

Submission Concerning Sexual Offences Act

Rationale

In making this presentation, the question may be asked, how does the church engage the issue before us and other issues of national import and to what end? Here, the reference to the church is not just to an advocacy interest group or a denominational entity, but the historic Christian community of constitutive communities of the people of God within the church catholic, of which I consider myself and the Communion I represent a part.

In this regard I would like to begin by referencing two leaders of the church catholic, from different eras, who speak to the involvement of the church in matters of state. Dietrich Bonhoeffer who was executed by Adolf Hitler because of his opposition to the reign of terror which he had instituted provides us with a perspective from which to view the task before us:

The Church is commissioned to call all the world to the lordship of Jesus Christ. It witnesses the common Lord to the authorities. It calls people in authority to faith in Jesus Christ for the sake of their blessedness. It knows that the commission of the authorities is properly executed in obedience to Jesus Christ. **Its aim is not that the authorities make Christian policies; Christian laws, and so on, but that they be proper authorities in the sense of their special commission.** It is the church that leads the authorities to an understanding of themselves. **For the sake of their common Lord, the church asks for the attention of the authorities, for protection of public Christian proclamation against violence and blasphemy, for protection of ecclesiastical order against arbitrary interference, for the protection of the Christian life in obedience to Jesus Christ.** The church can never let go of this claim. It must also let it be heard publicly as long as the authorities themselves claim to recognize the church.

In a similar way Rowan Williams, former Archbishop of Canterbury, who in his book *Being Disciples: Essentials of the Christian Life*, provides some perspectives on the task of the church in its engagement of power in matters of governance and law:

“Churches and other faith groups might be called the trustees or custodians of the long-term questions, because they own a vision of human nature that does not depend on political fashions and majorities...

A healthy democracy, then, is one in which the state listens to the voices of moral vision that spring from communities that do not depend on the state itself for their integrity and meaning.

... the Christian disciple is not seeking to make the state into a church, but is proposing to the state and to the culture in general a style and direction of common life – the life of the Body of Christ – that represents humanity at its fullest.”

... (the church) “is a voice that questions from a wholly different perspective, the kind of perspective that cannot be generated by corporate self-interest. It is a conversation partner, and what has sometimes been called a ‘critical friend’ to the state and its laws; it questions the foundation of what the state takes for granted, often challenging the shallowness of a prevailing societal morality; it pushes for change to make the state a little more like the community that it is itself representing: the kingdom of God. It does not make the mistake of talking as though politics could bring the kingdom of God into being on earth, but it continually seeks to make the promise of the kingdom more concrete and visible in the common life of human beings, private and public”.

Against this background, I take the opportunity to make the following submission for consideration as the relevant laws are being considered for revision.

The Sexual Offences Act

We are aware that there are diverse views among Christians regarding the issues covered by this proposed legislation. At the same time, I believe that it is

incumbent on me to make this submission as a way of signaling to the framers of our laws and the society as a whole that there is a diversity of perspectives in our understanding of the issues informed by our understanding of the gospel of Jesus Christ with its message of charity, compassion, and the all-embracing love of God in Jesus Christ. In this regard I would caution against doctrinaire positions which deposit the notion that, in all things, we must be the gatekeepers of the law against buggery in order to prevent any further development toward what is perceived to be the road toward liberalization and ultimately the legalization of homosexual marriages. This submission does not accept the cause and effect relationship which is being introduced into this matter, neither is it advocating homosexual marriages.

The anus is not a sexual organ but has always been a part of sexual activity between men and women, whether in heterosexual relations or homosexual relations, and is repulsive to most people. The law as it currently exists assumes that it is an activity in which only homosexual men engage. Sexual activity engaged in public spaces is illegal and should continue to be so, whether of a heterosexual or homosexual nature. Beyond that, what happens in the privacy between **consenting adults** should be beyond the purview of government. How do we establish incidents of buggery? It is either that men who perform such acts are exhibitionists in ways not common to other sexual expressions; that crimes of a violent sexual nature are being committed in the form of buggery and can thus be treated in other ways by the law; or persons or agents of the state are peeping into the privacy of the space of consenting individuals who engage in such acts, and in which the government should not become entangled.

To continue to elevate anal sex to a position of priority and to criminalize it in the current manner needs to be seriously questioned as a sustainable position, and to seriously question whether it does not represent a dissipation and distraction of the energies of those in governance, and is better confined to a realm defined as personal ethics and sexual preferences. The promise of a referendum on the

issue is at best a way in which those responsible for governance are postponing the issue in order to avoid taking controversial decisions. In a globalized world, with every incident a potential international newsmaker, can we as a nation consider the rebound from this nation mobilizing the financial and human resources and going to a referendum to determine whether this anal issue should occupy this place of priority and continue to be criminalized?

The Definition of Rape

With regard to the definition of rape, we need to move to a position that is gender neutral and object neutral in defining rape. Here I would seek to move from the discussion of the theoretical, philosophical and emotional, and engage some reflection on the real life experience of individuals.

Personal Experience – Bishop Howard Gregory

I have done my doctoral studies and have been certified by the American Association of Pastoral Counsellors in the area of counseling and therapy and have worked in the hospital setting, primarily psychiatric units, as well as counseling contexts and have encountered males who were raped. I vividly recall my Jamaican client who was raped in this country by his teacher when he was offered the hospitality of his home for a night in a situation of an emergency. A student in a tertiary institution, he said “I was ravished all night”. Continuing after what was clearly an emotional moment for him, he said that he spent the following day just “figuring out how to murder that man”. Perhaps a year or so later, I learnt that the rapist was brutally murdered and partially dismembered.

I recall also the case of the American young man who was raped behind the dumpster of his apartment complex with a weapon pointing in his face. Needless to say, he demonstrated all of the physical, mental and spiritual effects of one

who has been subjected to this violent sexual assault, including post-traumatic stress disorder (ptsd), depression, anxiety, and shame, among other things.

Male Rape

In presenting an informed position on Male Rape reference is made to the authoritative work, *The Comprehensive Textbook of Psychiatry Fourth Edition*, edited by Harold I. Kaplan, M.D. and Benjamin J. Sadock, M.D. In an article on the subject written by Virginia A Sadock, M.D. the following observations are made:

Homosexual rape is much more frequent among men than among women, and it occurs primarily in closed institutions, such as prisons and maximum-security hospitals.

One study suggests, however, that male rape is seriously underreported and occurs in society much more than is suspected. The attacks are violent, rather than sexual, and are used to express anger or power. The dynamics are identical to those involved in heterosexual rape. The crime enables the rapist to discharge aggression and to aggrandize himself. The victim is usually smaller than the rapist and may be handsome in a feminine way. He is always perceived as passive and unmanly (weaker) and is used as an object.

The rapist selecting a male victim may be heterosexual, bisexual, or homosexual. He forces his victim to have sex through entrapment – for instance, by getting him drunk – through intimidation by threats with a knife or gun, or through the use of brute force. Male rape can involve one or several forced sexual acts: The most common act is anal penetration of the victim; the second most common act is forcing the victim to perform fellatio. Frequently, the rapist makes an effort to bring the victim to ejaculation by fellatio or masturbation. That condition is humiliating to the

victim, and it reinforces the rapist's sense of conquest and his fantasy that the victim wanted or enjoyed the rape.

The male victim often feels, as does the raped woman, that he has been ruined. In addition, he often fears he will become homosexual because of the attack.

We would do well to move from preoccupation with whether we are dealing with a vagina or an anus, a male or a female, and focus on the individual and the impact of the experience on the victim. In this regard, I find the following definition of rape useful and reflective of the reality:

“unlawful sexual intercourse or any other sexual penetration of the vagina, anus, or mouth of another person, with or without force, by a sex organ, other body part, or foreign object, without the consent of the victim”.

(www.dictionary.com/browse/rape)

Additionally, central to a definition of rape is the notion of the sexual activity being non-consensual. Why then would the law make a distinction between the experience of the Jamaica male student who has been subjected to the experience outlined above and the female student who may have been raped under similar circumstances?

Marital Rape

A presenter to a gathering of a section of the Security Forces recounts how he mentioned the subject of marital rape and how the gathering was overcome with laughter. This response was that of an all-male gathering and reflected the cultural construct of masculinity and femininity and the unequal power relations that exist even in the expression of spousal sexual relationships within our society. It also points to the challenge inherent in the response of those areas of

the security forces that are charged with responding to allegations of abuse and violation of women by men in domestic arrangements.

Approached from a different perspective, the church affirms the sanctity of marriage and the mutuality and reciprocity of sexual intimacy within that context. And while it is not necessary to rehearse the various reasons that female spouses/partners have offered in refusing to participate in sexual intimacy at a particular moment or period of time, it is also abundantly clear that relationships do go awry, often with the introduction of abuse of a physical, emotional, or other nature. We have seen overwhelming evidence of this in our society in terms of increasing statistics of injury or death to the victim.

The West Indian medical journal vol.59 no.1 published in Jan. 2010, carried an article entitled, ***Domestic violence: its prevalence and profile***, and co-authored by C. A. Sewell; JS Martin; and W. D. Abel. In that article they cite research findings from different sources and which for this presentation I will only quote in part.

Domestic violence is considered to be part of a pattern of coercive behaviour exhibited by one individual with the aim being to establish and maintain power and control over another person with whom he or she has or had an intimate relationship...The lifetime prevalence of physical abuse of women by an intimate partner ranges from ten to fifty-two per cent. Sexual violence by an intimate partner was found to be experienced by ten to thirty per cent of women. (http://caribbean.scielo.org/scielo.php?script=sci_arttext&pid=S0043-31442010000100001)

An article posted on the Jamaica Information Service website and written by Chris Patterson December 2, 2016, quotes Minister of National Security, Hon Robert Montague, as saying in part that “approximately 37 per cent of murders committed in Jamaica stem from domestic incidents”, and observed further that “90 per cent of domestic conflicts result from misunderstandings”. Given the high incidence of sexual violence experienced by women in domestic situations as

cited by Sewell, Martin and Abel, the matter of marital/spousal rape cannot be easily dismissed.

While concessions have been made to allow for marital rape in situations of physical separation and divorce, nevertheless, in the context of a relationship which has taken on a direction of abuse and violence, even without reaching the point of physical separation or divorce, non-consensual sex accompanied by threat, intimidation and violence ought to be characterized as rape. The evidence is there to show that often when domestic violence escalates to the level of serious bodily harm or death, family members and neighbours know exactly what has been going on between the spouses, so the issue of credibility of any such allegation can often be substantiated, as well as many victimized partners have the physical and emotional scars to substantiate their allegations. This proposed approach would of course cover all manifestations of domestic shared living, whether legally married or not.

It is hoped that this submission can be received in the spirit in which it is offered as outlined at the beginning, not to impose a position on the rest of the society but to broaden, and hopefully, inform the horizon within which the proposed legislation will be considered.

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