

## CANONICAL REFLECTION ON PASTORAL EMERGENCY AND THE USE OF MARRIED PRIESTS IN THE CATHOLIC CHURCH PASTORAL EMERGENCY

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A state of emergency occurs in the Church when there is a threat against the continuation or the essential activities of the Church. At this time in the history of the Catholic Church, a shortage and unavailability of celibate priests has caused emergency situations regarding the Christian faithful's constitutive (Baptismal) "right to be assisted by their Pastors from the spiritual riches of the Church, especially by the word of God and the Sacraments" (Can. 213). A reversal of this shortage of celibate priests and its consequent emergency situations is quite unlikely for the future. In fact, most studies and prognoses of the vocational picture for the celibate priesthood (including those sponsored by the U.S. National Conference of Catholic Bishops) indicate that the crisis will only grow worse in the years ahead, resulting in increasingly fewer opportunities for Christ's faithful to celebrate the Sacraments, as well as fewer and older celibate priests to serve increasingly larger numbers of the faithful. The merging or closing of parishes generally is not an acceptable answer to the crisis from the viewpoint of local faith communities. Accordingly, such pastoral emergencies call for the emergency kinds of sacramental administration that are permitted by the Code of Canon Law, such as In cases of "danger of death" (Can. 976 and Can. 883:3), "necessity or genuine spiritual advantage" (Can. 844:2), "reasonable cause" (Can. 1003:2), "grave inconvenience" (Can. 1116 and Can. 1323:4), and "just reason" (Can. 1335). Perhaps unknown to some, the Christian faithful do not need further permission to act in order to fulfill their pastoral needs in emergencies. Empowerment to act lies within the emergency Canons themselves, which flow from what must always be the supreme law of the Church: the salvation of souls (Can. 1752).

### PERTINENT CANONS

Can. 292, which is concerned with restricting the right of a priest to exercise the power of orders (i.e. to administer the sacraments) is a merely ecclesiastical law (a man-made disciplinary law) of the Roman Catholic Church. Can.1037, which requires the obligation of celibacy for priests, likewise is a merely ecclesiastical law. Such laws are of human origin and can be altered or eliminated by human initiative in view of the changing pastoral circumstances of Christ's faithful. Can. 213 which expresses the right of the faithful to receive assistance from the sacred Pastors out of the spiritual goods of the Church, especially the word of God and the Sacraments, is of divine origin through Baptism in Jesus. Such a law is constitutive (essential) for the baptized and cannot be altered or eliminated by human initiative. It likewise is correct to say that fulfillment of such a law must not be neglected by those who serve as Pastors in the Church. Under the circumstances caused by a shortage of celibate priests, Can. 213 has priority over Cans. 292 and 1037. This is the reasoning and logic behind other canons which deal with the needs of Christ's faithful in emergency situations, such as Can. 976 which allows a priest without faculties to hear confessions in danger of death, even with an approved priest present, or Can. 883:3 which allows any priest to administer Confirmation likewise in danger of death, or Can. 1003:2 which allows any priest to administer the Anointing of the Sick for a reasonable cause, or Can. 1116 which calls for the presence of another priest or deacon in a Marriage celebrated before witnesses only, when the presence of or access to an authorized minister is impossible without grave inconvenience. This is the reasoning and logic likewise behind Can. 844:2 which allows reception of Penance, Eucharist, and Anointing of the Sick from any validly ordained minister (not just those of the Orthodox Church, as some would interpret), whenever necessity requires or spiritual advantage suggests it. This is the reasoning

and logic also behind Can. 1335 which allows Sacramental ministry even by a censured/suspended priest who may have married without formal ecclesiastical permission, whenever the faithful make such requests out of necessity or for any just cause. Finally, this is the reasoning and logic behind Can. 1323:4 whereby a person cannot be penalized when he/she has violated a merely ecclesiastical law or precept, who acted out of necessity or serious inconvenience in regard to matters that are not intrinsically evil or harmful to souls. Regarding Can. 843:1 which is about sacred ministers not being able to refuse the Sacraments to the faithful, it seems reasonable and logical that asking for the Sacraments from a validly ordained, married Roman Catholic priest, out of spiritual need, when no celibate priest is available, is a request that is as opportune/appropriate as can be. After all, the Sacraments are the Christ-instituted, sine qua non means for accomplishing the sanctification of humankind now (Can. 840), not in the afterlife. Some, from their canonical perspective, feel obliged to defend the status quo with a more restrictive and less generous interpretation of the above canons on pastoral needs in emergency situations. The problematic consequence of such a defense, however, is a failure to fulfill the demands of Can. 213 regarding the constitutive right of Christ's faithful to the spiritual goods of the Church, especially the word of God and the Sacraments. From the laity's perspective, it is like offering your car to a friend to get to the store for groceries, while simultaneously withholding the ignition key. Whether the authors of the 1983 Code of Canon Law realized the full implications of their product or not, utilization of the canons therein by the Christian faithful via married priests is certainly in keeping with Can. 1752 which states that the supreme law in the Church must always be the salvation of souls. Sometimes, perhaps especially in pastorally transitional times, we have to reply along with Peter and the Apostles: "Obedience to God (fulfillment of need for Sacraments) comes before obedience to men (singular method of ministry that is no longer effective) (Acts 5:29). We ought also to keep in mind this statement of Canon Law Professor Ladislav Orsy, SJ, of the Catholic University of America, when he addressed the Pontifical Oriental Institute in Rome in 1992: (Theologians) "must intuit and determine the values that the community needs to sustain its life and growth . . . The ecclesial vocation of canon lawyers is to be trustees of the values necessary for the life of the community, and to be administrators of the process by which the community can appropriate them." The *sensus fidelium*, the actual, Spirit-led, pastoral experience of local Christian communities of faith is a true *locus theologicus-canicus*, a genuine and indispensable source of learning theology and producing appropriate canon law.

#### DEVELOPING PASTORAL LAW

Pope Paul VI, on November 20, 1965, in an address to the Pontifical Commission for the revision of the Code of Canon Law stated that Canon Law must be accommodated to the new manner of thinking (*novus habitus mentis*) in accord with Vatican II, which stresses very much pastoral ministry. Canon Law must, therefore, consider the new needs of the people of God. The celibate priest shortage has created new needs among the Christian faithful – married priests are being asked by the Christian faithful to respond to their new needs. The preface of the Latin Edition of the 1983 Code of Canon Law states that "To foster the pastoral care of souls as much as possible, the new law, besides the virtue of Justice, is to take cognizance of charity, temperance, humanness. And moderation, whereby equity is to be pursued not only in the application of the laws by pastors of souls but also in the legislation itself. Hence unduly rigid norms are to be set aside and rather, recourse is to be taken to exhortations and persuasions where there is no need of a strict observance of the law on account of the public good and general ecclesiastical discipline." Jesus' word to John was, "Anyone who is not against us is with us." (Mark 9:39). These principles and directives of Pope Paul VI and the Code Preface are precisely what a growing

number of married priests (Worldwide there are over 100,000 married priests, over 20,000 in the USA alone.) are following and implementing in their response to the pastoral-Sacramental needs of Christ's faithful. This contemporary experience of Christ's faithful is of no small significance, because throughout the history of the Catholic Church practice leads to custom and custom leads to law-a living law both generated and received by the faithful to realistically meet their spiritual needs. The signs of the times call for listening with open mind and heart to Bishop Lawrence Burke, SJ, of Nassau, Bahamas, who delivered a pertinent message to the 1990 World Synod of Bishops in Rome on the formation of priests: "Although it is easier to achieve unity through uniformity, the challenge facing the Church today is to achieve unity through legitimate diversity. The temptation to centralize and control must be avoided. We should learn from the history of the Church. The role of bishop and priest developed as the needs of the people of God changed. There have been different theologies and different models of priesthood throughout the centuries. At one time the emphasis may have been juridical, at another time it may have been cultic, at still another time it has been monastic or pastoral. Clearly, diversity and adaptation have been staple features in the history of the priesthood. Priesthood exists to serve the Church, not the other way around. We cannot be complacent with static notions of the priesthood while thousands of Catholics throughout the world are in need of evangelization and the sacraments. The Church should not just lament the incursion of the sects, but must herself take some responsibility for that incursion. Have not our fixed notions of the priesthood and of who should qualify as priests contributed to this undesirable situation? People are spiritually hungry, and where the Church fails to provide leaders and sustenance for the flock, the flock will seek nourishment wherever it finds it...."

## CONCLUSION

In view of a shortage and unavailability of celibate clergy, the use of married priests to provide pastoral-Sacramental ministry to Christ's faithful is a measure that is valid, lawful, and appropriate for our time. Perhaps just as important, the return of a married priesthood ministering to the faithful, side by side with a celibate priesthood, in the third millennium of Christianity, is a pastoral development and wholesome balancing whose time has come. St. Paul put it well: "As your co-workers we beg you not to receive the grace of God in vain. For God says, 'In an acceptable time I have heard you, on a day of salvation I have helped you.' Now is the acceptable time! Now is the day of salvation!" (2 Corinthians 6:1-2)

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