is not only promoted by words but also encouraged by deed. Protocols for safeguarding should be readily accessible in a clear and direct language. The faith community under our care should know that we mean business. They should come to know us as friends of their safety and that of their children and youth. We will engage them with candour and humility. We will protect them at all cost. We will lay down our lives for the flocks entrusted to us.

Another aspect of the stewardship of prevention is the selection and presentation of candidates for the mission of Bishop. Many demand that the process be more open to the input of lay people in the community. We Bishops and Religious Superiors have the sacred duty to help the Holy Father arrive at a proper discernment concerning possible candidates for leadership as Bishops. It is a grave sin against the integrity of the episcopal ministry to hide or underestimate facts that may indicate deficits in the lifestyle or spiritual fatherhood of priests subject to a pontifical investigation into their suitability for the office of Bishop.

At this point I would like to offer another quote from Pope Benedict XVI's Letter to the People in God in Ireland, 19 March 2010, this time expressly addressed to the Bishops: "It cannot be denied that some of you and your predecessors failed, at times grievously, to apply the long-established norms of canon law to the crime of child abuse. Serious mistakes were made in responding to allegations. I recognize how difficult it was to grasp the extent and complexity of the problem, to obtain reliable information and to make the right decisions in the light of conflicting expert advice. Nevertheless, it must be admitted that grave errors of judgement were made and failures of leadership occurred. All this has seriously undermined your credibility and effectiveness. I appreciate the efforts you have made to remedy past mistakes and to guarantee that they do not happen again. Besides fully implementing the

norms of canon law in addressing cases of child abuse, continue to cooperate with the civil authorities in their area of competence. Clearly, religious superiors should do likewise. They too have taken part in recent discussions here in Rome with a view to establishing a clear and consistent approach to these matters. It is imperative that the child safety norms of the Church in Ireland be continually revised and updated and that they be applied fully and impartially in conformity with canon law.

Only decisive action carried out with complete honesty and transparency will restore the respect and good will of the Irish people towards the Church to which we have consecrated our lives. This must arise, first and foremost, from your own self-examination, inner purification and spiritual renewal. The Irish people rightly expect you to be men of God, to be holy, to live simply, to pursue personal conversion daily. For them, in the words of Saint Augustine, you are a bishop; yet with them you are called to be a follower of Christ (cf. *Sermon* 340, 1). I therefore exhort you to renew your sense of accountability before God, to grow in solidarity with your people and to deepen your pastoral concern for all the members of your flock. In particular, I ask you to be attentive to the spiritual and moral lives of each one of your priests. Set them an example by your own lives, be close to them, listen to their concerns, offer them encouragement at this difficult time and stir up the flame of their love for Christ and their commitment to the service of their brothers and sisters.

The lay faithful, too, should be encouraged to play their proper part in the life of the Church. See that they are formed in such a way that they can offer an articulate and convincing account of the Gospel in the midst of modern society (cf. *1 Pet* 3:15) and cooperate more fully in the Church's life and mission. This in turn will help you once again become credible leaders and witnesses to the redeeming truth of Christ." (n.11)

http://w2.vatican.va/content/benedict-xvi/en/letters/2010/documents/hf_ben-xvi_let_20100319_church-ireland.html

Conclusion

As Pope Francis wrote in his Letter to the People of God (20 August 2018): “It is essential that we, as a Church, be able to acknowledge and condemn, with sorrow and shame, the atrocities perpetrated by consecrated persons, clerics, and all those entrusted with the mission of watching over and caring for those most vulnerable. Let us beg forgiveness for our own sins and the sins of others. An awareness of sin helps us to acknowledge the errors, the crimes and the wounds caused in the past and allows us, in the present, to be more open and committed along a journey of renewed conversion.”

http://m.vatican.va/content/francescomobile/en/letters/2018/documents/papa-francesco_20180820_lettera-popolo-didio.html