

Clergy Sexual Misconduct and the Misuse of Power

Introduction

An Olive Branch was formed in 2011 as a project of the Zen Center of Pittsburgh and grew out of the need for greater understanding and reduction of sexual misconduct on the part of religious leaders. We help sanghas recognize the trauma caused by sexualized relationships between spiritual leaders and their followers; promote understanding and healing; and strengthen boards of directors, policies, and procedures to reduce the likelihood of future misconduct.

In *An Olive Branch's* work with organizations facing allegations of sexual misconduct and where leaders are in crisis-control mode, it is our experience that it can be helpful to step back from the immediate chaos and try to see it from a broader perspective. This paper provides that broader perspective and includes viewpoints on clergy sexual misconduct and the misuse of power from spiritual as well as secular literature. Topics covered include:

- The scope of the problem
- Definition
- What it is and what it is not
- Power dynamics
- Problems in the training of Buddhist lamas and priests
- Legal perspective
- Ethics of teacher-student sexual relationships
- Healing and justice-making.

Clergy Sexual Misconduct is certainly a hot topic in our world today – just Google the term “clergy sexual misconduct” to see 332,000 results. Drop the word “clergy” and the number rises to 28,100,000 (December 3, 2017).

Because the role of spiritual leaders is to protect the welfare of students and guide their awakening with compassion, the issue of sexual contact between clergy and congregants is complex. Whenever such behavior on the part of a spiritual leader is alleged, our experience shows that the aftermath is traumatic for everyone involved. People feel betrayed, victims/survivors are marginalized and misunderstood, and the families of all involved suffer greatly. Often people are quick to take sides – allying themselves with the spiritual leader or with the complainant. The community splinters.

The temptation to blame the student is powerful because people can't believe their beloved teacher, who carries moral and spiritual authority, who is respected and trusted, can also be guilty of misusing his power and authority. The tendency to blame the student and the failure to call the teacher to accountability cause tremendous damage. The focus needs to remain on the violation of the ministerial relationship.

Since this paper relies on writings by people in different faith traditions, the terminology used for major actors is varied; there are no terms that apply universally. We use “clergy” or “teacher” to refer to persons who represent or lead a spiritual community; they are ministers, lamas, rabbis, priests, Zen masters, etc. We use “congregant” or “student” to refer to persons who are members of a spiritual community; they are members, students, followers, etc.

Clergy Sexual Misconduct is Widespread

Allegations of clergy sexual misconduct are no longer isolated instances – they are part of a widespread problem. In a paper titled *Sexual Misconduct of Clergypersons with Congregants or Parishioners – Civil and Criminal Liabilities and Responsibilities*¹ the authors wrote,

According to recent studies, clergyperson sexual misconduct is a growing problem across an array of faith traditions. Christianity, Judaism, Islam, Buddhism and Hinduism, as well as less prominent faith traditions, are affected by clergyperson sexual misconduct. To illustrate, one study of the Church of England has found that sixty-seven percent of clergypersons responding have known a colleague who has engaged in sexual misconduct with a congregant. Another study has indicated that seventy percent of Southern Baptist ministers have known of other ministers who have engaged in sexual misconduct with a congregant. American rabbis have been dismissed on account of sexual misconduct with congregants and Buddhist religious leaders have been accused of sexual misconduct.

In a Baylor University study of Christian and Jewish congregations,²

- When asked to self-report sexual misconduct, between 5.8% and 38.6% clergy responded in the affirmative. 87% stated they had worked with victims of clergy misconduct.
- More than 3% of women who had attended a congregation in the past month reported that they had been the object of Clergy sexual misconduct at some time in their adult lives.
- 92% of these sexual advances had been made in secret, not in open dating relationships.
- 67% of the offenders were married to someone else at the time of the advance.
- In the average American congregation of 400 persons, with women representing, on average, 60% of the congregation, there are, on average, 7 women who have experienced clergy sexual misconduct.

A 2014 study by the United Methodist Church revealed that nearly six of every 10 clergypersons (59%) knew someone who was a perpetrator or victim — sometimes both — of clergy sexual misconduct.

In spiritual communities misconduct is almost always between an older male cleric with many years of experience and much younger women who are new to the practice or community. Almost always, the activity is repeated with more than one person. Almost always, there are people in the community who know about it but do not speak up, or if they do, they are shunned and it is they who are asked to leave.

What Constitutes “Sexual Misconduct”?

Sexual misconduct is defined on The Criminal Defense Lawyer website³ as follows:

¹ available on the Baylor University website: <http://www.baylor.edu/clergysexualmisconduct/index.php?id=63297>
June 11/April 19 second original/ revised 02.17.11

² <http://www.baylor.edu/clergysexualmisconduct/index.php?id=67406>

A person in a position of power commits the crime of sexual misconduct by taking advantage of that position to enter into a sexual relationship with a person under his or her authority. For example, a psychiatrist who has sex with a patient may be charged with sexual misconduct. Some states have specific laws that criminalize sexual misconduct. In other states, sexual misconduct is prohibited under other criminal statutes, such as statutory rape or sexual battery.

The website article focuses on sexual activity between two people whose relationship is not on equal footing. It states that “...in most sexual misconduct cases, it does not matter if the victim consented to the activity or even initiated it, because lawmakers have determined that a person in the victim’s position is legally unable to consent to sex with a person in the defendant’s position.”

The prohibition of sexual conduct between people in fiduciary relationships is based on the theory that the victim cannot truly consent to the activity because he or she is under the influence or authority of the person in the position of power. “The factors that characterize a fiduciary relationship -- trust, reliance, emotional intimacy and vulnerability -- ...are such that liability is imposed even if the sexual contact is facially consensual and imposed without regard to the wrongdoer incidentally occupying the role of a clergyperson.”⁴

Examples of fiduciary relationships include:

- Therapists/psychologists/counselors and their patients
- Doctors and their patients
- Teachers and their students
- Lawyers and their clients
- Spiritual leaders and their congregants.

FaithTrust Institute’s definition:

It is clergy misconduct when any person in a ministerial role of leadership for pastoral counseling (clergy, religious, or lay) engages in sexual contact or sexualized behavior with a congregant, client, employee, student, or staff member (adult, teenager, or child) in a professional relationship. Such misconduct is a violation of the ministerial relationship in which a person in a position of religious leadership takes advantage of a vulnerable person instead of protecting her/him.⁵

Isn’t It an Affair between Consenting Adults?

Many people dismiss sexual relationships between spiritual leaders and their students as affairs between consenting adults. In her article titled “Why It’s Not an Affair,” Rev. Patricia L. Liberty asserts that since the relationship between teacher and student is professional in nature, it is inappropriate to call a sexual encounter an affair. A professional relationship assumes:

- A sense of calling
- Specialized knowledge acquired through training
- Standards for performance

³ <http://www.criminaldefenselawyer.com/resources/criminal-defense/sex-crimes/sexual-misconduct-charges.htm>

⁴ <http://www.baylor.edu/clergysexualmisconduct/index.php?id=67406>

⁵ FaithTrust Institute, *Responding to Clergy Misconduct: a Handbook*, 2009, p. 30.

- Accountability to those who are served
- Power and authority to be used in the interest of those served – a fiduciary role.

Rev. Liberty wrote,

Affair is a term used to describe a sexual liaison between peers, or equals. In addition, the term affair focuses attention on the sexual nature of the behavior rather than the professional violation. It also places equal responsibility for the behavior on the congregant. Since clergy have a responsibility to set and maintain appropriate boundaries, those who are violated by clergy's inappropriate sexual behavior are not to be blamed even if they initiated the contact.

... The term 'consenting adults' also reflects a misunderstanding of sexual behavior between clergy and congregants. It is assumed that because two people are adults that there is consent. In reality, consent is far more complex. In order for two people to give authentic consent to sexual activity there must be equal power. Even if the congregant or student may initially be a willing participant in the faith leader's misconduct. The fallacy is that he/she is a consenting participant because consent is not an option in a relationship where there is an imbalance of power.⁶

Why is it called an "Abuse of Power"?

It's an abuse of power when a person who has power uses it for self-oriented reasons instead of in service to the person with less power. Teachers have more power than their students because of their positional, moral, and spiritual authority. In addition, education, community respect, and public image add to the imbalance of power between a teacher and student. Further, teachers may have the additional power of psychological resources, especially when a student seeks pastoral care in the midst of personal or spiritual crisis, life change, illness or death of a loved one. A teacher's power comes from:

- Specialized training, practice, and education
- Ordination, consecration, commissioning, or licensure to be leaders in a faith community
- Guardianship of sacred symbols, rites, and rituals
- Authority to interpret sacred texts
- Access to people in vulnerable circumstances
- The ability to influence others; charisma
- The ability to engender students' loyalty and trust
- Students, who consider the teacher a resource for the mysteries and meaning of life.

Understanding Problems with Teachers

To bring the topic of clergy sexual misconduct into focus in the Buddhist realm, we turn to Jack Kornfield's book, *A Path with Heart: A Guide through the Perils and Promises of Spiritual Life*. In Chapter 18, "The Emperor's New Clothes: Problems with Teachers," Kornfield helps us understand what may be some of the forces operating when a community is embroiled in a clergy misconduct dispute.

⁶ <http://www.advocateweb.org/publications/articles-2/clergy/affair/>

According to Kornfield, “There are four major areas where teachers and communities most often get into difficulties.”⁷ They are misuse of power, money, sexuality, and addiction to alcohol or drugs. He writes that the misuse of power “...happens most often in communities where all the power is centered on one teacher and their wishes are followed no matter what the consequence...”⁸ As for misuse of sexuality, Kornfield writes, “Sometimes a secret sexual encounter is carried out in the name of ‘tantra,’ or in the name of special teachings.”⁹ He writes that clandestine sex, exploitation, and sexual abuse on the part of many lamas, Zen masters, swamis, and gurus have wreaked havoc on the lives of students and their community.

Kornfield asserts that problems arise because

The training of most teachers and gurus in monasteries and ashrams in Asia or the United States is a mystical and inner training that almost never touches upon the difficult issues of power and its potential abuse. Teachers are thrown in to the role of administrator, minister, guide, and confidant, in which they have tremendous responsibility and power. Yet many of their spiritual systems and practices explicitly exclude the human areas of sexuality, money and power from what is considered spiritual. This compartmentalization can produce teachers who are awakened and skillful in certain areas (meditation skills, koan practice, prayers, studies, blessings, and even powerful loving-kindness) but are underdeveloped in great areas of their personal lives.¹⁰

Wisdom, enlightenment, and skillful teaching in one area of life does not automatically bring wisdom, knowledge, and skill in other areas.

Kornfield also points out that teachers “...can be isolated in their role, especially in communities where they are the sole acknowledged leader.”¹¹ A teacher should meet his individual needs for affirmation, love, and sex in personal relationships rather than in professional relationships.

Further, Buddhist lamas and priests are generally untrained in transference -- the psychological process in which a student unconsciously redirects feelings about something onto a new object, often the teacher or therapist. At the very least, a teacher needs to know that a student may well fall in love with him or her, but it is always the teacher’s responsibility to maintain the boundary of student and teacher.

The teacher’s isolation and lack of training in mis-use of power, money, and sexuality, combined with the psychological phenomena of projection and transference on the part of students increases the likelihood of sexual misconduct. In Buddhism, the incidence of sexual relationships between teachers and students is possibly much higher than in other religions because infallibility is granted to the teacher. Whether a student confronts the teacher or the teacher confronts the student, it is always the student’s ego that gets in the way, rather than the teacher’s. In many Buddhist traditions, students learn

⁷ Kornfield, Jack. *A Path with Heart: A Guide through the Perils and Promises of Spiritual Life*. Bantam, 1993, p. 256

⁸ Ibid.

⁹ Ibid., p. 257

¹⁰ Ibid., p. 258

¹¹ Ibid., p. 261

to not question; they hand over their power to teachers, surrendering their own volition in order to be guided.

Legally Speaking

There is a legal aspect with regard to sexual misconduct in the United States. An extensive article, *Sexual Misconduct of Clergypersons with Congregants or Parishioners – Civil and Criminal Liabilities and Responsibilities* on the Baylor University website¹² says:

Most states, to be sure, do not have penal statutes that *specifically* criminalize sexual misconduct by clergypersons. Only thirteen states and the District of Columbia have penal statutes that, in at least some circumstances, support the criminal prosecution of clergypersons engaged in sexual misconduct with congregants or parishioners. These statutes, enacted by Arkansas, Connecticut, Delaware, Iowa, Kansas, Minnesota, Mississippi, New Mexico, North Dakota, Texas, South Dakota, Utah, Wisconsin and the District of Columbia turn on various linguistic formulations, including most commonly, the specification that the misconduct occur within the confines of the counseling relationship. Only a handful of state penal statutes ... address clergyperson sexual misconduct *outside* of the context of the counseling relationship.

Sexual contact between spiritual leaders and congregants is illegal in two states, Minnesota and Texas:

Texas penal code § 22.011. states:

A person commits an offense if...the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser."¹³

Minnesota Criminal Code (609.344) stipulates that:

A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists: ...

(I) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

- (i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or
- (ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense.¹⁴

In the area of church law, at least 36 denominations now have official policies that identify sexual relations between adult congregants and clergy as misconduct subject to discipline. See this partial list of denominational policies on clergy-congregant sexual contact:

http://www.adultsabusedbyclergy.org/denominational_policies.html

¹² <http://www.baylor.edu/clergysexualmisconduct/index.php?id=63297>

¹³ <http://codes.findlaw.com/tx/penal-code/penal-sect-22-011.html>

¹⁴ <https://www.revisor.mn.gov/statutes/?id=609.344>

Ethically Speaking

Ethics are at the root of this discussion about sexual relationships between teachers and students. The essential harm lies in the violation of boundaries within the ministerial relationship. Therefore, it is a betrayal of trust -- even if the student:

- Initiates the sexual relationship
- Believes the teacher when he says the relationship will promote spiritual enlightenment
- Doesn't say "no" for fear of jeopardizing the spiritual relationship
- Doesn't say "no" because they want to please the teacher
- Feels honored to have been chosen by the teacher.

In the United States, the ethical analysis of teacher-student sexual relationships is comprised of four principles:¹⁵

<p>Role violation</p> <p>In the teacher's role, the spiritual leader is expected to bring resources, talents, knowledge, and expertise to serve the best interests of everyone in the sangha. Sex is not part of that role. The teacher has a fiduciary duty – he is entrusted with the well-being of students and has a duty to act in the best interest of those who trust him. This duty is an ethical obligation.</p>	<p>Taking advantage of vulnerability</p> <p>A person is vulnerable when they have less power or fewer resources than another person. Students are, by definition, vulnerable to the teacher and may be manipulated, deceived, and taken advantage of. For a teacher to exploit the student's vulnerability is to violate the mandate to protect the vulnerable from harm.</p>
<p>Mis-using power</p> <p>The teacher has authority and power and the responsibility to use their resources for the benefit of the student. Even if the relationship is initiated by the student, it is still the responsibility of the teacher to maintain a clear boundary. Examples of mis-use of power include using guilt or manipulation, using spiritual language to persuade the student, exploiting the student's desire for the teacher's attention and approval, shunning or withholding spiritual teachings when students don't comply, and mis-interpreting sacred texts to distort meaning.</p>	<p>Absence of meaningful consent</p> <p>Meaningful consent to sexual activity requires equality that makes real choice possible. Meaningful consent assumes the absence of any constraint, subtle coercion, or manipulation. The imbalance of power in the teacher-student relationship precludes this equality, even when the two people see themselves as "consenting adults." If they are not peers, there is no meaningful consent.</p>

¹⁵ Based substantially on FaithTrust Institute, *Responding to Clergy Misconduct*, p. 49-50.

Curious to learn what Tibetan Buddhism might have to say about ethics in the teacher-student relationship, we turned to a report of a 1993 interview of H.H. the Dalai Lama by a group of Western Buddhist Teachers.¹⁶ Below are quoted relevant excerpts from his answers to questions from the audience:

- Even though one's realizations may be equal to those of divine beings, one's behavior must always conform to convention.
- Everyone is accountable for his or her behavior.
- The practice of tantra is never an excuse for unethical behavior. If one understands Vajrayana well, there are no grounds to excuse bad behavior. ...On a very advanced level of highest tantric practice, the joining of the male and female organs is a technique used to manifest the subtlest mind and gain the deepest wisdom of reality. ...In the past, in Tibet, a practitioner had to be able to demonstrate supernatural powers, such as flying through the air, to qualify for such practice. If someone could not do that, they were not permitted to use these techniques.
- If one presents the teachings clearly, others benefit. But if someone is supposed to propagate the Dharma and their behavior is harmful, it is our responsibility to criticize this with a good motivation. ... Buddhist teachers who abuse sex, power, money, alcohol, or drugs, and who, when faced with legitimate complaints from their own students, do not correct their behavior, should be criticized openly and by name. This may embarrass them and cause them to regret and stop their abusive behavior.
- Only when you are sufficiently mature should you be taught the tantric view of regarding the guru who gives you initiation as a Buddha. ... If it is misunderstood and gives the guru free license, it is like poison, destroying the teachings, the guru, and the disciple.
- On the level of our personal spiritual practice, it is important to have faith in and reverence for our guru and to see that person in a positive light in order to make spiritual progress. But on the level of general Buddhism in society, seeing all actions of our teacher as perfect is like poison and can be misused. This attitude spoils our entire teachings by giving teachers a free hand to take undue advantage.
- What is in the best interest of the Buddhadharma is much more important than anything concerning an individual guru. Therefore, if it is necessary to criticize a guru to save the Buddhadharma or to benefit several hundred of their disciples, do not hesitate.
- Problems arise due to lack of inner strength. Even though a person teaches the Dharma, there can still be a gap between the Dharma and their lives. When there is contradiction between someone's apparently high realization and their ethical conduct, the realization may not be as high as it seems.
- It is essential to distinguish between two things: the person and their action. We criticize the action, not the person. The person is neutral: he or she wants to be happy and overcome suffering... Speaking out against the action does not mean we hate the person.
- If the teacher is with one student one month and another the next, that is not right. Also, imposing or forcing sexual contact is wrong. So is misusing the idea of dakinis by saying things such as "You have signs of being a qualified dakini," or flattering the student, "You have very great Dharma potential." Women should not be afraid to say no!

¹⁶ **Ethics in the Teacher-Student Relationship: The Responsibilities of Teachers and Students.**

Notes taken during the meeting of H.H. the Dalai Lama and Western Buddhist Teachers in Dharamsala, 1993, <http://info-buddhism.com/Ethics-in-the-Teacher-Student-Relationship.html>

More recently, at the Inauguration of Seminar on 'Buddhism in Ladakh' on August 1, 2017, HH the Dalai Lama reiterated his position on the need for students to not follow teachers who act improperly:

You should not say, "oh this is my guru, whatever the guru says I must follow" – that is totally wrong. The Buddha himself mentioned, "my teachings, you must examine." Similarly, if one particular lama says something, you examine: whether this goes well with the Buddha's teachings or the circumstances of society, then you must follow. If the lama says something, and you investigate, is not proper, then you should not follow the lama's teaching. Even the Dalai Lama's teaching: if you find some contradiction, then you should not follow: that is my teaching.¹⁷

About Healing and Justice-making

The hurt that needs to be healed is the result of a teacher mis-using his power. The hurt extends beyond the teacher and student – it extends to the family members of those directly involved, to family of those indirectly involved, and to the entire sangha. The brokenness is substantial; the wound is deep and cannot be healed easily; the consequences are wide and stretch into the future.

In our experience, the women most closely involved suffer in ways that most people may not be able to realize or understand. Also hurt are the individuals who serve on the boards of the affected organizations; they did not anticipate that this crisis would be thrust upon them.

Everyone in the spiritual community – clergy and lay people – has been hurt. Many have given their lives to follow a beloved spiritual teacher and have trusted the community as a safe place. Now, some may be wrestling with profound spiritual questions.

So how does everyone respond in a way that brings healing and justice? When news of sexual misconduct on the part of a beloved teacher first surfaces, a range of emotions come to the fore: denial, anger, loss, sadness, betrayal, disbelief, and shock to name a few. As the emotions rage, it's essential to remember that the process does not need to be adversarial.

The complainants are, or were, part of the sangha and believe they were harmed by their teacher, who is also part of the sangha. The complainants are disclosing something very painful and are asking the community to respond with compassion and justice. The complainants are not the enemy, but rather are courageous people who are giving the community leaders an opportunity to restore the integrity of the teacher-student relationship.

To bring healing and justice to the community, leaders need to:

- Allow/invite the complainants to give voice to the reality of what happened to them
- Acknowledge the violation of ministerial ethics
- Listen with compassion

¹⁷ Dalai Lama Speaks Out on Buddhist Teacher Misconduct, August 8, 2017, Justin Whitaker.

<http://www.patheos.com/blogs/americanbuddhist/2017/08/dalai-lama-speaks-buddhist-teacher-misconduct.html#J3UjeJctgoSFh8FV.99>

- Protect the vulnerable
- Prevent future instances of misconduct
- Hold the teacher accountable
- Make restitution
- Provide ongoing training on ethical behavior in the context of the Buddhist spiritual path.

Conclusion

This paper has provided multiple perspectives on the problem of clergy sexual misconduct and the misuse of power in the teacher-student relationship. Unaddressed problems like these are often painful topics requiring leaders with spiritual skills, great sensitivity, compassion, and deep commitment to the truth. No faith tradition or denomination should avoid its obligation to deal effectively with clergy sexual misconduct. *An Olive Branch* commends every organization which has begun to address this issue and we hope this paper has helped explain the power dynamics of teacher-student relationships.

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