

## **Violating the Confessional Seal: A Remedy?**

One can certainly share the sense of frustration and, indeed, quite patent anger and irritation of the Irish Prime Minister, Mr Enda Kenny, in his recent criticisms of the Vatican. In the face of overwhelming evidence of sexual and physical abuse by clergy, religious and Catholic institutions in Ireland the Vatican seems reluctant to accept its share of responsibility. It also seems unwilling to cooperate without reservations with the measures which the Irish Government is instituting to ensure that such abuse never occurs again, or, if it does occur, it is detected, the perpetrators are punished, and potential victims are protected.

The most startling of the measures proposed by the Government in a system of mandatory reporting is the obligation it seeks to impose on priests to violate the sanctity of the “sacramental seal” of Confession in instances where a paedophile reveals that he or she has been involved in such activities. Senator Nick Xenophon has recently proposed that a similar measure should be instituted in Australia.

The sacramental seal binds priests under pain of excommunication and serious sin never to reveal what has been communicated to them by the penitent in Confession – the Catholic Sacrament of Penance. The only exception to this is where the penitent gives them permission to make such a revelation to a third party. This permission would never be presumed. It would be extremely rare, and permission would have to quite explicit.

I have no hesitation in stating that priests will guard the sanctity of the seal of confession with

their very lives. They would certainly undergo imprisonment rather than violate the sanctity of the sacramental seal. Even if a penitent confesses that he or she has been involved in a case of rape, murder or serious theft, the priest will do nothing to indicate to secular or ecclesiastical authorities or, indeed, to any other person, either that there was a crime confessed or who was the perpetrator. The priest cannot even hint – the boundaries must remain quite impermeable.

The reason for this inviolable confidentiality is to enable complete honesty and trust in the penitent, that is, that they will confess all their serious sins in detail. This is an absolutely necessary condition for receiving sacramental absolution – the forgiveness which, Catholics believe, God communicates through the priest. Only where there is complete and inviolable confidentiality would a potential penitent even contemplate revealing their secret sins to a priest. That is the reason why the Catholic Church stipulates the inviolability of the “sacramental seal.”

The forgiveness, however, which the priest communicates does not absolve the penitent from taking appropriate steps to remedy the grave harm he or she has perpetrated. If the penitent refuses to take such steps or refuses to indicate that he or she intends to amend their lives in the relevant respect, the priest may well refuse to grant absolution. In some circumstances, for instance in an unsolved murder case, where some other person is liable to be wrongly convicted in place of the actual perpetrator, the absolution will be conditional on the perpetrator surrendering to the appropriate authorities or at least providing evidence of the innocence of the current suspect.

But in all instances, particularly where serious sins are involved and there is a social dimension to the sin (in theft, for example), the priest would certainly be at pains to assess the sincerity of the

penitents and to impress on them the serious obligation to make restitution for the harm they have inflicted. Unless there is this sincerity and willingness to accept responsibility, the absolution which the priest communicates will be mere words. The sacrament will simply not be efficacious. Contrary to popular belief in some quarters, confession is not a licence to continue sinning, nor does it deny or excuse the harm that has been done. It requires that the harm be remedied and, in certain circumstances, that the perpetrator be punished appropriately.

For instance, if one confesses to a theft, the priest will advise the penitent that he or she should make full restitution to the owner and, at least in those circumstances that parallel the foregoing murder case, own up to the theft. If he or she is a kleptomaniac he or she should be advised by the priest to seek professional help. In similar circumstances, and certainly with a serial paedophile, I would expect – but this is debated among moral theologians - that the priest would advise the penitent to surrender to the secular authorities. He may even make this a condition of granting absolution. Given the likelihood of continuing offending and the irreparable harm inflicted on their victims, this may well seem to be the only way to prevent further offences. As I say, the Sacrament of Penance is not only a matter of forgiving the penitent. It also involves reparation and prevention, especially where there is a social or criminal dimension to the offence and the likelihood of reoffending is imminent.

While, then, I can certainly sympathise with and understand the Irish Prime Minister and Senator Xenophon in seeking the desperate remedy of imposing on priests the legal obligation of violating the sacramental seal when the penitent is a self-confessed paedophile, I believe that such an extreme measure will in the end only prove to be ineffective and even counterproductive. I say this for three reasons.

Firstly, in many, indeed, in most cases, because of the anonymity of the confessional interaction – often simply a voice from a darkened room – the priest will not be aware of the identity of the paedophile penitent. This inability to identify the penitent is all the more likely because paedophiles are notorious for “covering their tracks”. I cannot see them being upfront in revealing their identity even in the confessional context.

Secondly, even if priests were aware of the identity of their paedophile penitents, I simply do not believe they would be willing to violate the sacramental seal and disclose the identity to the police. All the evidence in similar cases (murder, rape, serious theft, for example) in the long history of the Catholic Church suggests that priests would choose civil disobedience, contempt of court and even imprisonment in preference to breaking the seal.

Thirdly, if such a law were to come into effect, I doubt whether any paedophiles would any longer be willing to entrust their dark secrets to the compromised confidentiality of the confessional. Not only would this render the law counterproductive, but it would have the further effect of closing off one avenue where paedophiles might be encouraged to come to terms with their crimes and be counselled even to surrender to the police. This, of course, unfortunately, will still be highly unlikely, but I can assure Mr Kenny and Senator Xenophon that it is more likely than that a priest will violate the sacramental seal. That is why virtually all legal systems currently operating have made an exception of the sacramental seal in systems of mandatory reporting.