

SEXUAL ABUSE OF MINORS BY CLERICS: THE DISCIPLINARY DIRECTIVES OF POPE FRANCIS

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Abstract

Sexual abuse of minors committed by clerics and consecrated persons without any doubt has put a question mark on the moral credibility of the Church. Proclamation of the Gospel of Love would not be effective unless and until this issue is addressed in the most effective way. The efforts made during the pontificate of Pope Francis to prevent the occurrences of such heinous crimes that disfigure the face of the Church seek to ensure the protection of minors, and heal the wounds caused by those acts have been sincere attempts from the part of the Church to care for and protect the minors and the vulnerable adults. The stringent measures introduced to punish the clerics who have committed the crimes and their competent superiors, who either because of their negligence made it possible for the crime to occur or tried to cover it up, hints at the strong message that the Church means what it preaches.

Keywords: Clerical Sexual Abuse, Pope Francis, protection of minors, vulnerable adult, penalty

Introduction

The utmost seriousness and concern of the Catholic Church in the delicate and complex issue of sexual abuse of minors by clerics were well articulated in the letter issued by His Holiness Pope Francis to the people of God on 20 August 2018. Expressing his mind inside out, the supreme pontiff wrote that the words of Saint Paul that "If one member suffers, all suffer together with it" (1 Cor 12:26) forcefully echo in his heart as he acknowledges once more the suffering

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endured by many minors due to sexual abuse, the abuse of power and the abuse of conscience perpetrated by a significant number of clerics and consecrated persons.¹ Going a step ahead the pope states powerfully and affirmatively in the letter that “Looking ahead to the future, no effort must be spared to create a culture able to prevent such situations from happening, but also to prevent the possibility of their being covered up and perpetuated.”² Pope Francis from the very beginning of his pontificate was unequivocal in his fight against the scourge of the sexual abuse of minors in particular by clerics and consecrated persons. Building upon the foundations laid by his predecessors, especially Pope John Paul II and Pope Benedict XVI, the Holy Father has been leaving no stone unturned in his effort to prevent sexual violence against minors and to ensure the protection of their rights. This article is an effort to discuss the various efforts made and the legislations and guidelines issued under his pontificate ‘to strengthen the institutional and regulatory frameworks in the Church to prevent and to counter abuses against minors and vulnerable persons’³ and to handle accusations of clerical sexual abuse and its cover-up by church officials.

1. Pope Francis as an Effective Crusader against Clerical Sexual Abuse

Pope Francis from the very beginning of his pontificate has been very vehement in his strong stand against any form of sexual abuse against minors especially those committed by clerics and consecrated persons. Openly confessing the shortcomings from the part of the Church in this regard, he wrote in his letter addressed to the People of God on 20 August 2018, “With shame and repentance, we acknowledge as an ecclesial community that we were not where we should have been, that we did not act in a timely manner, realizing

¹ Pope Francis, *Letter of His Holiness Pope Francis to the People of God*, Vatican City, 20 August 2018, Introduction. Cf. https://www.vatican.va/content/francesco/en/letters/2018/documents/papa-francesco_20180820_lettera-popolo-didio.html, accessed on 20 May 2021.

² Pope Francis, *Letter to the People of God*, Introduction.

³ This phraseology is adapted from the statement of Pope Francis from his apostolic letter issued *motu proprio* on the “protection of minors and vulnerable persons’ issued on 26 March 2019 with which he promulgated law for the protection of minors and vulnerable persons” in the territory of Vatican State

the magnitude and the gravity of the damage done to so many lives"⁴ Coming down heavily on such heinous acts done by clerics and consecrated persons who are supposed to be instruments of peace, love and fraternal care, the Pope said it is mandatory that the Church should "be able to acknowledge and condemn, with sorrow and shame, the atrocities perpetrated by consecrated persons, clerics, and all those entrusted with the mission of watching over and caring for those most vulnerable."⁵ Making his stand more obvious and affirmative on the matter, the Holy Father Pope Francis said at the institution of the Pontifical Commission for the Protection of Minors on 22 March 2014, "Ensuring the safety of minors and vulnerable people is an integral part of the Church's mission."⁶

In his address to the members of the Pontifical Commission for the Protection of Minors on 21 September 2017, condemning all types of the heinous acts of sexual crimes against children especially those committed by clerics and consecrated person, the Holy Father reiterated that "the Church, at all levels, will respond with the application of the firmest measures to all those who have betrayed their call and have abused the children of God"⁷ and made it categorically clear that "the Church irrevocably and at all levels intends to apply the 'zero tolerance' principle against the sexual abuse of minors."⁸ In his address to the Roman Curia on 21 December 2018, the pope acknowledged the fact that there are consecrated men, who abuse the vulnerable, taking advantage of their position and their power of persuasion. In the light of the fact that these crimes of the Lord's anointed without any doubt disfigure the countenance of the Church and undermine her credibility, the Holy Father made his stand clear stating that "before these abominations, the Church will spare no effort to do all that is necessary to bring to

⁴ Pope Francis, *Letter to the People of God*, art. 1.

⁵ Pope Francis, *Letter to the People of God*, art. 2.

⁶Cf. https://www.vatic.va/resources/resources_protezioneminori-lineeguida_20190326_en.html, accessed on 29 June 2020.

⁷ Pope Francis, *Address to the Members of the Pontifical Commission for the Protection of Minors*, Thursday, 21 September 2017. Cf. https://www.vatican.va/content/francesco/en/speeches/2017/september/documents/papa-francesco_20170921_pontcommissione-tutela-minori.html, accessed on 21 May 2021.

⁸ Pope Francis, *Address for the Protection of Minors*.

justice whosoever has committed such crimes.⁹ He further added that “the Church will never seek to hush up or not take seriously any case.”¹⁰ The firm stand of the Holy Father on the matter of sexual violence against minors was yet again made clear in his address at the end of the eucharistic celebration conducted as of the meeting “The Protection of Minors in the Church” on 24 February 2019. He stated thus:

Here again, I would state clearly: if in the Church there should emerge even a single case of abuse – which already in itself represents an atrocity – that case will be faced with the utmost seriousness. Brothers and Sisters: in people’s justified anger, the Church sees the reflection of the wrath of God, betrayed and insulted by these deceitful consecrated persons. The echo of the silent cry of the little ones who, instead of finding in them fathers and spiritual guides encountered tormentors, will shake hearts dulled by hypocrisy and by power. It is our duty to pay close heed to this silent, choked cry.¹¹

During the address, the Holy Father also outlined the mission of the Church on this issue of dangerous consequences stating that “the Church’s aim will thus be to hear, watch over, protect and care for abused, exploited and forgotten children, wherever they are.”¹² All the commissions established, legislations made and the apostolic exhortations, letters, and constitutions issued in this regard were not only to prevent such abuses and to punish the offenders but also to care for the abused children and their families and to heal the deep wounds caused by the offence.

⁹ Pope Francis, *Christmas Greetings to the Roman Curia*, 21 December 2018. Cf. https://www.vatican.va/content/francesco/en/speeches/2018/december/documents/papa-francesco_20181221_curia-romana.html, accessed on 21 May 2021.

¹⁰ Pope Francis, *Christmas Greetings*.

¹¹ Pope Francis, *Meeting "The Protection of Minors in the Church,"* Address of His Holiness at the end of the Eucharistic Concelebration, 24 February 2019. Cf. https://www.vatican.va/content/francesco/en/speeches/2019/february/documents/papa-francesco_20190224_incontro-protezioneminori-chiusura.html, accessed on 21 May 2021.

¹² Pope Francis, *Meeting "The Protection of Minors in the Church"*.

2. Institution of a Pontifical Commission for the Protection of Minors

One of the first major initiatives by Pope Francis to effectively address every act of sexual abuse against minors was the establishment of a pontifical commission for the protection of minors on 22 March 2014. In the Chirograph for the establishment of this pontifical commission, the supreme pontiff clearly articulates the aim, task, nature, competence and composition of the commission. The aim of the Commission in the words of the Holy Father, "is to promote the protection of the dignity of minors and vulnerable adults, using the forms and methods, consonant with the nature of the Church, which they consider most appropriate, as well as through their cooperation with individuals and groups pursuing these same objectives."¹³ Pope Francis, without leaving any room for doubt, categorically states that the Commission's specific task is to propose to him the most opportune initiatives for protecting minors and vulnerable adults, in order that we may do everything possible to ensure that crimes such as those which have occurred are no longer repeated in the Church.¹⁴ With this specific task in mind, the supreme pastor makes it incumbent on the Commission "to promote local responsibility in the particular Churches, uniting their efforts to those of the Congregation for the Doctrine of the Faith, for the protection of all children and vulnerable adults".¹⁵ The Commission, which is an advisory body at the service of the Holy Father is composed of a maximum of eighteen members appointed by the Holy Father for a period of three years, which may be reconfirmed. Regarding the qualities and qualifications of the members of the commission the chirograph art 2 § 2 stipulates that they "are chosen from among persons of good and proven reputation and with recognized competence in the various fields of interest which are entrusted to the Commission."¹⁶

¹³ Pope Francis, *Chirograph of His Holiness for the Institution of a Pontifical Commission for the Protection of Minors*, 22 March 2014. Cf. [https:// www.vatican.va/content/francesco/en/letters/2014/documents/papa-francesco_20140322_chirografo-pontificia-commissione-tutela-minori.html](https://www.vatican.va/content/francesco/en/letters/2014/documents/papa-francesco_20140322_chirografo-pontificia-commissione-tutela-minori.html), accessed on 21 May 2021.

¹⁴ Pope Francis, *Chirograph for the Protection of Minors*.

¹⁵ Pope Francis, *Chirograph for the Protection of Minors*.

¹⁶ Pope Francis, *Chirograph for the Protection of Minors*.

3. Penalty to Bishops / Major Superiors Negligent in Protecting Minors from Sexual Abuse

For a system to function effectively, those who are at the helm have to play a vigilant supervisory role. This principle is true also in the case of the Church, particularly when it comes to the protection of minors and vulnerable adults from any sort of sexual abuse. With this in mind, Pope Francis on 4 June 2016 issued *motu proprio* the apostolic letter *Come una Madre amorevole* (As a Loving Mother).¹⁷ Through this apostolic letter, the Holy Father categorically reaffirms the responsibility of diocesan Bishops, Eparchs, and those who have the responsibility for a Particular Church to pay vigilant attention to protecting the weakest of those entrusted to their care and establishes stringent measures in case of non-fulfilment of this grave obligation.

According to article 1 of this apostolic letter, diocesan Bishop or Eparch or one who even holds a temporary title and is responsible for a Particular Church or diocese and those who are by law equal to them namely Major Superior of Religious Institutes and Societies of Apostolic Life of Pontifical Right could be legitimately removed from office if he is objectively lacking in a very grave manner the diligence that his pastoral office demands of him, even without serious moral fault on his part. The case of the lack of diligence “in the case of the abuse of minors and vulnerable adults” is enough grounds for the dismissal of a person invested with this authority (*As a Loving Mother*, Art 1, § 2, § 3 and § 4).¹⁸

¹⁷ Pope Francis, Apostolic Letter issued, *motu proprio* *As a Loving Mother*, 4 June 2016.

¹⁸ See the full text of Art 1 of *Come Una Madre Amorevole* with four paragraphs:

§1. The diocesan Bishop or Eparch, or one who even holds a temporary title and is responsible for a Particular Church, or other community of faithful that is its legal equivalent, according to c. 368 CIC or c. 313 CCEO, can be legitimately removed from this office if he has through negligence committed or through omission facilitated acts that have caused grave harm to others, either to physical persons or to the community as a whole. The harm may be physical, moral, spiritual or through the use of patrimony.

§2. The diocesan Bishop or Eparch can only be removed if he is objectively lacking in a very grave manner the diligence that his pastoral office demands of him, even without serious moral fault on his part.

§3. In the case of the abuse of minors and vulnerable adults it is enough that the lack of diligence be grave.

The Supreme Pontiff through the new provision which makes it possible to remove Bishops/Major Superiors who are negligent in their responsibility to protect minors and vulnerable adults from sexual abuse, manifests his firm determination to address the issue of clerical sexual abuse head on and to prevent every possibility of the recurrence of this heinous offence in the future.

4. Vatican Sexual Abuse Summit

The Vatican sexual abuse summit, officially known as "Meeting on the Protection of Minors in the Church" held in the Vatican City from 21 to 24 February 2019 was another bold step from the part of Pope Francis to discuss the sexual abuses of clerics and to find out means and ways to prevent them. The unprecedented meeting wherein the Pope urged all concerned to "hear the cry of the little ones who plead for justice"¹⁹ attracted world-wide attention and assumed a lot of importance mainly because of three reasons. Firstly, it was for the first time that all the presidents of the episcopal conferences and the heads of religious institutes were involved to address the scourge of abuses committed by the clergy. There were 190 participants of which 114 were the presidents of the episcopal conferences, 14 the heads of the Eastern Catholic Churches and 22 of the religious orders. Secondly at the summit, the survivors of clerical sexual abuse were given the possibility to speak and to express the agony and suffering they and their families underwent on account of the abuse. Thirdly and more importantly, the Church officially acknowledged that sexual abuse is a global issue that needs to be addressed utmost seriousness, care and concern.²⁰

The summit was articulated on the three guidelines of responsibility, accountability and transparency, with a day each dedicated to each of the guidelines.²¹ Through the summit, Pope Francis without leaving any room for doubt indicated to all bishops that they must understand their own responsibilities and assume them as the pastors of their flock and as heads of the dioceses entrusted to them. The Holy Father also asked them to come forward with concrete steps to

§4. The Major Superiors of Religious Institutes and Societies of Apostolic Life of Pontifical Right are equivalent to diocesan Bishops and Eparchs.

¹⁹ Pope Francis, *Meeting "The Protection of Minors in the Church."*

²⁰ Cf. <https://www.avvenire.it/chiesa/pagine/protezione-dei-minori>, accessed on 22 May 2021.

²¹ Cf. <https://www.avvenire.it>

prevent and to deal with such abuses reminding them that they are bound to give an account of what is being done. The main concerns of the summit were to formulate transparent legal procedures on the reporting and the investigation of sexual abuse cases, to deal with those who are accused of having committed the abuses or the competent ecclesiastical authorities negligent in handling such cases, to care for the victims and to establish effective mechanisms to achieve these ends. Pope Francis very clearly articulated the objectives of the summit in the following words:

The Church's aim will thus be to hear, watch over, protect and care for abused, exploited and forgotten children, wherever they are. To achieve that goal, the Church must rise above the ideological disputes and journalistic practices that often exploit, for various interests, the very tragedy experienced by the little ones. The time has come, then, to work together to eradicate this evil from the body of our humanity by adopting every necessary measure already in force on the international level and ecclesial levels. The time has come to find a correct equilibrium of all values in play and to provide uniform directives for the Church, avoiding the two extremes of a "justicialism" provoked by guilt for past errors and media pressure, and a defensiveness that fails to confront the causes and effects of these grave crimes.²²

The deliberations made in the summit in effect led to a number of changes in the Church and gave the Church a new direction in dealing with matters connected with sexual abuse cases in the Church. The formulation of the three Vatican Norms, namely, i) Vatican Law No. CCXCVII on the protection of minors and vulnerable persons, ii) the *motu proprio* 'On the protection of minors and vulnerable persons and iii) the Guidelines of the Vicariate of Vatican City on the Protection of Minors and Vulnerable person. The *motu proprio Vos estis lux mundi* and the Rescript "On the confidentiality of legal proceedings", raising the age limit of minors from fourteen to eighteen, the *Vademecum* in treating cases of sexual abuse of minors committed by clerics and the revision of Book VI of Code of Canon Law which deals with Penal Sanctions in the Church through the apostolic constitution *Pascite gregem Dei*, etc also could be considered as the positive results of this summit.

²² Pope Francis, the submit on "The Protection of Minors in the Church," 24 February 2019.

5. *Vos Estis Lux Mundi*

To make the battle against the crimes of sexual abuse by clerics or members of Institutes of Consecrated Life and Societies of Apostolic Life more effective, Pope Francis through the *motu proprio Vos estis lux mundi* established a set of procedural norms to prevent and combat such violations.²³ It was issued on 9 May 2019 and came into force on 1 June 2019. Arts. 1 §1 and 6 of the *motu proprio* enlists the following delicts against the sixth commandment of the Decalogue for which they are to be penalized. They are i) forcing someone, by violence or threat or through abuse of authority, to perform or submit to sexual acts; ii) performing sexual acts with a minor or a vulnerable person; iii) the production, exhibition, possession, or distribution, including by electronic means, of child pornography, as well as by the recruitment of or inducement of a minor or a vulnerable person to participate in pornographic exhibitions. They could also be penalized for any act of interference to avoid civil or canonical investigations, whether administrative or penal, against a cleric or religious accused of the above said delicts against the sixth commandment. What is to be noted about the *motu proprio* is that it not only considers the persons who committed the crimes of sexual abuses and child pornography culpable, it also holds those who try to protect the guilty by interfering to avoid civil or canonical investigations liable for appropriate penalties. Thus, as per the *motu proprio*, along with others the diocesan bishops and major superiors who neglected to report the abuse and tried to and cover up the abuse, and tried to interfere with the investigations could be penalized.

To forestall the possibility of any coverup, art. 2 § 3 makes it incumbent on the Ordinary/Hierarch who received a *notitia de delicto* to transmit it without delay to the Ordinary or Hierarch of the place where the events were said to have occurred, as well as to the proper Ordinary or Hierarch of the accused. This ordinary/hierarchy in the case of a diocesan priest and a religious is his eparchial Bishop of incardination and his major Superior respectively.²⁴ With the same intention in mind, the *motu proprio* obliges a cleric or a member of an Institute of Consecrated Life or of a Society of Apostolic Life to report to the local ordinary or the concerned major superior whenever

²³ Pope Francis, Apostolic Letter *motu proprio Vos estis lux mundi*, 7 May 2019.

²⁴ CCEO c. 984 & CIC c. 134.

he/she receives information about the occurrence of the above-mentioned delicts (*VELM* art. 3 §1) and guarantees protection to the person who has reported case (*VELM* art. 4). In addition, it is made dutybound on the concerned ecclesiastical authorities to ensure that those who state that they have been harmed, together with their families, are to be treated with dignity and respect, and, in particular, are to be: a) welcomed, listened to and supported, including through the provision of specific services; b) offered spiritual assistance; c) offered medical assistance, including therapeutic and psychological assistance, as required by the specific case (*VELM* art. 5 §1).

The provisions of the *motu proprio* give the norms to be followed when the sexual crimes listed in article 1 of the *motu proprio* is committed by Cardinals, Patriarchs, Bishops and Legates of the Roman Pontiff, clerics holding special positions in the Church, other clerics, and members of institutes of consecrated life (Art. 6) and the Dicasteries of the Roman Curia which are competent to handle the cases (Art. 7). Taking cognizance of the fact that different procedures are followed in the event of a report concerning a Bishop of the Latin Church and of Eastern Catholic Churches, the *motu proprio* unambiguously spells out in two separate articles (Arts. 8 & 9), the procedure to be followed when accusations are reported each of the situations. When it comes to the investigation of the case, the *motu proprio* gives a clear picture about the authority competent and dutybound to conduct it (art 10 & 11), the way it is to be carried out (art 12), how the service of qualified persons is to be made use of in it (art 13), the time limit for its completion (art 14), the establishment of a fund to sustain its costs and transmission of the documents together with the *votum* of the metropolitan at the completion of the investigation.

Being well aware of the fact that apart from being an act punishable under divine and ecclesiastical law, sexual abuse of minors and other vulnerable people is a crime under the provisions of civil law as well, the *motu proprio* acknowledges that those who are guilty of this delict are by all means accountable to the civil authority for this criminal behaviour. Recognizing the legitimate authority of civil law and the state in this matter, it instructs the competent Church authorities and those associated with the case to cooperate fully with civil authorities particularly those concerning any reporting obligations to the competent civil authorities (Art. 19) so that justice

may prevail and even the remote possibility of a cover-up could be excluded.

What makes the *motu proprio* an effective tool is its universal applicability and precision and clarity regarding the procedures to be followed in dealing with sexual abuse cases. These norms which apply to reports regarding clerics or members of Institutes of Consecrated Life or Societies of Apostolic Life (art 1 §1), outline clear-cut provisions concerning bishops and their equivalents who are in the higher grade of clerical state accused of the crime (art 6). It even gives the different procedures applicable in the event of a report concerning a Bishop of the Latin Church and of Eastern Catholic Churches. Thus, is ruled out the possibility that Cardinals, Patriarchs, Bishops and Legates of the Roman Pontiff and priests with quasi-episcopal power by virtue of their privileged position, to escape the clutches of law.

6. Raising the Age Limit of Minors in Child Pornography Cases

The fight of Pope Francis against the sexual abuse of minors is not something that started from nowhere. The Holy Father has in fact been building upon the foundations laid by his predecessors. Taking into account the need for the changing times, he even introduced some amendments to the already existing laws. One such change was made by a rescript in the Audience granted to Cardinal Pietro Parolin, Secretary of State, and Cardinal Luis Francisco Ladaria, Prefect of the Congregation for the Doctrine of the Faith on 4 October 2019.

One of the two amendments introduced to the *Normae de gravioribus delictis* reserved to the judgment of the Congregation for the Doctrine of the Faith, in accordance with the *Motu proprio* of Saint John Paul II *Sacramentorum Sanctitatis Tutela* (SST) of 30 April 2001 and amended on 21 May 2010 concerns the protection of minors. Through article 1 of the rescript he replaced Art. 6 § 1, 2° of SST in its entirety by the following text: "The acquisition, possession or distribution by a cleric of pornographic images of minors under the age of eighteen, for purposes of sexual gratification, by whatever means or using whatever technology."²⁵ The wording of the text before the

²⁵ Pope Francis, Rescript, *Rescriptum Ex Audientia Ss.Mi*, to promulgate the Instruction on the confidentiality of legal proceedings, 17 December 2019. Cf. https://www.vatican.va/roman_curia/secretariat_state/

amendment was “ the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of fourteen, for purposes of sexual gratification, by whatever means or using whatever technology.”

Though the only change introduced was with respect to the age of the minors whose pornographic images have been acquired, possessed, or distributed by a cleric, through this amendment the definition of child pornography was in fact altered by the pope. While in the previous law the age of the minor was put ‘under the age of fourteen’ in the new legislation, it is ‘under the age of eighteen’ Raising the age limit from fourteen to eighteen has its specific importance. A hint for raising the age limit for minors was given by the Supreme Pontiff in his closing speech for a February 21-24 summit on child protection wherein he stated that this age limit should be raised in order to expand the protection of minors and to bring out the gravity of these deeds.²⁶ In that address, he spoke at length about the dangerous possibilities and disastrous consequences of child pornography in the digital world. He spoke thus:

Here there is a need to encourage countries and authorities to apply every measure needed to contain those websites that threaten human dignity, the dignity of women, and particularly that of children. Brothers and Sisters: crime does not enjoy the right to freedom. There is an absolute need to combat these abominations with utter determination, to be vigilant, and to make every effort to keep the development of young people from being troubled or disrupted by uncontrolled access to pornography, which will leave deep scars on their minds and hearts. We must ensure that young men and women, particularly seminarians and clergy, are not enslaved to addictions based on the exploitation and criminal abuse of the innocent and their pictures, and contempt for the dignity of women and of the human person.²⁷

2019/documents/rc-seg-st-20191203_rescriptum_en.html, accessed on 29 May 2021.

²⁶ Cf. https://www.vatican.va/content/francesco/en/speeches/2019/february/documents/papa-francesco_20190224_incontro-protezioneminori-chiusura.html, accessed on 29 May 2021.

²⁷ Cf. https://www.vatican.va/content/francesco/en/speeches/2019/february/documents/papa-francesco_20190224_incontro-protezioneminori-chiusura.html, accessed on 29 May 2021.

7. Abolition of Pontifical Secret in Cases of Sexual Violence and Abuse of Minors by Clerics

Pope Francis known for his pastoral and practical approach, has been consistent from the very beginning of his pontificate that no bureaucratic technicality should come in the way of effective administration of justice. Every act and reform he made speaks volumes about his conviction that "The Sabbath was made for man, not man for the Sabbath" (Mk 2: 27). He displays grit and goodwill in doing away with certain norms which prevent the right administration of justice and are no longer relevant.

The decision to abolish the pontifical secret in the case of sexual violence and the abuse of minors committed by members of the clergy was one of such bold steps destined to make a long-lasting impact in the fight of the Church towards the protection of the minors. The historic decision to issue the Instruction on the Confidentiality of Legal Proceedings was communicated by His Holiness Pope Francis, in the Audience granted to His Excellency Archbishop Edgar Peña Parra, Substitute for General Affairs of the Secretariat of State, on 4 December 2019.²⁸ As per the instruction, which was made publicly available through the Holy See Press Office from the Vatican on 6 December 2019 by Cardinal Pietro Parolin, Secretary of State, the pontifical secret does not apply to accusations, trials, and decisions involving the offences referred to in: a) article 1 of the Motu proprio "*Vos estis lux mundi*" (7 May 2019)²⁹ and b)

²⁸ Pope Francis, Rescript, *Rescriptum Ex Audientia Ss.Mi.*

²⁹ The delicts mentioned in article 1 of *Vos estis lux mundi* are of two types. The first type concerns those delicts against the sixth commandment of the Decalogue consisting of committed by clerics or members of Institutes of Consecrated Life or Societies of Apostolic Life which consists of the following: i) forcing someone, by violence or threat or through abuse of authority, to perform or submit to sexual acts; ii) performing sexual acts with a minor or a vulnerable person; iii) the production, exhibition, possession or distribution, including by electronic means, of child pornography, as well as by the recruitment of or inducement of a minor or a vulnerable person to participate in pornographic exhibitions. The second type concern the conduct carried out by Cardinals, Patriarchs, Bishops, Legates of the Roman Pontiff, clerics with quasi episcopal power, and those who are, or who have been, supreme moderators of Institutes of Consecrated Life or of Societies of Apostolic Life of Pontifical right, as well as of monasteries *sui iuris*, with respect to the acts committed *durante munere*

Article 6 of the *Normae de gravioribus delictis* reserved to the judgement of the Congregation for the Doctrine of the Faith, in accordance with the *Motu proprio "Sacramentorum Sanctitatis Tutela"* of Saint John Paul II (30 April 2001), and subsequent amendments (Instruction No. 1).³⁰ The *motu proprio* adds that the pontifical secret does not apply when such offenses were committed in conjunction with other offences (Instruction No. 2).

With a word of caution, instruction number 3 of the rescript, however, states that in the cases of the said delicts, the information is to be treated in such a way as to ensure its security, integrity, and confidentiality in accordance with the prescriptions of canons 471, 2° CIC and 244 §2, 2° CCEO, for the sake of protecting the good name, image, and privacy of all persons involved.

Article 4 of the rescript gives the rationale behind lifting the pontifical secret in cases of sexual violence and abuse of minors by clerics. It states thus: "Office confidentiality shall not prevent the fulfillment of the obligations laid down in all places by civil laws, including any reporting obligations, and the execution of enforceable requests of civil judicial authorities." The rescript instructs the competent ecclesiastical authorities that "the person who files the report, the person who alleges to have been harmed and the witnesses shall not be bound by any obligation of silence with regard to matters involving the case" (Instruction No. 5).

The provisions of the rescript manifest the seriousness and utmost care with which Pope Francis is making every effort to put an end to the scourge of clerical sexual abuses and to heal the wounds caused

(VELM art. 6) consisting of actions or omissions intended to interfere with or avoid civil investigations or canonical investigations, whether administrative or penal, against a cleric or a religious regarding the first type of delicts.

³⁰ The more grave delicts against morals which are reserved to the Congregation for the Doctrine of the Faith according to article 6 §1 of SST are: 1) the delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years; in this number, a person who habitually has the imperfect use of reason is to be considered equivalent to a minor; 2) the acquisition, possession, or distribution by a cleric of pornographic images of minors under the age of eighteen, for purposes of sexual gratification, by whatever means or using whatever technology.

on many innocent victims, on their dear and near ones and on the mystical body of Christ by these extremely shameful acts. As Cardinal Reinhard Marx of Munich and Freising, Germany, told "removing the pontifical secret would promote transparency in a scandal where the lack of transparency has meant the rights of victims were effectively trampled underfoot and left to the whims of individuals."³¹

8. New Provisions in the Roman Curia and in Vatican City State

It is often said, 'charity begins at home.' Pope Francis in his effort to make sure that the Roman Curia and the Vatican City State are free from the blemishes of violence against minors and vulnerable persons came up with new provisions for them to "strengthen even more the institutional and regulatory framework to prevent and to counter abuses against minors and vulnerable persons."³² The regulations given in the apostolic letter issued *motu proprio* by the supreme pontiff on 26 March 2019 in the seventh year of his Pontificate intend to make sure that

In the Roman Curia and in Vatican City State: there exist a community respectful and mindful of the rights and the needs of minors and of vulnerable persons, as well as being vigilant in preventing any form of physical or psychological violence or abuse, abandonment, neglect, ill-treatment or exploitation that may occur either in interpersonal relationships or in shared spaces and facilities; everyone becomes ever more aware of the duty to report abuses to the competent Authorities and to cooperate with them in their prevention and opposition; all instances of abuse or ill-treatment of minors or of vulnerable persons are effectively prosecuted in accordance with the law; the right to be welcomed, listened to and accompanied is recognized of those who claim to have suffered exploitation, sexual abuse or ill-treatment, and of their families; to victims and to their families appropriate pastoral care is given, as well as adequate spiritual, medical, psychological and legal support; the right to a fair and impartial trial, in compliance with the presumption of innocence, as well as the principles of legality and proportionality between the crime and

³¹Cf. <https://www.catholicnews.com/update-pope-lifts-secrecy-obligation-for-those-who-report-having-been-abused>, accessed on 22 May 2021.

³² Pope Francis, *The Protection of Minors and Vulnerable Persons*.

the sentence, is guaranteed to the accused; - those who are convicted of having abused a minor or a vulnerable person are removed from their duties and that, at the same time, they are offered adequate support for their psychological and spiritual rehabilitation, also in view of their social reintegration; everything possible is done to rehabilitate the good name of those who have been wrongly accused; adequate training is provided for the protection of minors and vulnerable persons.³³

To achieve these ends, the Supreme Pontiff with the apostolic letter also makes the following six profoundly practical action plans:³⁴

- i) grants criminal jurisdiction to competent judicial organs of Vatican City State over the crimes which jeopardize the Protection of Minors and Vulnerable Persons;
- ii) obliges the public official who, in the exercise of his functions, knows or has reasonable grounds to believe that a minor has suffered crimes of sexual abuses, to report without delay such offences committed in the territory of the State, to the detriment of citizens or residents in the State or on the occasion of the exercise of their functions, by public officials of the State;
- iii) guarantees that the victims of the abuse will be offered spiritual, medical, and social assistance, including therapeutic and psychological emergency assistance, as well as useful information of a legal nature through the Support Service that is managed by the Department of Health and Hygiene of the Governorate of Vatican City State;
- iv) instructs The Labour Office of the Apostolic See, in cooperation with the Support Service of the Department of Health and Hygiene to organize training programs for the staff of the Roman Curia and of the Institutions connected to the Holy See on the risks of exploitation, sexual abuse and ill-treatment of minors, as well as the ways to identify and prevent those offences and on the duty to report;
- v) makes it mandatory that when selecting and hiring the staff of the Roman Curia and of the Institutions connected to the Holy

³³ Pope Francis, *The Protection of Minors and Vulnerable Persons*.

³⁴ Pope Francis, *The Protection of Minors and Vulnerable Persons*.

See, as well as of those who offer voluntary service, the suitability of the candidates to interact with minors and vulnerable persons shall be ascertained;

- vi) obliges those Dicasteries of the Roman Curia and Institutions connected to the Holy See to which minors or vulnerable persons have access to adopt, with the assistance of the Support Service of the Department of Health and Hygiene, guidelines and good practices for their protection.

The relevance of the apostolic letter lies in the fact that it not only presents an ideal vision but also offers highly practical and concrete steps to translate the vision into an attainable reality.

9. *Vademecum*

'*Vademecum* on Certain Points of Procedure in Treating Cases of Sexual Abuse of Minors Committed' by Clerics prepared by the Congregation for the Doctrine of Faith (CDF) on 16 July 2020³⁵ was yet another milestone in the Church's fight against the sexual abuse of minors by clerics. Without issuing new norms or altering current canonical legislation, this manual intended as a handbook to "Dioceses, Institutes of Consecrated Life and Societies of Apostolic Life, Episcopal Conferences, Ordinaries and other personnel charged with ascertaining the truth in such criminal cases"³⁶ gives them a clear picture about the procedure to be followed step-by-step from receiving information about a possible delict to the definitive conclusion of the case.

Defining the delict in question as 'every external offence against the sixth commandment of the Decalogue committed by a cleric with a minor' (paragraph 1) it clearly states that this delict could include, 'sexual relations (consensual or non-consensual), physical contact for sexual gratification, exhibitionism, masturbation, the production of pornography, inducement to prostitution, conversations and/or propositions of a sexual nature, which can also occur through various means of communication³⁷' 'Minor' as per the provisions of this *Vademecum* is any person below the age of eighteen (paragraph 3).

³⁵ Cfr. Congregation for the Doctrine of the Faith, *Vademecum on Certain Points of Procedure in Treating Cases of Sexual Abuse of Minors Committed by Clerics*, 16 July 2020.

³⁶ *Vademecum*, 2020, Introduction.

³⁷ *Vademecum*, 2020, art. 2.

Making reference to CIC cc. 695ff, it states that the delicts against minors mentioned in paragraph 1 could also entail dismissal from a religious Institute.³⁸

One important feature that distinguishes this manual is the definition it gives to *notitia de delicto*. Contrary to the general understanding prevalent until now, as per the stipulations of this manual, information about a delict does not need to be a formal complaint. It consists of any information about a possible delict that in any way comes to the attention of the Ordinary or Hierarch'.³⁹ As the *Vademecum* itself put it:

This *notitia* can come from a variety of sources: it can be formally presented to the Ordinary or Hierarch, orally or in writing, by the alleged victim, his or her guardians, or other persons claiming to have knowledge about the matter; it can become known to the Ordinary or Hierarch through the exercise of his duty for vigilance; it can be reported to the Ordinary or Hierarch by the civil authorities through channels provided for by local legislation; it can be made known through the communications media (including social media); it can come to his knowledge through hearsay, or in any other adequate way.⁴⁰

Going the extra mile, the *Vademecum* speaks about the possibility of such information coming from an anonymous source, namely, from unidentified or unidentifiable persons and makes it categorically clear that 'the anonymity of the source should not automatically lead to considering the report as false'.⁴¹ While speaking of the great caution that should be exercised in considering this type of *notitia* from anonymous reports, it asks the competent persons not to dismiss *a priori* the information that comes from sources whose credibility might appear at first doubtful⁴² and to properly assess vague and unclear information which comes without any specific details⁴³. Making clear that a report of such a grave delict received in confession is placed under the bond of sacramental seal, it obliges the confessor to convince the penitent to make that information known

³⁸ *Vademecum*, 2020, art.8.

³⁹ *Vademecum*, 2020, art.8.

⁴⁰ *Vademecum*, 2020, art. 10.

⁴¹ *Vademecum*, 2020, art. 11.

⁴² *Vademecum*, 2020, art. 12.

⁴³ *Vademecum*, 2020, art. 13.

by other means, in order to enable the appropriate authorities to take action.⁴⁴

The new provisions make it incumbent on the hierarch who received the information about the delict to conduct a preliminary investigation about the delict provided that it has the resemblance of truth and 'to report to the competent civil authorities if this is considered necessary to protect the person involved or other minors from the danger of further criminal acts.⁴⁵ In cases of improper and imprudent conduct by cleric even when there is no element of delict as such, the *Vademecum* even authorizes the hierarch, to take administrative provisions like restrictions on the exercise of ministry if it is necessary to protect the common good and to avoid scandal or to impose penal remedies to prevent delicts.⁴⁶ In cases of likely situations where the local Ordinary or Hierarch and the proper Ordinary or Hierarch are not the same person, in order to avoid any confusion, the *Vademecum* exhorts the hierarchs to contact each other to determine which of them will carry out the investigation. When the accused is a member of an Institute of Consecrated Life or a Society of Apostolic Life, the major Superior has the duty to inform the matter to the supreme Moderator and also the respective bishop if the Institutes or Society is of diocesan right.⁴⁷

The manual also gives clarity on important points like the persons eligible to report, the mode of reporting, the competent persons to whom the cases can be reported, Course of Action to be followed when the Report has a semblance of truth and when there is not, things to be done and procedures to be followed during every stage of the preliminary investigation until its conclusion. It also speaks about the precautionary measures which are to be taken during the whole process, giving due consideration to the rights of the victim as well as the accused. A clear picture about the Procedure followed by the Congregation for Doctrine of Faith, the conclusion of the penal judicial process, and the further measures available thereafter are also elaborately given in the text of the *Vademecum*. With its clarity and step-by-step elaboration of the process to be followed, this document is undoubtedly a valuable manual for

⁴⁴ *Vademecum*, 2020, art. 14.

⁴⁵ *Vademecum*, 2020, art. 17.

⁴⁶ *Vademecum*, 2020, art. 20.

⁴⁷ *Vademecum*, 2020, art.31.

hierarchs and those who are bound *ex officio* to apply the penal norms in cases of sexual abuse of minors by clerics and consecrated persons.

10. Revised Canon Law on Abuse of Minors

The revision of the penal discipline contained in Book VI of Code of Canon Law (CIC) by Pope Francis on 1 June 2021 through the apostolic constitution *Pascite gregem Dei*⁴⁸ was an event of major importance that gave further momentum and clarity in the efforts of the Church to deal effectively and affirmatively with the scourge of sexual abuse of minors by clerics. As the pope himself states in the apostolic constitution:

In the context of the rapid social changes, ... in order to respond adequately to the demands of the Church throughout the world, it was evident the need to also review the penal discipline promulgated by Saint John Paul II, on January 25, 1983, with the Code of Canon Law. It was necessary to modify it in such a way as to allow its use by Pastors as an agile, healthy, and corrective instrument, and that it could be used in time and with *caritas pastoralis*, in order to prevent greater evils and heal the wounds caused by human weakness.⁴⁹

The revision was the culmination of almost thirteen years of laborious work which started in 2007 with Pope Benedict XVI entrusting the Pontifical Commission with the task of undertaking the revision of the penal regulations of the 1983 Code.⁵⁰ The intention of the revision was to “analyze the new requirements, to identify the limits and shortcomings of the current legislation and to determine possible solutions, clear and simple.”⁵¹ One of the main concerns of the revision was to positively and effectively respond to the repeated complaints by victims of sexual abuse and others that the code’s provisions were outdated, ineffective, and not at all transparent. A fitting remedy to this crisis was given through the revision by adding detailed provisions on punishing clerics and members of institutes of consecrated life who are found guilty of having committed sexual

⁴⁸ See, Pope Francis, Apostolic Constitution, *Pascite gregem Dei*, Reforming Book VI of the Code of Canon Law, 23 May 2021.

⁴⁹ *Pascite gregem Dei*.

⁵⁰ *Pascite Gregem Dei*.

⁵¹ *Pascite Gregem Dei*.

abuse of minors. The following are the stipulations of the entirely new canon of the revised text:

C. 1398 – § 1. A cleric is to be punished with deprivation of office and with other just penalties, not excluding, where the case calls for it, dismissal from the clerical state if he:

1° commits an offence against the sixth commandment of the Decalogue with a minor or with a person who habitually has an imperfect use of reason or with one to whom the law recognizes equal protection;

2° grooms or induces a minor or a person who habitually has an imperfect use of reason or one to whom the law recognizes equal protection to expose himself or herself pornographically or to take part in pornographic exhibitions, whether real or simulated;

3° immorally acquires, retains, exhibits, or distributes, in whatever manner and by whatever technology, pornographic images of minors or of persons who habitually have an imperfect use of reason.

§2. A member of an institute of consecrated life or of a society of apostolic life, or any one of the faithful who enjoys a dignity or performs an office or function in the Church, who commits an offence mentioned in § 1 or in c. 1395 § 3 is to be punished according to the provision of c. 1336 §§ 2-4, with the addition of other penalties according to the gravity of the offence.

Conclusion

The reforms brought about by Pope Francis from the day he was elected the supreme head of the Catholic Church on 13 March 2013 until now in matters connected with the sexual abuse of minors by clerics and consecrated persons by reasserting the coercive power of the Church and by reaffirming the zero-tolerance attitude of the Church connected with such issues were primarily aimed at manifesting the motherly face of the Church. As the Holy Father himself states in the *Chirograph for the Institution of a Pontifical Commission for the Protection of Minors* "The effective protection of minors and a commitment to ensure their human and spiritual development, in keeping with the dignity of the human person, are

integral parts of the Gospel message that the Church and all members of the faithful are called to spread throughout the world.”⁵²

However, as Pope Benedict XVI wrote in his pastoral letter to the Catholics of Ireland on 19 March 2019, the abuse of children and vulnerable young people by members of the Church, particularly by priests and religious “obscured the light of the Gospel to a degree that not even centuries of persecution succeeded in doing.”⁵³ Thus, urgent action was needed to address the issue, which has had tragic consequences in the lives of victims and their families.⁵⁴ The reforms and various penal measures introduced by Pope Francis by effectively and steadfastly following the footsteps of his predecessors are earnest efforts from the Church to address the issue by doing all that is possible to prevent the occurrences of such abuses in the future and to heal the wounds caused.

⁵² Pope Francis, *Chirograph for the Protection of Minors*.

⁵³ Benedict XVI, *Pastoral Letter of the Holy Father Pope Benedict XVI to the Catholics of Ireland*, 19 March 2010, art. 4.

⁵⁴ Benedict XVI, *Pastoral Letter to the Catholics of Ireland*, art. 4.