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NE, W, RK, SATURDAY, MAY 18, 2002

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A Vatican Lawyer Says Bishops Should Not Reveal Abuse Claims

Sign of Objection to Handling of Scandal in U.S.

By LAURIE GOODSTEIN

An influential canon lawyer at the Vatican has written an article to be published today in a Vatican-approved Jesuit journal saying that Roman Catholic bishops should not turn over allegations or records of sexual abuse by priests to the civil authorities.

The article in the magazine *Civiltà Cattolica* by the Rev. Gianfranco Ghirlanda, dean of the canon law faculty at Gregorian University in Rome, is the second indication in recent weeks that inside the Vatican, influential church officials may disapprove of the response of American bishops to the abuse scandal. Last month, the head of a Vatican council, Archbishop Julián Herranz, also said that the bishops should not be required to turn over records on abusive priests to prosecutors.

Roman Catholic officials in the United States say that the comments by Father Ghirlanda and Archbishop Herranz may serve as a warning to American bishops who are to meet in Dallas next month not to propose anything too far-reaching if they try to formulate a binding national policy on sexual abuse.

Any policy the American bishops produce is subject to approval by the Vatican, and could be held up as a standard for the church in other parts of the world.

"Whatever the U.S. bishops do, it looks like they may have an uphill fight to get some of it approved in the Vatican," said the Rev. Thomas Reese, the editor of *America*, a Jesuit journal in New York City. Like all those interviewed, Father Reese based his comments on the Catholic

News Service report of the article.

In the article, Father Ghirlanda also wrote that a priest who is re-assigned to a new parish after being treated because of a history of sexual abuse should not have his "good reputation" ruined by having his background revealed to the new parish. It would be better simply not to place the priest in a new parish if the bishop lacks confidence about the priest, Father Ghirlanda said.

Bishops have also been sued in civil court for failing to remove abusive priests, but Father Ghirlanda wrote, according to a translation from the Italian by the Catholic News Service, "From a canonical point of view, the bishop or religious superior is neither morally nor legally responsible for a criminal act committed by one of his clerics."

However, he wrote, if a bishop knew of accusations and failed to investigate, or if he failed to remove a known abuser from the ministry, then under canon law he would have some legal and moral responsibility. The article takes issue with another practice that has become common for many American bishops handling accusations of sexual abuse by their priests. For more than 15 years, American bishops have been sending accused priests to clinics to be evaluated by therapists and to undergo treatment. Father Ghirlanda wrote that an accused priest should not be forced to take psychological tests because it is a violation of his right to privacy under canon law.

The 12-page article by Father

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Canon Lawyer At Vatican Backs Silence In Abuse Cases

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Ghirlanda carries weight because like everything published in *La Civiltà Cattolica*, it was reviewed before publication by the secretariat of state at the Holy See. Some American bishops subscribe to the journal, and others will be likely to read about the article in the Catholic News Service.

The other critical words out of the Vatican came from Archbishop Herranz, one of the Vatican's top legal officials, who had participated in the recent emergency meeting in Rome between Pope John Paul II and the American cardinals on the sexual abuse scandal.

Days later, on April 29, the archbishop gave a scathing speech at the Catholic University of Milan that criticized the American news media and legal system as well as the reaction of the American bishops to the scandal.

Archbishop Herranz, who is the president of the Pontifical Council for the Interpretation of Legislative Texts, said that the American church's large financial settlements with sexual abuse victims were "unwarranted." He criticized American news media outlets as seeking to "sully the image of the church and the Catholic priesthood." Echoing other Vatican officials who have linked sexual abuse with homosexuality, Archbishop Herranz referred to pedophilia as a "concrete form of homosexuality."

Like Father Ghirlanda, Archbishop Herranz said that requiring church leaders to report all abuse accusations to the civil authorities was unnecessary; he called the turning over of records on abusive priests by dozens of American bishops the result of "an emotional wave of public clamor."

Church officials said that Vatican authorities may be signaling their concern because if the wealthy and powerful American branch of the church succeeds in producing a national policy at the bishops' meeting in Dallas, it could set similar expectations for the church in other parts of the world.

"The American experience is very often replicated elsewhere, and if other places run into these problems, they may say we need to take these steps too," said Msgr. Francis Maniscalco, spokesman for the United States Conference of Catholic Bishops.

He said that at the recent meeting with American cardinals in Rome, the pope and Vatican officials were concerned that priests could be falsely accused and their reputations unjustly tarnished.

"The Vatican would be very concerned, and they've always been very concerned, that people not be railroaded," Monsignor Maniscalco said. "The Holy Father is from a country where people were regularly railroaded, so we're profoundly concerned that that sort of thing does not happen."

There is nothing in the church's canon law that would explicitly prohibit a bishop from turning over records or reporting allegations to the civil authorities, said the Rev. Thomas J. Green, a professor of canon law at Catholic University of America. The exception would be that a bishop could not break the seal of the confessional, because that would be a violation of canon law itself, he said.

"The Vatican has been very strong on stressing the right to privacy, which is one of the rights affirmed in our law," Father Green said.

Father Ghirlanda, who is also an appeals court judge and a consultant to several Vatican agencies, said that under canon law a bishop is not responsible for the missteps of his priests. He wrote that the church is not like a corporation, and the relationship of bishop to priest is not that of employer to employee.