

Opinion

The Politics of Clerical Sexual Abuse

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Abstract: This article examines the complex politics surrounding the Catholic Bishops' responses to clerical sexual abuse in the United States from the first, public revelations of the scandal in Boston in 2002 to the present. It asks a compelling leadership question on three levels: how did the Bishops respond politically as individual diocesan leaders; as members of their canonical organization, the United States Conference of Catholic Bishops (USCCB); and as appointed officials of the Vatican? This article argues that the members of the hierarchy implemented disparate and often conflicting religious and legal responses to clerical sexual abuse in their various roles. They did this by accepting misguided psychological advice, relying on traditional religious exemptions, attempting to implement confusing institutional policies, and usually mounting ineffective legal challenges to canon law in civil courts. These actions reflected hierarchical ignorance and arrogance as well as a political underestimation of the compelling state interest to protect the safety of children over religious concerns to insure the autonomy of the Church.

Keywords: Catholic; clerical; sexual abuse; American Bishops

1. Introduction

The American Bishops had been warned about an impending religious scandal that could undermine the moral integrity of the Church a *decade and a half* before the clerical sexual abuse crisis broke in Boston in 2002. Indeed, they had been informed about potential criminal trials of priests, financially significant lawsuits, and constitutional challenges to U.S. Church–State relations as early as 1984.

At that time, a priest, named Gilbert Gauthé, was accused, convicted and sentenced to 20 years in prison for 33 counts of sexual abuse in Lafayette, Louisiana. He had been sent to several “facilities” a number of times by his Bishop where he was supposedly “cured”. Each time, when he was considered fit to return to ministry, he was reassigned to a new parish—only to repeat his sexual perversions. The records of Gauthé’s criminal case were sealed but after this conviction, several families of the victims brought civil suits against the priest in order to assure a public airing of the sordid facts and to receive financial compensation for the victims as well. Gauthé was held responsible for his actions; scandalizing Church officials and assuring the fact that his victims and their families would receive significant sums of money for pain and suffering.

Most people believed that Gauthé’s reprehensible acts were an aberration, but three men disagreed: Gauthé’s criminal lawyer, F. Ray Mouton; his priest-psychiatrist, Father Michael Peterson; and a canon lawyer, named Father Thomas Doyle who worked at the Vatican Embassy in Washington, D.C. He monitored this case and other serious legal situations for officials in Rome.

2. Early Warnings and Responses 1984–1994

Because of their intimate involvement in the Gauthé case, the trio of professionals had come to understand the nature, scope and national implications of Catholic clerical sexual abuse in the United

States. Impelled by what they learned in the Gauthé case, Mouton, Peterson and Doyle attempted to sound an alarm to protect other children and to preserve the Church's reputation.

The men issued voluntary, internal, confidential guidelines for the U.S. hierarchy to consider—a possible template to follow whenever sexual abuse allegations were leveled against a priest [1]¹. Based on their collective experience, they advocated: (a) removing the abuser from his ministry; (b) referring him for medical evaluation and intervention; (c) complying with civil law; (d) reaching out to victims and their families; and (e) dealing openly with members of the affected communities.

Mouton, Peterson and Doyle met in secret with influential bishops² several times to discuss the manual in the late 1980s after the conviction of Gauthé. They claimed later, however, that their ideas were vetted and that the hierarchy seemed to be in full support of bringing their document to the United States Catholic Conference of Bishops for consideration [3]. However, the trio was metaphorically dismissed when officials at the Conference declared that the canonical organization had “already taken appropriate action” ([1], p. 5) to deal with clerical sexual abuse.

Why? In an obvious turf war, Monsignor Daniel Hoye, the Secretary General of the USCCB at the time, claimed that Mouton, Peterson and Doyle gave the efforts of the USCCB and diocesan bishops “short shrift” in their attempts to deal with the problem. He also intimated that they were seeking lucrative retainers from the USCCB ([1], p. 5).

Mouton, Peterson and Doyle were never given credit for their early attempts to warn the hierarchy about the impending clerical sexual abuse crisis. Instead, it was *their* guidelines that were given short shrift by the USCCB. All three men had to deal with professional and personal consequences due to their attempts to deal with clerical sexual abuse outside of official, established processes. Doyle was relieved of his duties at the Vatican Embassy after the Gauthé case. He was reassigned and commissioned as a chaplain in the military since he held the rank of a reserve officer in the U.S. Air Force. Stationed at a number of different bases, he continued to criticize the Bishops and their handling of the clerical sexual abuse crisis. Ultimately, Doyle had a pastoral disagreement with one of his superiors in Germany, was removed from his position, and returned to the United States. Since then, he has been actively working as a canon lawyer and serving as an expert witness in clerical sexual abuse cases. He has also received the moral courage award from the Survivors Network of Those Abused by Priests (SNAP).

After defending Gauthé, Mouton spent two years trying to get Bishops around the country interested in the guidelines that he and his triad had proposed, but to no avail. In a 2002 interview with CBS News, Mouton said that the hierarchy never had any intention of giving an apology, providing counseling or approving of therapy for his client. Instead, he claimed that the hierarchy was only interested in avoiding Church scandal. F. Ray Mouton is no longer a practicing lawyer today, nor is he in the Church.

Father Michael Petersen died two years after the Gauthé case—the cause of his death was AIDS. Only seven Bishops out of the hundreds in the U.S. hierarchy attended. Their numbers, however, were augmented by the many priests who came to his funeral Mass.

All three, Doyle, Mouton and Petersen were never given an opportunity to play a viable part in developing a solution to the clerical sexual abuse crisis in the Church. However, they were vindicated symbolically when their suggestions became institutionalized by the USCCB almost a decade later when the Bishops issued several documents entitled *Restoring Trust*. Together, they finally set out voluntary guidelines for the hierarchy to consider when dealing with cases of clerical sexual abuse.

¹ For further information also see Father Thomas Doyle, O. P., “A Short History of *The Manual*”, in which he cites a supplement by Father Michael Petersen [2].

² Archbishop Philip Hannan of New Orleans (Gauthé's superior); Archbishop and later Cardinal, Bernard Law of Boston; Bishop and later Cardinal William Levada who would become head of the Congregation for the Doctrine of the Faith under Benedict XVI) Cardinal Krol of Chicago, Bishop A. J. Quinn of Cleveland were among them.

Interestingly, they were also based on the framework of the manual created by Doyle, Mouton and Petersen.

There were other reasons why their warnings and recommendations were dismissed by the American Bishops acting as individuals and as members of the USCCB: ignorance and arrogance, particularly as they perceived the authority of civil law *vis-à-vis* their own religious power. Bishops believed that their supervision of the clergy, even in sexual abuse situations, was an internal, supervisory matter to be handled by them; a traditional ecclesiastical right protected from state intrusion by historical, religious exemptions to civil law. Therefore, they relied either on the Church's legal system, canon law, to adjudicate allegations of clerical sexual abuse or their own personal interpretations of Church law to punish the priests under their control. Most decided, individually, to challenge civil demands for the right to prosecute priests in civil courts on the basis of religious freedom, internal church prerogatives, and canon law.

Defined and enacted before most secular, national, legal codes even existed, canon law dealt with the dark side of clerical behavior from the earliest days of Church history. From its inception, Church punishments and interpretations of canons for priestly sexual abuse were framed in terms of "sin"; that is, as transgressions of the Sixth Commandment. Members of the hierarchy basically carried out the substance of Church law, but meted out punishments designed to help priests repent, reform, and return to their religious ministries. At the same time, many Bishops traditionally conflated the supervision of priests with total control over the treatment, punishment, and assignment of clergy and rejected every aspect of evolving civil attempts to have a say in a priest's ministry or personal life with regard to sexual abuse allegations.

In more modern times, some members of the hierarchy were flummoxed by the whole problem of clerical sexual abuse; they relied on psychologists and psychiatrists who themselves were usually unable to guarantee the mental health of the priests that they treated. Others simply made the accusatory process so difficult that the prospect of having to prove their own innocence as well as the priest's guilt overwhelmed victims in sexual abuse cases. Most Bishops pursued financial solutions to make the problems go away, giving abused minors and their families some money for "therapy", pain and suffering. However, these pay-outs were always tied to confidentiality agreements, which in effect would protect the identity of the victim, the good name of the priest, and ultimately, the reputation of the Church.

Concomitantly, many Bishops relied on historical, state "exemptions" from certain civil laws as they dealt with matters involving the clergy and sexual abuse. They included everything from tax relief to special treatment in return for the social services that the Church provided. The exemptions were defined differently from state to state and had various statutes of limitations attached to them. In general, Church officials were immune from having to report allegations of the crime of sexual abuse to civil authorities or to provide medical, psychiatric records or personal histories of clerics to state officials. At the same time, in most states, the Church received protections from grand jury investigations, depositions of its clergy, and the public airing of records of salacious charges based on traditional, ecclesiastical privileges as well.

Church officials defended the right to these exemptions on the basis of their social services and First Amendment protections which covered the free exercise of religion. Because they viewed sexual abuse as a "sin", they argued that they did not have to report the allegations to public officials. Indeed, the difference between the "crime" of sexual abuse and the "sin" of impurity became a major stumbling block between Church leaders and civil authorities—in fact it became a legal and, eventually, a *political* battle as both attempted to deal with the escalating revelations of sexual abuse from their own perspectives and power positions.

For a number of reasons, then, among themselves and within their canonical organization, many Bishops were unable or unwilling to develop a systematic way to deal with the number of priests who were being accused of sexual abuse during the decade and a half between the Gauthier case in 1984 the Boston scandal in 2002. They had been warned by Mouton, Peterson and Doyle; they were told that

ineffective reactions to clerical sexual abuse could curb, and even end, many ecclesiastical privileges that the Church had traditionally enjoyed in the U.S. Individually, as a canonical organization, and as representatives of the Vatican, most U.S. Bishops refused to pay attention to the ominous signals that they had received. Instead, the treatment of accused clerics was supposedly handled substantively by canon law, but implemented unevenly by Bishops and their lawyers and often dealt with in their own ways from the Bishops' powerful religious positions.

As mentioned earlier, in 1994, however, a decade after the Gauthe case, the USCCB attempted, for the first time, to provide information about how to handle sexual abuse allegations. The canonical organization issued three documents over three years entitled *Restoring Trust*. They provided descriptions of viable treatment centers that religious administrators could use for inpatient referrals for clerical sexual abusers [4–6]. The documents also discussed the Bishops' possible levels of involvement in those types of cases and potential aftercare treatments for priest-patients. However, the Bishops' implementation of various aspects of *Restoring Trust* was uneven and problematic at best [7,8].

In that same year, 1994, the USCCB set up a Joint Study Commission with Vatican officials to try to get some policies in place for the treatment of clerical sexual abusers; but their discussions still did not lead to any established definitive, systematic processes that could be enforced. The inability of the Bishops to work with others and among themselves in an informed, transparent, accountable way to deal with early accusations of clerical sexual abuse only continued to make the allegations and settlements more reprehensible as they came to light.

3. Mixed Crisis Responses 2001–2004

No documents or study groups, however, could prepare the Bishops for the scandal that hit the front pages of the *Boston Globe* in 2002. All the hierarchy's internal problems; namely denials, misunderstandings, rationales, fears, arrogance, deceptions, and ignorance came to light with the spectacular sexual abuse allegations against a semi-retired priest, Father John Geoghan.

He had been arrested for molesting a minor, but his penchant for such behavior had been known previously by several of his superiors, including the Archbishop at the time, Bernard Law. He revealed that information in court filings. Reporters found that over a number of years, Geoghan had received "treatments" at "facilities", repented, was reassigned to new parishes, and allowed to continue his ministry. Victims had been compensated, but were made to sign confidentiality agreements to receive their financial settlements. A pattern of repeated sexual behavior and official, inadequate sanctions paralleled Gauthe's treatment in Louisiana several decades earlier. In hindsight, both cases evidenced inept hierarchical sanctions, clerical recidivism, continued victimization of minors and hierarchical cover-ups.

The Geoghan case escalated nationally. This was due primarily because the *Boston Globe* successfully sued the Archdiocese of Boston to open the personnel files of, not only Geoghan, but of 84 priests as well who had been accused of sexual abuse in the past. Due to a significant judicial ruling, the city opened the records and unsealed others, refusing to consider them as exempt from civil investigation in Massachusetts any longer. Medical and psychiatric records were now subject to civil investigations, subpoenas, and public scrutiny. As a result, Geoghan was convicted, sent to prison, and ultimately murdered by a victim of sexual abuse. Other states followed the Massachusetts example, demanding the personnel records of priests accused of molestations and challenging Church expectations of legal, ecclesiastical immunity for clergy.

The District Attorney for the State of Massachusetts also used broad investigative power and impaneled a Grand Jury to look into the ways that religious superiors dealt with clerical sexual abusers. For the first time in the state's history, his office looked into the effectiveness of Church administration. It issued numerous subpoenas, and deposed the Archbishop, by then Cardinal, Bernard Law and 32 members of his staff about allegations, treatments, and settlements of past cases. The Attorney General concluded after deposing the Church officials for over 100 hours, issuing 53 subpoenas, going over 500 formerly secret files, and reviewing 30,000 pages of documents that "there was an institutional acceptance of abuse and a massive and pervasive failure of leadership" for "at least six decades"

through “three successive archbishops, their bishops and others in positions of authority” in the Boston Archdiocese ([9], p. 73). In short, the leadership of the Archdiocese of Boston had, in its own way, re-victimized the already abused prey of the clergy.

Because of religious exemptions from state laws in the past, however, Church officials were not required to report crimes of sexual abuse to civil authorities in Massachusetts. Therefore, it was not possible to prosecute any of the leaders of the Boston Archdiocese for malfeasance. Legislation was quickly enacted, though, mandating Church officials to report clerical sexual abuse to civil authorities, lengthening criminal statutes of limitations and extending more time for individuals to bring litigation in civil courts as well.

Soon after, the crisis escalated beyond Boston. More and more allegations became public; grand juries proliferated; priests’ records were unsealed; depositions of high ranking Church leaders became common; and litigation grew. All this happened as constitutional issues revolving around First Amendment guarantees and interpretations about the separation of Church and State emerged as well. Canon lawyers were employed by their Bishops to bring cases that would protect their ecclesiastical rights. The Bishops, separately and as a canonical body, were now caught in a growing public, religious, legal and constitutional crisis.

Civil challenges and law suits became the means by which individual and class actions were resolved in the Catholic clerical sexual abuse crisis. They were not settled by church officials who, themselves, were overwhelmed by the number of allegations that were leveled against the Church in quick succession. Neither individual Bishops nor the USCCB were able to come to terms with victims in a voluntarily, expeditious, or systematic way.

Individually, each bishop serves as the religious leader, financial head, and political connection to the secular world in which the Catholic Church operates. Religiously, the Bishop is charged with supervising all spiritual matters within his territorial purview, that is, his diocese. He is responsible for teaching, educating, and helping each individual to attain his/her spiritual fulfillment. All priests, nuns and others who work for the diocese are under his management and control. As a financial leader, the Bishop serves as a “corporation sole” or as the individual who can sign contracts, carry out monetary matters and deal with civil, financial organizations in the name of the Church. The Bishop’s diocese contains religious buildings, schools, hospitals, cemeteries and other real estate holdings which are considered, in a civil sense, as financial assets. As a political individual, the Bishop is often a liaison with civil authorities on policies that overlap both sacred and secular issues, especially those that impact education, health, and social services—indeed, a powerful individual to be consulted for co-operation on community needs.

It is possible to say, then, that Bishops were often treated by the laity and civil officials as special and powerful individuals. Reporting to civil authorities about management issues, turning over personnel records of priests to civil investigators, dealing with bankruptcy courts, or protecting Church assets in abuse settlements, raised major political problems within the ruling ranks of the Catholic hierarchy in the United States. It was beyond most Bishops’ comprehension that they would have to succumb to, what they considered to be, civil intrusions, into their private ecclesiastical domains. As a result, many dioceses became involved in legal proceedings to protect, what they perceived to be, religious freedom to control clerics’ records, to maintain the secrecy of their administrative procedures, and to ensure their rights to sanction priests for clerical abuse allegations. In response, civil authorities aggressively countered individual hierarchical attempts to seek First Amendment challenges to such traditional ecclesiastical exemptions in courts across the country.

The individual Bishops, then, were faced with a number of political challenges: on one level, they had to deal with clerical sexual abuse by themselves in their own ways in their dioceses; on another they had to work within their canonical organization, the USCCB, and ultimately, they had to obey the policies established by officials in Rome. The complexities of power and politics at play were difficult to maneuver. For example, in early 2002, soon after the Boston crisis broke, members of the Church hierarchy, Cardinals along with the head of the USCCB, were summoned to the Vatican to answer to

Pope John Paul II about their management of clerical sexual abuse. Reportedly, the hierarchy had been told earlier to inform the office of the Congregation of the Doctrine of the Faith, even if a hint of such of problem arose [10]. Some did, but since trials in Rome were lengthy, many Bishops simply handled the situations themselves quickly in their own diocese. Now, however, they were going to Rome to be castigated for their inadequate responses and lectured about how to handle sexual abuse in the future.

Pope John Paul II viewed clerical sexual abuse through the religious lens of sin. As a grave sin (*delicta graviora*) to be sure, and even as a crime, the Pontiff, however, saw the Church's responsibility to stress solidarity and assistance to the victims, to defend celibacy, to promote moral teaching about sexual abuse, to recognize the "power of Christian conversion", and the ability of a sinner to turn back to God [11]. Now the hierarchy was confused as to whether or not it had to accede primarily to the Pope's theological views and policies with regard to sexual abuse, to work within the civil law in the United States, or to try to create a compromise position that could reconcile their responsibilities to both the Church and the State. Bishop Wilton Gregory, head of the USCCB at the time, left Rome upbeat, but clearly as confused as everyone else. He told the press, the Pope "gets it", but that the Church "doesn't do crime. It does sin" [12].

In 2002, several months after the Papal meeting, the Bishops of the United States, assembled as a canonical body, met in Dallas for their bi-annual meeting. The obvious priority of the USCCB was how to deal with clerical sexual abuse. By that time, the Bishops had already been shamed in the court of public opinion, vilified in the press, and on the defensive in their own dioceses for allegations pending against former or current priests for sexual offenses. At the same time, reports indicate that some Bishops were also in conflict with each other.

A Quinnipiac poll on the eve of the meeting showed the distrust of Catholics toward the hierarchy. It reported that 87% of Catholics wanted a zero tolerance policy for priests accused of sexually abusing young people; 69% believed Church leaders who transferred priests should resign; 89% wanted Bishops to report accusations to civil authorities; and 70% wanted to have a say in deciding how to deal with such priests, while only 23% percent actually believed that the Bishops would be able to accomplish something worth while and help alleviate the scandal [13].

To everyone's surprise, however, the Bishops did come together in an attempt to create a systematic approach to handle the problem of clerical sexual abuse in the United States. They issued two major documents, *The Charter to Protect Children and Young People* and the *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuses of Minors by Priests or Deacons*. These documents set out the principles and means to protect minors from clerical sexual abuse as well as ways to secure the civil and religious rights of priests accused of such acts. In a stunning vote of 239-13 the Bishops agreed to: (a) a zero tolerance policy; (b) the development of lay councils to investigate accused priests; (c) the establishment of a review board to gather data and make recommendations for the safety of children; (d) redefine clerical sexual abuse as a crime; (e) recognize 18 years of age with a 10 year limit after that for individuals to bring accusations against priests; (f) report such crimes to civil authorities; and (g) spell out the rights and processes of religious punishments for clerics accused of sexual abuse. However, the politics of how to implement these policies became problematic soon after the Bishops adjourned.

Officials at the Vatican and many recalcitrant Bishops made the reality of the USCCB's intentions harder to carry out than expected. Some of the recommendations could not be put in place immediately. First, certain reforms required changes to canon law; therefore, they could only be enacted by authorities in Rome. Second, some policies could only bind national episcopacies like those in the United States, but would not apply to other countries. Third, the definition of clerical sexual abuse as defined by the Bishops had to be clarified. Fourth, the rights of diocesan priests were different from those in "orders", thus requiring the supervision and management of clergy be more clearly explained. So, when the Bishops sent their recommendations on to Rome, a compromise had to be worked out in order for the American hierarchy to be allowed to institute policies that would eventually bind only the Bishops in the United States.

A joint commission was established in Rome to look at the various aspects of the Dallas documents. A complicated body of officials from the Congregation for the Doctrine of the Faith, the Congregation of Bishops, the Pontifical Council for Legislative Texts and four members of the USCCB, finally accepted all of the policies adopted at the Dallas meeting—with some reservations.

Although compromise was the order of the day, questions about how to deal with the “sin” versus the “crime” of sexual abuse still remained a quandary. The Vatican wanted to be sure that civil authorities would have no involvement in the way that the Church managed the *religious* treatment and punishment of the clergy. It balked at legal definitions of sexual abuse which, in the United States were characterized as everything from public urination to rape within America’s 50 different state jurisdictions. In the end, the Vatican only accepted its own definition of clerical sexual abuse. It contended that “A child is abused whether or not this activity involves explicit force, whether or not it involves genital or physical contact, whether or not it is initiated by the child, and whether or not there is [a] discernible harmful outcome” [14]. This would be the standard by which priests would be judged in a religious proceeding. Vatican officials also opposed the imposition of 50 different statutes of limitations in each U.S. state as well holding on to their own time table of 18 years and 10 years after that to bring accusations against a priest in a religious proceeding. Without much fanfare, however, the Vatican also acceded to the fact that Church policies “must be in accord with the civil law” as well [13]. In short, the Vatican finally conceded to allow priests to be prosecuted in civil courts for the crime of sexual abuse.

4. Political Push-Back: 2005–2015

While such problems were being worked out in Rome, internal political problems that began among the Bishops at the start of the Dallas meeting continued. On the one side, diocesan leaders such as Bishop Thomas Doran of Rockford, Illinois opposed civil demands for information and clerical records. Speaking for a number of Bishops in Dallas, he had characterized this view by saying that his colleagues should not “rat out our priests” [15]. Others, such as Theodore Cardinal McCarrick of Washington, D.C. set a different tone, one of reconciliation, and met officially with a group of clerical sexual abuse survivors for the first time. In order for *The Charter* and *The Essential Norms* to have any real meaning, though, individual bishops would have to demonstrate their willingness to carry through on the promises that they made and that their canonical organization sanctioned rather than play politics with them.

This did not happen quickly or easily. For example, when the National Review Board, an investigative body established by the USCCB at the Dallas meeting, was beginning to gather data on the nature and scope of clerical sexual abuse and to monitor the progress of *The Charter* and *The Essential Norms*, a number of bishops were called out for stonewalling the board, hiding evidence, obstructing justice, and acting “like the *cosa nostra*” [16]. These allegations were made by the head of the Board, the former Catholic Governor of Oklahoma, Frank Keating. He clearly revealed the palpable reticence and push-back by some members of the hierarchy regarding their opposition to the Board’s mandated duties. Keating resigned early on, showing his dissatisfaction with lack of cooperation among the U.S. Bishops with the National Review Board. Later, however, his committee was able to successfully re-group and commissioned the John Jay College of Criminal Justice to study and publish a document entitled *The Nature and Scope of Sexual Abuse of Minors by Catholic Priests and Deans in the United States, 1950–2002* [17]. Released in 2004, twenty years after the Gauthre case and the warning of Mouton, Peterson and Doyle, the USCCB finally provided the first official, public, transparent information on numbers of clerical sexual abuse allegations, profiles of victims, and actions taken (and not taken) by superiors against priests accused in such cases.

Several spectacular incidents also emerged after the Dallas meeting in 2002 which also provide evidence showing that many Bishops were still unable or unwilling to accept the reforms instituted by the USCCB to deal with clerical sexual abuse. For example, within a year of the passage of *The Charter*, prosecutors convened a special grand jury in Cincinnati to investigate sexual abuse crimes,

and accused church officials as being “grudging and tardy” with their responses [18]. The spirit of *The Charter* was already being compromised. By November of 2003, only a year later, the Archbishop of Cincinnati ended up entering a guilty plea for failing to report crimes of sexual abuse in order to avoid the indictment of clerics in his diocese ([19], p. 62). In Manchester, New Hampshire, around the same time, civil authorities investigating the safety of children found that the “archdiocese” rather than its Bishop, John McCormick had failed to protect children from sexually abusive priests. In an official statement, the leader of the diocese acknowledged that “the failure in our *system* [italics added]... contributed to the endangerment of children” [20]. Furthermore, the Bishop of Manchester found his archdiocese subject to an annual audit for five years to assure its compliance with state legal obligations to implement policies for the safety of children. State oversight of a Church program now became a reality in New Hampshire.

This pattern of lip-service rather than reform continued to characterize individual acceptance of the policies established by the USCCB. Some Catholic officials even used the excuse that new canonical guidelines from Rome regarding clerical sexual abuse were too complex and convoluted to follow, even after the Dallas meeting [21]. Therefore, they just returned to business as usual in their treatment and punishment of clergy in sexual abuse matters.

While it might be plausible to assume that changes also required some time for them to be implemented, almost a decade later in 2011, a Grand Jury in Philadelphia revealed that Anthony Cardinal Bevilacqua and his administrator in charge of clerical personnel, Monsignor William Lynn, had not reported allegations of clerical sexual abuse for years after the Dallas meeting. Although a zero tolerance policy had been instituted by the USCCB, Lynn and his superior ignored it and simply continued to deal with clerical sexual abuse as they had in the past. Unfortunately, there was no law in place requiring Church officials to report such matters to civil authorities in Philadelphia, so that when Lynn was prosecuted, punished and sent to jail, he was later released on this legal technicality. There was no way to deal with his non-compliance of *The Charter* in a canonical way either.

In Los Angeles, Roger Cardinal Mahoney admitted in 2013 that he was “naïve” while apologizing for the fact that he had previously followed a policy of out-of-state therapeutic referrals for clerics accused of sexual abuse [22]. Doing this allowed him to by-pass the legal responsibility to report accused molesters to civil authorities.

In the diocese of Kansas City-St. Joseph, Missouri, Bishop Robert W. Finn was convicted of failing to report a priest for child pornography in 2013. He was sentenced to two years’ probation for not reporting the clergyman to civil authorities as required by law, but simply confining him to a convent instead. Again, there was no follow through of the Bishop’s responsibility to obey the policies put in place by the USCCB more than a decade earlier. Finn has been investigated by the Vatican and has resigned.

In St. Paul, Minnesota in 2015, prosecutors brought criminal charges against six church leaders for violating the state’s Child Victims Act, mishandling repeated complaints of sexual abuse, and the fact that they continued to overlook such complaints even after reforms were put in place at the Dallas meeting in 2002. The leaders were fined by officials of Ramsey County. Archbishop John C. Nienstedt and his Auxiliary Bishop Lee A. Piche resigned. A final settlement between the County and the Archdiocese to assure transparency on sexual abuse has recently resulted in mandatory civil oversight to monitor the Church’s progress for change for the next three years.

These incidents continue to reveal individual inaction and lack of respect for the policies of the USCCB on the part of some members of the hierarchy. They continue to substantiate the hierarchy’s desire to use its own personal, diocesan power rather than to accept the policies of their canonical organization to provide justice for the victims of clerical sexual abuse.

Catholics have reacted to this type of political maneuvering that attempts to mitigate the hierarchy’s responsibility to the survivors of priestly predatory actions in their own way: through the rise of activist groups, both lay and clerical. The most vocal among the lay activists are the individuals behind the website, bishop-accountability.org; The Survivors Network of those Abused

by Priests (SNAP), and Voice of the Faithful (VOTF). Bishop-accountability.org has served to provide the public with information through a comprehensive archive of evidence of clerical sexual abuse. It provides newspaper reports, official Church postings, Vatican documents, information from grand juries and court documents that allows transparency—a critical service to counter the fact that Church officials have been unwilling to share with religious adherents. Both SNAP and VOTF have also had a substantial, religious and political impact on the U.S. hierarchy at its various levels. On an individual diocesan level, both SNAP and VOTF have raised media awareness, lobbied legislators, provided access to support programs, supported legal actions against Church officials, and called for reform of Church management. In response, the leaders of SNAP and VOTF have been denigrated by church officials and their surrogates for their attempts to rally the public against institutional secrecy and reluctance to co-operate with civil authorities. Undeterred, SNAP has raised the stakes in the political game, bringing suit against the Vatican at the International Court at The Hague about the Church's complicity in clerical sexual abuse. Bishop-accountability has provided the documentation.

On the other side of the spectrum, the National Federation of Priests' Councils that represent about twenty-two thousand priests have also sought legal recourse in civil courts where they felt they were not being protected by their Bishops. They were among those who challenged the competence and trust of the U.S. Bishops after the Dallas meeting. Clearly, the U.S. Bishops, individually and as a canonical organization, have been unable and/or unwilling to provide information, assure transparency, and in turn, be willing to be accountable for the crisis and its management that has occurred on their watch in the last two decades—with both the laity and the clergy. Thus, it is possible to see how various bishops acted, opposed giving up their personal diocesan power, refused to follow the spirit or the policies of their own canonical organization after the Dallas meeting, and did not trust the laity to help in the religious adjudication of priests. But that is not the end of it.

In hindsight, it is now possible to also understand another phenomenon that caused many Bishops to be involved in political maneuvering due to the ramifications of priestly predatory behavior: the fact that their financial power was being curbed too. Since 2002, when the scandal broke in Boston, to the present, huge monetary settlements have occurred. In Boston, the Archdiocese had to sell major land holdings, a seminary, and the Archbishop's residence. The Church's administrative buildings had to be re-located in order to avoid bankruptcy. Eleven other dioceses³ were not so lucky: they did have to declare bankruptcy.

This phenomenon caused a major change in the financial power of the Bishops. Most responded with the First Amendment defense that requiring the financial reorganization of their diocese was a violation of religious freedom as well as the principle of separation of Church and State. Claiming that financial lawsuits were internal religious/Church matters, and that the state was breaching the bishop's right to control such situations, most members of the hierarchy hoped to hold on to the control of the monetary affairs in their dioceses when they were sued, could not pay out huge settlements, and their real estate holdings were placed at risk.

The first major case occurred in Portland, Oregon in 2003. At that time, the Portland Bankruptcy Court ruled that bankruptcy was a corporate matter, not an ecclesiastical one [23]. The ruling meant that the Bishop of Portland, as its "corporation sole" was now required to open the financial records of his diocese and provide information to the court that had been closely guarded in the past, for a possible corporate, financial reorganization.

The Portland decision basically became the precedent followed in most bankruptcy courts after that time, thus leading many Bishops to fear the financial consequences of more than three billion dollars in pay-outs to victims of clerical sexual abuse after 2002. The costs of many of these settlements were covered by insurance, but many Bishops often waited until the last minute to agree to civil claims.

³ Portland, Oregon; Tucson, Arizona; Spokane, Washington; Davenport, Iowa; San Diego, California; Fairbanks, Alaska; Wilmington, Delaware; Milwaukee, Wisconsin; Gallup, New Mexico; Helena, Montana and St. Paul-Minneapolis, Minnesota. Several other diocesan cases are still pending.

These stalling techniques were used to hold claimants at bay and allowed canon lawyers the time, on behalf of their bishops, to stave off the potential sales of Church assets. Among these were schools, hospitals, cemeteries, and other real estate holdings, which could be used if bankruptcy proceedings would become necessary to cover such payments. Bishops also worried about the loss of control over donations, tithes, and other charitable funds that could be redirected by the courts as well.

In general, U.S. bankruptcy courts have been able to financially reorganize diocesan real estate resources, but in some places, they have reserved the right to attach other finances should the need arise. Canon lawyers, representing Bishops, have responded by attempting to protect Church assets. Most dioceses, incorporated with the Bishop as the corporation sole, have now gone to a financial system which incorporates each parish as an individual entity. In this way, diocesan assets of those parishes not involved in clerical sexual abuse claims would be immune from financial culpability.

Other tactics were also used to protect Church assets. Just recently, in Milwaukee, the U.S. Court of Appeals reversed a lower court's ruling which had allowed the Archbishop at the time, Timothy Dolan (now Cardinal-Archbishop of New York), to create a Vatican-approved \$55 million dollar cemetery trust, which, in effect, would have excluded those funds from claims to compensate clerical sexual abuse victims. Political games, such as hiding church assets, are now being reviewed and rejected by civil authorities. In California, the Church has been allowed to sell municipal bonds due to a series of court rulings. Economists claim that "if the Church has issued more debt in part to meet the financial strains caused by the [sexual abuse] scandals, then the American taxpayer has indirectly helped mitigate the church's losses from its settlements" [24].

Thus, U.S. Catholic Bishops individually and as a canonical organization have suffered a loss of managerial power over the clergy, financial control over the reorganization of bankrupt dioceses within the United States, and struggled to protect the religious and monetary interests of the Church. First Amendment defenses and appeals to the principle of separation of Church and State to try to stave off the legal and financial consequences of clerical sexual abuse have been haphazard at best, and many have been completely rejected by civil courts across the country.

5. The Future

What many of these actions have shown is that within the ranks of the U.S. hierarchy, its canonical organization, the USCCB, and in its relationship with Vatican officials, complex political factors still influence disparate attempts to deal with the clerical sexual abuse crisis in the United States. Many Catholics have been hoping that with the elevation of Francis to the Papacy, the former lack of a clear direction would change, that a unified and humane approach to this festering problem would emerge on his watch.

Elected in March of 2013, the new Pope inherited the critical challenge of how to deal with clerical sexual abuse during the first year of his Papacy. A committee of the United Nations released a damaging, public report criticizing the Vatican for not having taken effective measures to protect children and for having "adopted policies and practices which... essentially led to the continuation of the [sexual] abuse by, and the impunity of, the perpetrators" [25]. In the report, the committee criticized the Vatican and Francis' predecessors for secretly transferring clerical sexual abusers, and for treating priests as sinners rather than as criminals [25]. In response, the Pope initially defended the actions of the Vatican, maintaining that "The Catholic Church is perhaps the only public institution to have acted with transparency and responsibility. No one else has done more. Yet the Church is the only one to have been attacked" [26].

Very soon thereafter, however, the Pope also admitted that "reliable data indicates that 'about 2%' of clergy in the Catholic Church are paedophiles. [sic]" [27], an alarming fact since that percentage

represents about 8000 predator priests in active ministry.⁴ The Pope has apologized for the despicable actions of clerics, describing predatory priests as members of a “sacrilegious cult” [29], and calling their behavior a “crime and a grave sin” [27].

Thus, while defending the Church on the one hand, Francis has also vilified some of its clergy on the other. These mixed signals reflect the Pope’s difficult political and religious positions: the need to defend the Church *qua* Church while being transparent and accountable, to support the bulk of the clergy while still punishing its abusers, and to effectively provide justice to the abused as they deserve.

It is safe to say, however, that many of the Pope’s actions do speak louder than his words. One of his first actions after coming to Rome was to establish a Pontifical Commission to establish ways to assure accountability in the clerical sexual abuse crisis. Headed up by Sean Cardinal O’Malley of Boston, the commission is made up of clerical and lay persons, including a victim of abuse. Its mission is to “propose initiatives to encourage local responsibility around the world and the mutual sharing of ‘best practices’ for the protection of all minors, including programs for training, education, formation and responses to abuse” [30]. The commission in the process of drafting statutes and early reports indicate that it will address matters such as education, communications and better screening of those entering the priesthood.

This is a new approach to dealing with problems in the Church. While policy is normally developed by top levels at the Vatican, the Papal appointment of this new commission serves to recognize the need to develop policy input from the laity. It fosters a bottom-up role in policy making and reflects a responsive initiative, a more democratic way to deal with critical problems within the Church. Perhaps if Doyle, Mouton, and Petersen had been given such an opportunity to advance their guidelines to deal with clerical sexual abuse, a systematic policy might have been put in place sooner rather than so much later to bring about hierarchical accountability and transparency to bring about healing and justice for all involved.

Second, there are also reports that the Vatican is working on revisions to canon law related to clergy sexual abuse, including processes of how to deal with bishops who do not follow Church policies requiring them to report crimes to civil authorities. A new tribunal has been established by Pope Francis to judge bishops who have covered up or failed to act responsibly in cases of clerical sexual abuse. Reports indicate that since 2002 more than 850 priests have been de-frocked, and 2500 penalized [31], but not one bishop has faced the same kind of adjudication for his complicity in sexual abuse.

There are, in fact, signs of new expectations for hierarchical accountability under Pope Francis with regard to the punishment of high ranking clerics involved in international sexual abuse cases. In 2013, officials at the Vatican said that they would no longer allow Vatican officials to enter Rome to seek diplomatic immunity and asylum from prosecution. The case against Archbishop Jozef Wesolowski, a Vatican ambassador (nuncio) accused of sexual abuse is evidence of this. By 2014, Wesolowski was defrocked; that is removed from the priesthood, for his proven sin of molesting minors. For the first time, the Vatican has said that it would also try the diplomat within its own civil court system to stand trial for the *crime* of pedophilia as well. Wesolowski, however, was found dead in his residence a day after being admitted to a Rome hospital. He stood trial for 10 minutes when he collapsed.

These changes with regard to clerical sexual abuse policies from the Vatican reflect serious changes. However, continued actions among individual U.S. bishops who are still unable to adjust to reforms from top officials in the Church can still be seen. There are reports that many Bishops are still hesitant to discuss complex issues and to seek solutions to current moral problems. They indicate that this is the result of a dynamic, Papal leadership that, according to some bishops, lacks a coherent vision and direction for the Church in the future [32].

⁴ The Catholic News Service reports that the most accurate and up-to-date number of active clergy gathered from the 2012 “Anuario Pontificio” is actually 412,336. See Carol Gatz, “Vatican Says Number of Catholics, Priests, Bishops Worldwide Increased” [28].

Indeed, it is possible to see that the Pope is changing the religious and political agenda of the Church. His support for mercy for those who have had abortions and those who are alone due to divorce, his refusal to judge same sex-marriage, and his encouragement for reconciliation with those who have been kept out of the church in the past is hopeful to some and disconcerting to others. He has taken strict, literal dogma to the prophetic level of transcendence, changing the Church's tone to one of respect for values over an institutional idolatry of rules. How this will translate into the continuing and serious problem of clerical sexual abuse remains to be seen. The question still remains if the U.S. Bishops, as individuals, members of the USCCB and representatives of the Vatican will be able to put aside their political maneuverings to protect their own interests or if they will be able to advance the Church's religious and social missions. It is only within that religious context, then, that the Catholic bishops, in pastoral, political and pragmatic ways, will be able to work for specific commitments to individual moral issues in the United States. Indeed, there is no room for politics when the Catholic hierarchy is called on to be accountable, transparent and just to the sexually abused and most vulnerable in society. Perhaps the leadership of Pope Francis can begin this realization to all.

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