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## Difficult Cases, Dispensations A.O.O., Dismissals, etc.

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## **Difficult cases**

*Modesto López, C.M.  
Procurator General*

When I found out I had to give this talk, and about the content or title of it, which I was not asked or consulted about, but rather it was practically imposed on me, (in honor of the truth the Father Vicar did say to me: "Modesto, we have given you a talk called "Difficult Cases") I asked myself 'And why difficult cases?' Obviously the reference is to cases that I, in my role as Procurator General, have to handle with the Holy See. These cases can be reduced to two classes: cases which we are going to call A.O.O., or cases of dispensation "ab omnibus oneribus" and cases of expulsion, or if it sounds better of resignation, because expulsion reminds us of our time in the seminary when a companion was expelled or thrown out of the seminary, although "expulsion" is the word used in Canon Law in Article 3 of Chapter VI, Part III of Book II, treating expulsion from an institute.

And why call them "difficult cases"? I would rather call them sad or undesirable cases. Difficult cases refers rather to the difficulty in processing them, while "undesirable" refers to the subject of the same. It is sad/undesirable to see a confrere who goes back on what he one day promised solemnly to the Lord; sad, undesirable is to have to say to a confrere: "Go home, leave now, because you are not wanted." When I go to the Vatican with these cases, often my briefcase is very heavy from the documentation I carry. Heavy, materially, because there have been cases of dispensation of almost 200 pages of documentation, and since three or five copies have to be presented, according to whether we're treating confreres over forty years of age or of less age, it could be 600 or 1,000 pages of each case, and if on top of this the documentation is done in Latin, it's even heavier. But these are always heavy morally speaking, because in these pages a whole life of anguish and infidelity is contained.

### **DISPENSATION A.O.O. or reduction to the lay state**

If we wish to use the adjective difficult, where does the difficulty come from in cases of reduction to the lay state?

At times, from the Petitioner himself:

\*that he does not cooperate, being unwilling to respond, unwilling to give names of witnesses that even though he may not believe it, can help his petition, even speaking unfavorably about him;

\*\*that he uses language against the Church, against current legislation, against the formation he received in the seminary, etc. So much so that an Instructor had to express himself in the following way in giving his decision:

*"Before entering the case properly speaking, allow me Holy Father, to say a word about one aspect of this presentation... It is that, Holy Father, that the Petitioner commits the fault - even though unbelievable - of presenting a petition going against the most basic principle of those making a presentation, which is, to capture good will. It is a shame that self-sufficiency has led the Petitioner to such a tone and to such statements. To read them brings to mind the description which his Holiness uses in Pastores Dabo Vobis about temptations which young people face in our societies and cultures, which seem to have ardently embraced the Petitioner. I ask his Holiness, because of the profound knowledge he has of the human heart, and because of the humility with which we ought to respond to injury, not to reject the case from the beginning, but that the God who is merciful love be present here and that this case in its substantive reality be considered".*

So that you might understand better this presentation made by the Instructor, these are some of the things said to the Holy Father by the Petitioner: "I will mention some points in which it will be seen that my actual motives are like those of any other lay person and that it becomes impossible for me to go back;

- 1. To give priority to the profession of psychology in my life above the religious;*
- 2. To give priority in my life to money, to a standard of living, etc. above the religious;*
- 3. To give priority to the loving of a woman and the building of a home, above the religious;*
- 4. To give priority to diversion and hobby, to sex, as the most valid and natural path of human development and growth;*
- 5. To see sex and the woman not as something bad and prohibited, but as something beautiful, natural and as part of the universal human experience.*

*I now see traditional priesthood as something rare, outmoded, insipid, outdated, as an erroneous and mistaken idea, as a limbo similar to that which children have before the use of reason. It is like passing from the antiquated stone age to modern actual civilization."*

In this way our ex-confreere expressed himself. But yet the Holy Father, instead of denying the petition, full of mercy and good sense, gave the dispensation, although the language was enough to let the man die in his sin.

Sometimes the difficulty comes from the corresponding Roman dicastery, in not giving a prompt answer, in postponing it for months, sometimes up to a year or more, or asking supplementary documentation about the case, which also causes sometimes prolonged delays. Certainly we only think of ourselves here, ignoring the hundreds and maybe thousands of cases which the Holy See has in process.

This difficulty, the delay in processing a petition, sometimes comes from the incomplete presentation, the deficient presentation of a case, which demands a supplement. I will allow myself to mention some of the deficiencies:

1. The case of someone who is married civilly and who does not send documentation of the civil marriage. We know that at times it is almost impossible to obtain this document.

2. The sometimes total lack of documentation from the time of formation, especially about promotion to Vows and Holy Orders. In these documents there ought to be the evaluation that the formation faculty gave on those occasions.
3. The responses on the part of the Petitioner in the pastoral questionnaire ought to be reasonable and not a dry Yes or No, which for the Congregation have no weight at all. There was one case in which the Petitioner gave 54 responses with a simple Yes or No, coincidentally, 27 of each.
4. The petition presented to the Holy Father ought to be respectful and humble and with the motives of the petition, which ought to be amplified by the Petitioner himself in his Curriculum Vitae; and this part is frequently very poorly done.
5. In the majority of the cases there is no documentation from psychological or psychiatric experts. There are individuals who never have had or wish to have those examinations but they have their weight before the Congregation.

With these observations I do not think it necessary to analyze the document or process which ought to be followed in presenting a case of dispensation A.O.O. In November of 1980, Father Sheldon, then Procurator General before the Holy See, sent to all the Visitors the so called "instructio reservata" of the Congregation for Holy Doctrine, dated 14 October 1980. In May of 1981, the same Father Sheldon sent to all the Visitors a commentary about that document. In the last General Assembly of 1992, I gave to each Visitor a folder with this and other documents. The new Visitors can find these documents in their archives, I believe. The Visitors should know that they can trust the preparation of these cases to a priest, diocesan or religious, perhaps experienced in these matters, if one is not found in the Province willing to do so competently.

In the last General Assembly I gave a detailed summary of the state of dispensations A.O.O. in the Congregation. On this occasion I wish to inform you about the same matter since the General Assembly, in other words in the last four years, June 1992-June 1996:

<b>REQUEST FOR DISPENSATION A.O.O.</b>		<b>REQUESTS APPROVED</b>	
1992:	8	4	1992
1993	4	11	1 from 1982
		2	from 1985
		1	from 1987
		4	from 1992
		3	from 1993
1994	12	7	2 from 1983
		1	from 1984
		1	from 1991
		3	from 1994
1995	8	13	1 from 1987
		7	from 1994
		6	from 1995
1996	5	3	
<b>Total of Cases presented in last 4 years</b>		<b>37 (almost 9 yearly) + 1</b>	

**Total of Cases accepted in last 4 years**      **36 (9 yearly)**  
**Deacons dispensed in last 4 years**            **2**

### **Cases awaiting dispensation**

Of those presented before 1990: 1  
Of those presented in 1990: 2  
Of those presented in 1992: 1  
Of those presented in 1993: 1  
Of those presented in 1994: 2  
Of those presented in 1995: 1  
Of those presented in 1996: 2

**A total of 10, of which 1 are in Doctrina Fidei and 9 in De Culto Divino.**

Allow me to inform you about a recent norm which affects priests who have not yet reached 40 years of age. When one of these cases is presented, the response of the Sacred Congregation is always a "Dilata et compleantur". The administrative process is held back until the Petitioner has reached 40 years of age, unless meanwhile grave reasons have arisen that call for anticipating the process and the petition of dispensation and laicization.

The Visitors should notice what the Procurator General can do when you bring forward a case for dispensation. I immediately move the cases you present me with and I make many, many trips to the Sacred Congregation with the hope of being able to return home and send you a fax with a positive response but...

### **Cases of expulsion**

Obviously these cases are very rare but equally or more difficult to process and this for two principal reasons:

1. It is difficult, because the guilty party has the right of appeal, something which does not happen in a case of dispensation A.O.O., because there he is the one asking dispensation from his commitments. This due process could slow down the treatment of the case for months and months.
2. It is difficult because in the process there are clauses which easily can be passed over as if of little importance, and the Congregation for Religious naturally tries to defend the religious, as a union would a worker, and for details, even minimum ones, the petition can be denied and a new beginning must be made to the whole process. I remember three cases in which we had to begin totally from the start again:

a) Surely the Provincial spoke to his counselors about the case and it was given a green light, but in the documentation sent there was no explicit statement that the Provincial had consulted the Council, beginning the process, and this vote of the Council, although only consultative, cannot be omitted. It was necessary therefore to repeat the process.

b) The individual in question was to have a time of absence from the Community of six months but the Provincial began the process before that trial period of six months had ended. It was necessary then to repeat the process.

c) The lack of official receipts, like those of mail, to prove that the individual has received communications of Canonical warning. The guilty party then claims to the Sacred Congregation that he has not received Canonical warnings and the process is suspended.

On other pages you can read the whole process to be followed in the case of expulsion and for this reason I do not think it necessary nor is there time to inform you about the process to follow.

And that which is your role as Visitors. If you hold to, I would say scrupulously, the information I refer to, the case will be well prepared. In these last four years, four expulsion cases have been processed, although one has been suspended for appeal.

*(Cases of reintegration of a confrere to Priesthood and Community)*

These cases are also difficult but different from the above groups, are rare and joyful ones:

1. Rare in sense that there are so few of these cases in which a confrere has left the community and has married civilly, and asks to be incorporated into the community and into priestly ministry. In these last years we have only had one case of this kind, a confrere who at the age of 38 left the community and priestly ministry and married civilly. Seven years later he obtained a civil divorce and expressed his desire to return to the community and exercise of ministry. A period of gradual reintegration into the community began even before petitioning the Holy See. For more than a year he lived in a house of the Congregation and with a favorable vote from the Provincial and his Council, he presented a petition to Father General and his Council and from there to the Congregation of Religious. The Congregation of Religious allowed Father General the faculty of readmitting him to the community and at the time of readmission the Roman dicastery dispensed him from the irregularity so that he could exercise priesthood. He died two months later of a malignant cancer but did so within the Congregation and exercising priesthood.

2. Different from the above cases of dispensation and expulsion, these are cases producing joy, like the joy brought about in the heart of a father for the return of his prodigal son.

On another sheet you can find the requisites for preparing one of these cases.

**Loss of personnel during the last four years (july 1992-june 1996)**  
**(Obviously deaths are not included in these numbers)**

Priests reduced to the lay state	38	
Deacons	2	
On the way to dispensation, (already presented to the Holy See)		11
Civilly married	29	
Expelled	5	
Dispensed from their Vows to incardinate in a diocese	26	

**TOTAL**124**( 31 per year of which a part was already outside the Community before this period)**

There are eight "virgin" provinces (four in Europe: Austria, Tolouse, Holland and Hungary; three from Africa: Ethiopia, Justin de Jacobis and Mozambique, one from America: (Chile) which have not presented to the Curia in these last four years, a case of loss, outside of death. If this is true, it is good news.

### **A moment of reflection**

Imagine that on a bad day we arrive home to find it destroyed or almost reduced to ashes, from an earthquake, a fire, an explosion. What would be our reaction? Simply to contemplate it with astonishment and exclaim "What a tragedy, what bad luck"? Would we go away without doing anything more? Certainly if there were personal tragedies, we would weep them. Possibly, at that very moment we would think of putting our hands to the task to make up for the material lost. When all is said and done, unless there were great personal losses, it could all be fixed.

What is our attitude in the face of these losses, not material ones but of persons, which some, and perhaps many of which could have been avoided?

Let us think of all those who have definitively left and of those **who are currently in a time of returning or not to the Community**. Perhaps in some of these cases the most correct thing was done, the best for them. About four months ago one of the Assistants General told me about having met one of my classmates who is married with three children and who told him that he ought to have done that many years ago because he should never have been ordained. That now he is very happy and according to testimony of confreres who have seen him, he lives a very Christian life, very integrated in the life of the parish and maintains close relations with the community. But it is not that way in the majority of the cases. Perhaps the response to many questions must be sought in the formation which they were given. Taking into account the responses which the interested parties have given during the questioning that has been done, keeping in mind the evaluation of them made by their formation faculty, and that made by the Sacred Congregation in the time of conceding or denying or postponing the dispensation, we can arrive at this description:

1. There are individuals who never should have been ordained, which if it can be proven is the best argument in favor of the dispensation. But how did they get to profession and ordination?

a) Let us remember the formation en masse that many received. They could not be known individually. They easily were lost, without committing grave faults, which freed them from expulsion or advice to leave the seminary;

b) Coverups on their part, not revealing to their confessors or spiritual directors or other formators, because these never gained their confidence, at times because of fear that if they were honest they would be advised not to continue, and this they could not do, at times

because of family pressure or that of people who have helped them to continue their studies in the seminary;

c) Coverups on the part of formators themselves. Like that deacon who had an adventure with a young woman who was as a consequence pregnant. He confided the following to a formator, his close friend: if a boy is born, I will become a priest; if it is a girl, I will leave the seminary and ask dispensation from diaconate. The boy child came and our deacon was ordained a priest. A short time thereafter natural paternity weighed in heavier than spiritual paternity and he left the priesthood. The formator, his good friend, then said: "This is not strange because as a deacon he acted this same way". That was the first time he said what he ought to have revealed previously. An irresponsible companion helping one who never should have been ordained. And this is not a fantasy. Although fewer, there are cases in which at times a bishop or a provincial, against the opinion of the formators, approves a candidate for Holy Orders. Sometimes it is the confessor or the spiritual director who gives little importance to the real problems of a candidate for Holy Orders, and advises him to continue.

d) A lack of stability of formators in their position. On the one hand, some of these do not get enthused for the work confided to them, thinking rather about moving on to dedicate themselves to another ministry perhaps better rewarded in other ways. On the other hand, seminarians do not trust their formators, moving on from order to order to the point where, in the middle of grave doubts, they decide to take that step which never should have been taken: that of receiving priestly ordination. The Sacred Congregation in its letter of "**Dilata et compleantur acta**", calls us to make every effort to find a solution, above all in the admissions and formation stage, about candidates for orders and about formators. Formation and selection of both candidates to orders and of their formators.

2. There is another group, probably the majority, of priests who received a formation, perhaps not totally solid but good, who received ordination freely and enthusiastically, who worked ten, fifteen, even more years with total dedication and with much fruit, but the day comes when they begin to ask themselves questions. Irregularity in the common life of prayer, excessive activism outside, withdrawing within, a critical spirit, bitterness grows. The Community notices all of this but it looks away, it tolerates it at first, it begins to criticize, later to complain, but in his absence or when he is already outside. It is much too late! What could have been done that was not done! The big question, but a confrere has been lost.

We ought to give a place to a critical spirit in formation if there is reason for that. It used to be said, I do not know if it is still said, that the seminary ought to be the apple of the eye of the Bishop. It ought to be said again, and with much urgency, that the house or houses of formation ought to be the apple of the eye of the Provincial, assigning to those houses "the cream of the Province", because this is the best investment that can be made, and at the same time, superiors ought to have the necessary courage to remove from formation a subject who evidently causes more damage than good. And a critical spirit about our life as community. Why does this happen in relatively high numbers to secular clergy? What do they hope to find away from us that we do not give or that we perhaps deny them? If they seek a better social position, if they seek greater liberty, more independence, this can be a fault in formation, for not having discovered in time that such individuals are not apt for life in community, or certain demands of our community life were not well explained to them. Would that with this



instruction on the vows, our young men can discover in time what the vow of stability means, which I think has already been spoken about in this meeting.

I believe that the problem of formation could be a key topic of discussion and analysis during our next General Assembly because among other things, how can we think about amplifying our field of action on new missions if, in truth, we do not count with necessary and adequate personnel?

We have spoken of "difficult cases" which, if a solution is not found, imply the loss of persons. There are other difficult cases which, if not well resolved, could imply loss of goods. I refer to the cases of "alienation" and bank loans and exclusively to those cases about which Canon 638:3 reminds us. On separate pages, you can familiarize yourselves with the sum total for your nation and models of petition, and also about alienation and bank loans.)

Cases of reduction to the lay state and expulsions are difficult cases, we could even say deplorable..Let us make them less difficult by reducing as far as possible their number, first of all through a desirable formation, and afterwards a life of community lived in true companionship of prayer, fraternity and work.