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Accused Catholic priests left in legal limbo

by Daniel Burke by Religion News Service



Fr. James Selvaraj, who was accused of endangering a child in 2006, was cleared by a grand jury but is still waiting to have his case resolved by the Vatican and the Diocese of Trenton, N.J. (RNS/David Jolkovski.)

Somewhere in the Vatican, there is a thick file with Fr. James Selvaraj's name on it. It's been there since 2006.

A native of southern India, Selvaraj was a guest priest in the Diocese of Trenton, N.J., when he was accused of endangering the welfare of a child in late 2005. Shortly thereafter, Trenton Bishop John Smith removed Selvaraj from ministry.

Within three months, a grand jury declined to indict the priest, citing insufficient evidence. New Jersey's attorney general expunged the charge from Selvaraj's record.

But more than four years after secular authorities exonerated Selvaraj, Smith and the Vatican have refused to restore his salary, priestly duties, or -- most importantly, Selvaraj says -- his reputation.

"I am really angry, really furious," said Selvaraj, a slight 50-year-old with a friendly demeanor. "This is what happens to an innocent priest?"

The Catholic church has been castigated in recent months for moving slowly to remove abusers from the priesthood. Pope Benedict XVI himself, while he was a cardinal in charge of a Vatican office that handled abusive clergy, stalled for years before moving to defrock serial child molesters in the U.S., according to documents recently made public.

But the Vatican moves just as slowly, if not slower, to return innocent clergy to ministry, according to priests and canon lawyers. Meanwhile, priests like Selvaraj live for years in a state of limbo, evicted from parishes and rectories, prohibited from presenting themselves as priests or administering sacraments, and branded all but guilty in the public eye.

As many as 300 American priests claim innocence and are waiting for the Vatican to restore them to duty, according to Fr. Michael Sullivan, a Minnesota priest and member of Justice for Priests and Deacons, an independent group of canon lawyers who defend Catholic clergy.

Among such priests, Selvaraj is fortunate. Former parishioners have stood by him, raising \$70,000 to pay living expenses and legal fees, offering him places to stay, and inviting him to perform occasional private Masses. The diocese pays his health and car insurance, Selvaraj says.

But other priests aren't so lucky, said Joe Maher, executive director of Opus Bono Sacerdotii, a Michigan-based support group for accused priests. "I know priests who are living out of hotels, eating one meal a day," he said.

Many priests say they recognize the difficulty of the Vatican's task -- most allegations concern decades-old events, making it hard to determine guilt or innocence, and the Vatican has relatively few employees to process the thousands of accusations that surfaced after the sex abuse scandal exploded in 2002. Meanwhile, no bishop wants a priest to abuse children on his watch.

But some priests say the get-tough rules approved by U.S. bishops in 2002 swing the pendulum too far in the other direction, trampling their rights to due process and good reputations. Where once abuse victims were silenced and sacrificed for the sake of the church, they say, now innocent priests are overlooked casualties of the crisis.

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"The way the bishops once treated victims, that's the way they treat priests now," said Fr. Michael Maginot, an Indiana priest and canon lawyer who is representing Selvaraj. "They are willing to throw any priest under the bus."

'It can be done'

At the height of the crisis in 2002, U.S. bishops vowed to act quickly on "credible" accusations of abuse of a minor by immediately removing the priest from his parish and informing the public and local authorities of the charge.

Priests say an announcement that a priest has been suspended is often tantamount to a guilty verdict in the public and the pews. Selvaraj's removal was front-page news in the local paper. "The media crucified me," he said. His father had to undergo heart surgery after he read the news in India, Selvaraj said.

Canon law says Catholics have the right to privacy and a good reputation. But the U.S. bishops and victims' advocates say the sex abuse guidelines are necessary to protect children and are no stricter than other occupations where employees are placed on temporary leave when a crime is suspected.

False accusations are rare, according to a 2004 study conducted by the John Jay College of Criminal Justice. Just 1.5 percent of 5,681 sex abuse allegations lodged against Catholic priests from 1950-2002 were deemed false after investigations. Clergy advocates say bogus accusations ballooned after 2002, especially after secular courts began awarding huge settlements to victims.

If a priest is falsely accused, the bishops' guidelines say that every effort should be made to restore his reputation, said Teresa Kettelkamp, executive director of the U.S. bishops' abuse prevention office.

"It's nearly impossible," she said, like pouring out a pillow from the top of a mountain and trying to collect the feathers, "but it can be done."

For instance, the bishop could say Mass with the priest and use his homily to talk about how the allegation was unfounded, or he could meet with the local media to get the word out, Kettelkamp said. "Anything he can do to show his support for the priest."

After the grand jury exonerated Selvaraj, Smith did none of that, Selvaraj said. Instead, Smith tried to pack the priest off to India.

'We have nothing further to add'

Selvaraj was popular in Trenton, where he was sent by his Indian bishop to gain experience in 1999. He liked the diocese, and officials convinced him in May 2005 to apply to be "incardinated" -- formally accepted as a permanent priest, in Trenton.

Four months later, Selvaraj was visiting an after-school program run by his parish, St. Raphael-Holy Angels in Hamilton, N.J., when he took an 11-year-old girl's hand and helped her write her name in Tamil, his native language, on a blackboard.

An adult eyewitness -- a close friend of the girl and her mother -- swore in a deposition that she stood inches away and saw Selvaraj do nothing wrong. The girl's mother was "overprotective of the child," the witness said, and disgusted that the church "always brings us Puerto Ricans, blacks and Indians" as priests.

The mother accused Selvaraj of molesting her daughter. Diocesan attorneys encouraged the priest to make a deal with prosecutors and return to India, Selvaraj recalls.

Selvaraj decided to stay and fight. Hours before he was arraigned on Dec. 1, 2005, Smith told Selvaraj that he would never again be a priest in the Diocese of Trenton, the priest recalls. "My life was ruined," he said.

After the grand jury exonerated Selvaraj, Smith refused to take him back. Instead he wrote a letter telling parishioners at St. Raphael-Holy Angels that Selvaraj would be sent back to India. More than 650 parishioners signed a petition asking Smith to reinstate Selvaraj, said longtime parishioner Lou Monticchio. Smith refused.

In a letter to Selvaraj's canon lawyer, Smith said the priest had done nothing to warrant "even the preliminary investigation." The decision to send Selvaraj back to India was not a penalty, Smith said, but a precaution.

"Because of his overly friendly personality he has been warned on several occasions to be cautious concerning outward signs of friendship and affection toward young people," the bishop wrote. "Our contemporary national culture and particularly the present church situation demands such caution. Father James does not seem to fully understand these cautions and their implications."

Selvaraj said he was never warned about his conduct with young people. Asked for clarification about Smith's decision, diocesan spokeswoman Rayanne Bennett said, "We are confident that the process undertaken in this matter was appropriate and handled in a just and responsible way toward all parties involved. We have nothing further to add."

'No justice, no truth'

Priests have little recourse to challenge bishops' actions, clergy say.

Some priests have sued their bishops in civil courts for defamation, invasion of privacy or intentional affliction of emotional distress after they were removed from ministry. But citing church-state separation, secular judges have been wary of wading into clergy personnel matters.

Other priests, like Selvaraj, have turned to the Vatican for help, only to be frustrated by bureaucratic delays, ambiguous responses, and a lack of transparency about the appeal process.

Selvaraj began writing the Vatican in 2006, asking the Congregation for the Doctrine of the Faith to force Smith to reinstate the priest's ministry, salary, and good name. "I want him to restore my dignity," the priest said, "so wherever I go this won't haunt me."

For nearly three years, Selvaraj got no response. Maginot, his canon lawyer, believes the Congregation for the Doctrine of the Faith decided Selvaraj's case during that time, but only informed Smith of the ruling, which the bishop buried in a file. "The problem is, they never communicate with us," Maginot said of the congregation. "If they gave us a copy of what they give the bishop, they could never get away with this."

Selvaraj and Maginot kept writing appeals -- to the doctrinal congregation, the Vatican's supreme court -- and finally, to Benedict himself. A top Vatican secretary responded by telling Selvaraj to take the case "to the competent Roman dicastery" -- in other words, back to the Congregation for the Doctrine of the Faith, the office that had failed to return his correspondence.

Finally, in December 2008, Smith sent Selvaraj a letter from the congregation saying that, because Selvaraj was not yet incardinated in Trenton, the bishop does not have to allow him to be a priest in his diocese. According to a copy of the letter provided by Selvaraj, the Congregation for the Doctrine of the Faith also said that, because the sex abuse charge was unfounded, there is nothing for them to review. The letter said nothing about restoring Selvaraj's name or salary.

Selvaraj has appealed again to the congregation. In the meantime, he dons a cleric's collar at private Masses or when counseling former parishioners, but he is not permitted to present himself publicly as a priest -- the only vocation he's ever known. Selvaraj says his faith in God remains strong, though his faith in the Catholic Church wavers.

"Before I started this case I had great hope and faith that Rome will take the side of truth and justice and produce a decision," Selvaraj said. "Now, I see the politics all around the church. There is no justice, no truth."

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