

VOS ESTIS LUX MUNDI: TEXT AND COMMENTARY – Part I

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This article is a commentary on the Apostolic Letter in the form of *Motu Proprio Vos estis lux mundi*, promulgated by the Supreme Pontiff on 7 May 2019. Each article of the document is taken separately and given the possible interpretation in the numerical order. Since the document deals with penal matter, the author has tried to give a strict interpretation. The article is divided into two parts dealing with two titles of the document.

Introduction

Sexual abuse by the clergy and especially of minors is one of the problems that is faced by the Catholic Church. Sexual abuse of anyone by any person is considered to be a sin by the Catholic Church. It is not just a canonical delict, which is internal to the Church but it is also a crime prosecuted by civil law. When the person abused is a minor or the vulnerable, it becomes more serious. Going by the secular media - presuming that it is authentic and credible - it seems that the Church has failed in curbing the abuse of minors by the clergy. But, a closer look into the development of the legislation of the Church may help many to overcome the misunderstandings and it may give clarity as to what is the mind of the Church with regard to this problem and how she has faced it over the centuries. The ecclesiastical legislation on the sexual abuse by the clergy has been subjected to many changes over the centuries. Church always read 'the signs of the time,' and accordingly made necessary changes in the legislation in order the better to keep abreast of the developments in the world. On 7 May 2019 the Supreme Pontiff issued an apostolic letter in the form of *Motu*

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Proprio called *Vos estis lux mundi*,¹ and it entered into force on 1 June 2019. It appears as a concrete result of the “Meeting on the Protection of Minors in the Church”, in which the Presidents of the Episcopal Conferences and the Synods of the Oriental Catholic Churches, together with other Bishops from all over the world gathered at the Vatican on 21-24 February 2019.²

The document begins with an introduction and is divided into two titles. The first title deals with general provisions and the second title treats the provisions concerning bishops and their equivalents both in the Latin Church and in the Oriental Catholic Churches. It has altogether 19 articles of which the first 5 are part of the first title and the rest are part of the second title. It establishes the procedure for the Universal Church when facts are reported about the crimes against the sixth commandment of the Decalogue, as well as the norms of the Code on the subject.³ The articles are taken one by one and given possible interpretation.

The interpretation of penal law requires great care and attention and it should not be treated like the other sections of the law; for example, on a particular matter if there is no express provision (a seeming *lacuna*) in the law, it is generally permitted to have recourse to supplementary sources of law to resolve specific cases; but such recourse, is prohibited when it is a penal matter. Penal laws have a special rule for interpretation. As always, the words of the law are to be interpreted according to their proper meaning in the law, when considered in text and in context. Though generally, it is possible to use the broad interpretation of the law in force, this is not the case with penal laws;

¹ Francis, Motu Proprio *Vos estis lux mundi*, 7 May 2019, in http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html, accessed on 07/08/2019.

² Cf. J. I. Arrieta, “Explanatory Note: Motu Proprio *Vos estis lux mundi*”, in <http://www.delegumtextibus.va/content/testilegislativi/it/eventi/notaespl icativa-vos-estis-lux-mundi--dal-mons--juan-igancio-ar.html>, accessed on 07/11/2019.

³ Cf. F. Iannone, “Nota Esplicativa: Motu Proprio *Vos estis lux mundi*”, in <http://www.delegumtextibus.va/content/testilegislativi/it/eventi/notaespl icativa--vos-estis-lux-mundi--dal-mons--filippo-iannone.html>, accessed on 07/11/2019.

the laws which prescribe a penalty must be interpreted strictly.⁴ A strict interpretation understands the words in its most strict or least extensive sense. That is, under the sense of the words, only those things are said to be willed by the legislator, which are absolutely necessary to establish a norm, which does not become empty or does not lack an effect, but at least produce something.⁵ These things are to be kept in mind while interpreting *Motu Proprio Vos estis lux mundi*, since it contains penal matter.

Title I: General Provisions

The first title presents the subjective and objective elements of the provision in a general way. It identifies the subjects bound to the law, provides four behaviors that concretely motivate the provision, determines the obligation to file a complaint by clerics and religious, establishes obligatory safe methods to receive and transmit reports to the authority that must investigate and, finally, points out rules to protect both the person submitting the report and those who claim to have been offended.⁶

1. Scope of Application

Article 1

§1. These norms apply to reports regarding clerics or members of Institutes of Consecrated Life or Societies of Apostolic Life and concerning:

- a) delicts against the sixth commandment of the Decalogue consisting of:
 - 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;

⁴ Canons 17-19 CIC 1983; 1499-1501 CCEO 1990; Cf. J. Provost, "Offences against the Sixth Commandment: Towards A Canonical Analysis of Canon 1395", in *The Jurist* 55 (1995), 633.

⁵ Cf. G. Michiels, *Normae Generalis Juris Canonici*, vol. 1, Paris, 1949, 480-481.

⁶ Cf. J. I. Arrieta, "Explanatory Note: *Motu Proprio Vos estis lux mundi*", accessed on 07/11/2019.

b) conduct carried out by the subjects referred to in article 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 delicts referred to in letter “a)” of this paragraph.

§2. For the purposes of these norms,

- a) “*minor*” means: any person under the age of eighteen, or who is considered by law to be the equivalent of a minor;
- b) “*vulnerable person*” means: any person in a state of infirmity, physical or mental deficiency, or deprivation of personal liberty which, in fact, even occasionally, limits their ability to understand or to want or otherwise resist the offence;
- c) “*child pornography*” means: any representation of a minor, regardless of the means used, involved in explicit sexual activities, whether real or simulated, and any representation of sexual organs of minors for primarily sexual purposes.⁷

The first article supplies the scope of the application of this document. It has two paragraphs. The first paragraph speaks of the people to whom these norms are applicable and the delicts for which these norms may be applied. The second paragraph explains who is a minor or a vulnerable person and what is meant by child pornography in this document.

§1. The Subjects and the Applicable Delicts

The norms of the document *Vos estis lux mundi* are applicable to the reports regarding the clerics or members of Institutes of Consecrated Life or Societies of Apostolic Life regarding the delict that are given in the same article in two broad divisions: a) The Delicts against the Sixth Commandment of the Decalogue; b) Conducts of Actions or Omissions to avoid or Interfere with Investigations.

The first group, to whom the norms are applicable, is the clerics. Clerics who are also known as sacred ministers are those in sacred orders, they could be deacons, priests or bishops because a person becomes a cleric by the reception of diaconate.⁸

The second group is the members of Institutes of Consecrated Life or Societies of Apostolic Life. That includes all the institutes that have the obligation to take the vows of the evangelical counsels (Religious

⁷ *Vos estis lux mundi*, Article 1.

⁸ Canons 207, 266 §1 CIC 1983; 323, 358 CCEO 1990.

Institutes and the Secular Institutes) and the Societies of Apostolic Life. These norms surpass the subjects bound in this matter by the *delicta graviora*, which are only for the clerics.⁹ The procedural norms applicable to them depending on their status are to be followed.

a) The Delicts against the Sixth Commandment of the Decalogue

The delicts for which the norms applied is divided broadly into two of which the first is the delicts against the sixth commandment of the Decalogue consisting of three categories.

The 1983 Code as well as the 1917 Code in the respective canons use the term, "offence against the sixth commandment of the Decalogue" to refer to sexual sins, including the sexual sins against minors.¹⁰ The use of this term as a phrase for all sexual sins is a comparatively recent development in the moral tradition of the Church.¹¹ Basically, the sixth commandment was understood as prohibition of adultery from the Old Testament times to the middle ages. The social and religious implications in the successive periods from the high middle ages were such that the commandment was used to describe and condemn many different sexual offences. It gives the indication that the understanding of the commandment was neither uniform nor univocal.¹² *Catechism of the Catholic Church* teaches: "Tradition of the Church has understood the sixth commandment as encompassing the whole of human sexuality."¹³ A study of the moral tradition of the Church would give us another perspective of the use of this term. The use of the term 'sixth commandment' by moral theologians of the Church did change during the 'manualist period,' the period which followed from the Council of Trent up to early part of this century. The term became the instrument used to ground the discussion on chastity. It was fundamental in identifying the sin against chastity with the intension

⁹ Cf. J. I. Arrieta, "Explanatory Note: Motu Proprio *Vos estis lux mundi*", accessed on 07/11/2019.

¹⁰ Canon 1395 CIC 1983. The parallel canon of CCEO does not use the terms "offence against the sixth commandment of the Decalogue" but uses the terms "external sin against chastity" (Canon 1453 CCEO 1990). CCEO penalizes only ongoing sexual delicts not the occasional sexual delicts (Cf. J. P. Beal *et alii* (eds), *New Commentary on the Code of Canon Law*, Bangalore, 2010, 1599).

¹¹ Cf. J. S. Grabowski, "Clerical Sexual Misconduct and Early Traditions Regarding the Sixth Commandment", in *The Jurist* 55 (1995), 529.

¹² Cf. J. S. Grabowski, "Clerical Sexual Misconduct and Early Traditions Regarding the Sixth Commandment", 588.

¹³ *Catechism of the Catholic Church*, no. 2336.

to seek venereal pleasure, but even during this period the use of this term was somewhat indefinite and not universal.¹⁴ It is clear from the fact that this term was not utilized in other legal sources prior to the 1917 Code.¹⁵ According to Provost, the use of the term “offence against the sixth commandment” in 1917 Code might have stemmed from its use as a rubric by some outstanding canonists of the nineteenth century like Wernz. He also stresses that this was not standard usage in the law, nor even a central consideration in the commentators prior to the 1917 Code.¹⁶ The period of ‘ecclesiastical positivism’ may be said to begin to emerge as early as the Pontificate of Leo XIII (1878-1903), and extends primarily through the Pontificate of Pius XI (1922-1939) and Pius XII (1939-1958).¹⁷ During this period, there was a movement away from the reliance on the term ‘offence against sixth commandment’ and natural law was given importance.¹⁸ The contemporary period of personalism began with the renewal of moral theology by Second Vatican Council and continued to the catechetical works of John Paul II.¹⁹ During this period, we see a return to the use of the term for the expression of sexual sin as a whole.²⁰ The Code does not contain a definition of what is meant by “an offence against the sixth commandment.”²¹ One can confidently say that the use of term ‘offence against sixth commandment,’ refers to an act of adultery. To make any further connection with other sexual offences can be only

¹⁴ Cf. J. Tuohey, “The Correct Interpretation of Canon 1395: The Use of the Sixth Commandment in the Moral Tradition from Trent to the Present Day”, in *The Jurist*, 55 (1995), 625-626.

¹⁵ Cf. J. Provost, “Offences against the Sixth Commandment: Towards A Canonical Analysis of Canon 1395”, 641.

¹⁶ Cf. J. Provost, “Offences against the Sixth Commandment: Towards A Canonical Analysis of Canon 1395”, 638.

¹⁷ Cf. J. Tuohey, “The Correct Interpretation of Canon 1395: The Use of the Sixth Commandment in the Moral Tradition from Trent to the Present Day”, 595.

¹⁸ Cf. J. Tuohey, “The Correct Interpretation of Canon 1395: The Use of the Sixth Commandment in the Moral Tradition from Trent to the Present Day”, 621.

¹⁹ Cf. J. Tuohey, “The Correct Interpretation of Canon 1395: The Use of the Sixth Commandment in the Moral Tradition from Trent to the Present Day”, 595.

²⁰ Cf. J. Tuohey, “The Correct Interpretation of Canon 1395: The Use of the Sixth Commandment in the Moral Tradition from Trent to the Present Day”, 621.

²¹ Cf. W. H. Woestman, “Sexual Abuse of a Minor as an Irregularity for Order: A Magic Bullet”, in *Studia canonica*, 40 (2006), 37.

arrived at, through implicit reference, according to the moral tradition of the Church.²² The parallel canon in CCEO 1990 does not use the term "offence against the sixth commandment of the Decalogue" rather it uses the term "external sins against chastity."²³ Interestingly, this canon penalizes only ongoing sexual delicts and not occasional delicts.²⁴

i. Forced Sex

The first delict given in this document is forcing someone to perform or to submit to sexual act and this force could be in three ways: by violence or threat or even by abuse of authority. This includes cases of sexual abuse against any person. Canon 1395 §2 of CIC 1983 deals with crimes against the sixth commandment, which have been committed by force or by threats or in public. It states explicitly "force and threats" indicating both physical and psychological aspects. As per this canon, any sexual advance with the use of force or threats or in public by any cleric warrants punishment. The offence might be committed with physical force or accomplished through the use of threats such as psychological or moral violence.²⁵ The intended force and threat is to commit a sexual assault.²⁶ Rape is an example for this, but sexual violence does not only mean rape. It is also the case of sexual harassment. Threat, which is putting a mental pressure, tends to make the person act contrary to chastity. The offender threatens for example with such situation as: making public defaming information, causing loss of what they are supposed to get, and other damages. This document does not use the term 'public' but speaks about forcing some one to perform or submit to sexual acts either by violence or by threat, or even by abusing the authority one has.

ii. Sexual Abuse of Minors or Vulnerable Persons

The second delict in the document is "performing sexual acts with a minor or a vulnerable person." The 1983 Code in its canon 97 determines that anyone below the age of eighteen is a minor and that a

²² Cf. J. Tuohey, "The Correct Interpretation of Canon 1395: The Use of the Sixth Commandment in the Moral Tradition from Trent to the Present Day", 628-629.

²³ Canon 1453 CCEO 1990.

²⁴ Cf. J. P. Beal *et alii* (eds), *New Commentary on the Code of Canon Law*, 1599.

²⁵ Cf. W. H. Woestman, *Ecclesiastical Sanctions and the Penal Process: A Commentary on the Code of Canon Law*, 145.

²⁶ Cf. G. Sheehy, *The Canon Law Letter & Spirit: A Practical Guide to the Code of Canon Law*, London, 1995, 805.

person below the age of seven is considered an infant. Canon 1395 §2 reiterates that there was an ecclesiastical delict, if a cleric commits an offence against the sixth commandment “with a minor below the age of sixteen years.” This was the same age that was determined by the 1917 Code in its canon 2359 §2. It could have been due to the understanding of that time, because the present Code in canon 1082 §1 gives the minimum completion of the age of sixteen for man and fourteen for woman to enter into a valid marriage. In olden times, in many parts of the world, it was an accepted factor. The age determination by Code of Canon Law varies according to the matter at hand. For example, we have infant baptism and adult baptism;²⁷ a minor who is no longer an infant can have domicile and quasi-domicile (canon 105 §1); minors under the age of fourteen are exempted from giving evidence in the court (canon 1550 §1).

Derogation to Canon 1395 §2: Derogation is the partial revocation or change of a law made by a competent authority, as opposed to abrogation or the total abolition of a law. The term is used in both civil law and Canon Law.²⁸ The derogation of the norm, which we deal here focuses on the sexual abuse of minors by clerics.

Sacramentorum sanctitatis tutela (SST) in 2001: John Paul II promulgated a special law by his Motu Proprio *Sacramentorum sanctitatis tutela* on 30 April 2001.²⁹ The Motu Proprio was followed on 18 May 2001 by a CDF letter to the Ordinaries entitled *de delictis gravioribus*, giving the key thrust of the substantive and procedural norms.³⁰ This document came into effect, or took the legal force, on 5 February 2002, that is, three months from the date of its (5 November 2001) publication in the AAS. This is, because it did not oblige immediately in virtue of the nature of the matter; and SST did not make special provision for the

²⁷ There is no term ‘minor baptism’ if the age the one receiving baptism is between seven and eighteen and it is also considered as an ‘adult baptism.’ If the child is below the age of seven, it is called infant baptism (canon 868).

²⁸ Cf. J. Pulickal, *A Dictionary of Canon Law*, Trissur, 2004, 145.

²⁹ John Paul II, Apostolic Letter Issued Motu Proprio, *Sacramentorum sanctitatis tutela*, 30 April 2001, in AAS, 93 (2001), 737-739.

³⁰ CDF, Letter to the Ordinaries, *De delictis gravioribus*, 18 May 2001, in AAS, 93 (2001), 758-788; Cf. F. R. Aznar Gil, “Los ‘graviora delicta’ reservados a la congregación para la doctrina de la fe. texto modificado (2010)”, in *Revista española de derecho canónico*, 68 (2011), 288.

norms being operative sooner (canon 8 §1).³¹ SST clearly specified that a sin against the sixth commandment with a minor is a graver crime or *delictum gravius*. Further, defining *graviora delicta* against morals, and other abuses committed in the context of celebration of the sacraments, the apostolic letter of CDF claims its exclusive competence to provide special procedural norms, and thus to declare or impose canonical sanctions in cases involving the reserved delicts.³² The ultimate purpose of these provisions is the salvation of souls, "which must be always the supreme law of the Church and fulfilment of the Church's responsibility to intervene to avert dangers of violation concerning faith and morals."³³ The letter of CDF, which communicated the procedural norms, appending the apostolic letter, expressed the purpose as not only to avoid entirely the more grave delicts, but to help the Ordinaries and Hierarchs who have solicitous pastoral care to look after the clergy and the faithful through necessary sanctions.³⁴

The first part of the SST contains substantive norms. And what directly pertains to abuse of minors by clerics is given in article four. It reads thus:

§1 Reservation to the Congregation for the Doctrine of the Faith is also extended to a delict against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen years.

³¹ Cf. T. J. Green, "Sacramentorum sanctitatis tutela: Reflections on the Revised May 2010 Norms on More Serious Delicts" in *The Jurist*, 71 (2011), 121.

³² Cf. R. W. Oliver, "Sacramentorum sanctitatis tutela: Overview and Implementation of the Norms Concerning the More Grave Delicts Reserved to the Congregation for the Doctrine of Faith", in *CLSA Proceedings*, 65 (2003), 152.

³³ *Sacramentorum sanctitatis tutela, SS.mae Eucharistiae maxime et Paenitentiae, necnon fidelium in sortem Domini vocatorum praeservatio in observantia sexti Decalogi praecepti, postulant ut ad salutem animarum procurandam, "quae in Ecclesia suprema semper lex esse debet"* (Codex Iuris Canonici, canon 1752), ipsa Ecclesia sua pastorali sollicitudine interveniat ad praecavenda violationis pericula. (John Paul II, Apostolic Letter Issued Motu Proprio, *Sacramentorum sanctitatis tutela*, 737; English translation in R. W. Oliver, "Sacramentorum sanctitatis tutela: Overview and Implementation of the Norms Concerning the More Grave Delicts Reserved to the Congregation for the Doctrine of Faith", 152).

³⁴ CDF, Letter to the Ordinaries, *De delictis gravioribus*, in AAS, 93 (2001), 788.

§2 One who has perpetrated the delict mentioned in § 1 is to be punished according to the gravity of the offense, not excluding dismissal or deposition.

Here we see a derogation from the canon 1395 and *SST* is a finest example of the Church's commitment amidst the crisis to a humble acknowledgment of the problem with total unequivocal respect for the truth in fairness and justice.³⁵ The document states very clearly that the cleric should be punished according to the gravity of the offence, not excluding dismissal and the competence is reserved to the CDF.

In the year 2001, *SST* determined for the Universal Church that the sin against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen is reserved to CDF. In canon 1395, the age given is sixteen.³⁶ According to Scicluna, age of the victim is one of the matters elaborated by the jurisprudence of the CDF. *SST* has put this at "under 18 years." This follows a number of civil laws.³⁷

Though in some countries the civil law considers a person above 16 years of age as capable of giving consent for sexual activity, *SST* however, stigmatizes as a grave delict every violation of the sixth commandment with a minor who has not completed 18 years of age.³⁸

Thus, the legislator has derogated from the norm of canon 1395 §2 the age limit for commission of the crime of the sexual abuse of minors by the clergy. By extending the age of the minor, the law extends the delict and the possibility of prosecuting it later than foreseen in the 1983 Code.³⁹

³⁵ Cf. C. J. Scicluna, "Sexual Abuse of Children and Young People by Catholic Priests and Religious: Description of the Problem from a Church Perspective", in *Canonical Studies*, 18 (2004), 38.

³⁶ Cf. R. E. Jenkins, "On the Suitability of Establishing Clerical Sexual Abuse of Minors (canon 1395 § 2) as an Irregularity *Ex Delicto* to the Reception of Orders", in *Periodica*, 94 (2005), 333-334.

³⁷ There are others having the same opinion for example see, D. G. Astigueta, "La persona e i suoi diritti nelle norme sugli abusi sessuali", in *Periodica*, 93 (2004), 636-637.

³⁸ Cf. C. J. Scicluna, "The Procedure and Praxis of the Congregation for the Doctrine of Faith Regarding the *Graviora Delicts*", in P. M. Dugan (ed.), *The Penal Process and Protection of Rights in Canon Law*, Montreal, 2005, 239.

³⁹ Cf. F. G. Morrissey, "Application of Penal Law in Cases of Sexual Abuse of Minors", in *Eastern Legal Thought*, 2 (April 2003), 82-102; Prior to *SST* this was discussed (G. Ingels, "Dismissal from the Clerical State: An Examination

2010 Modification of SST: On 21 May 2010, Benedict XVI approved the modifications made by the CDF on the *Normae de gravioribus delictis*. About this modification, the CDF in its letter to the bishops states:

Nine Years after the promulgation of the Apostolic letter *Motu Proprio data Sacramentorum sanctitatis tutela* regarding the norms *de gravioribus delictis* reserved to the Congregation for the Doctrine of Faith, this dicastery held it necessary to proceed with a reform of the above-mentioned text, amending it not in its entirety but only in certain areas in order to render the text more useful.⁴⁰

The modification is only in few areas in an effort to improve the application of the law.⁴¹ The publication of the new norms provides us with an official and updated legal text which is valid for the whole Church.⁴² The new *Normae de gravioribus delictis* is divided into two major sections. Part one is "substantive norms" explaining the general competence of the CDF, identifying delicts reserved to it, and addressing the prescription period of the delicts. Part two speaks about the "procedural norms" and it is divided into two titles.

The modifications of substantive norms directly pertaining to abuse of minors are found in the articles 6:

§ 1 The more grave delicts against morals which are reserved to the Congregation for the Doctrine of the Faith 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 case, a person who habitually lacks the use of reason is to be considered equivalent to a minor.

The first part of this article is similar to the article four of the original *SST* 2001. But adds a new specification: "in this case, a person who habitually has the imperfect use of reason is to be considered

of the Penal Process", in *Studia canonica*, 33 [1999], 169-212; G. Ingels, "Protecting the Right and Privacy When Examining Issues Affecting the Life and Ministry of Clerics and Religious", in *Studia canonica*, 34 [200], 439-466).

⁴⁰ CDF, Letter to Bishops of the Catholic Church and to the Ordinaries and Hierarchs, Regarding Modifications Introduced in the Revised *Normae de gravioribus delictis*, 21 May 2010, in *Origins*, 40/10 (2010), 145-146.

⁴¹ CDF, "Historical Introduction for the Revised Norms on Dealing with Clerical Sex Abuse of Minors and other Grave Offences", 154.

⁴² Cf. F. Lombardi, "The Significance of the Revised Norms on Dealing with Clerical Sex Abuse of Minors and other Grave Offences", in *Origins*, 40/10 (2010), 154.

equivalent to a minor.”⁴³ One of the novelties introduced by the revised norms is establishing parity between the abuse of mentally disabled people and that of the minors. Thus, the definition of minor in the new norm includes, those who habitually lack the use of reason.⁴⁴ It reflects the discipline of canon 99 of the 1983 Code, which legislates that one who habitually lacks the use of reason is not responsible for self and is equated with an infant. Canon 97 §2 defines an infant as a minor under the age of seven; such a minor is not considered responsible for self (*non sui compos*).⁴⁵ Therefore, these developmentally disabled persons, though they are over the age of eighteen, are considered equivalent to a minor for the purpose of a judicial or administrative determination of sexual abuse by cleric in a given situation. This more expansive approach to possible victims represents an effort the Church to deal more effectively and justly with a broader range of victims. To clarify the nature and effect of the disability, the use of expert is very pertinent in such case.⁴⁶

The document *Vos estis lux mundi* stresses the importance of protecting minors (anyone under 18) and vulnerable persons. Here the term vulnerable is used and the term ‘who habitually lacks the use of reason’ is not found. The second paragraph gives the meaning of the term vulnerable. From the meaning given in the second paragraph of the first article, it is clear that the term vulnerable is a broad category than those who habitually lack the use of reason. Going by the rules of

⁴³ Most of the English translations give “those who habitually lack the use of reason.” (CDF, A Brief Introduction of the Modifications Made in the *Normae de gravioribus delictis*, Reserved to the CDF, B. 14, in in *Studies in Church Law*, 6 [2010], 25; in *Origins*, 40/10 [2010]; in http://www.vatican.va/resources/r_esources_norme_e_n.html.) But according to T. J. Green, a better translation would be “those who habitually has the imperfect use of reason.” The original Latin is: “delictum contra sextum Decalogi praeceptum cum minore infra aetatem duodeviginti annorum a clerico commissum; in hoc numero minori aequiparatur persona quae imperfecto rationis usu habitu pollet.” (T. J. Green, “*Sacramentorum sanctitatis tutela*: Reflections on the Revised May 2010 Norms on More Serious Delicts”, 139).

⁴⁴ Cf. F. Lombardi, “The Significance of the Revised Norms on Dealing with Clerical Sex Abuse of Minors and other Grave Offences”, 155; G. J. Woodall, *A Passion for Justice: An Introductory Guide to the Code of Canon Law*, Leominster, 2011, 559.

⁴⁵ Cf. J. A. Renken, “*Normae de gravioribus delictis*: 2010 Revised Version Text and Commentary”, in *Studies in Church Law* 6 (2010), 79.

⁴⁶ Cf. T. J. GREEN, “*Sacramentorum sanctitatis tutela*: Reflections on the Revised May 2010 Norms on More Serious Delicts”, 139.

strict interpretation one can conclude that only those listed in the category of *graviora delicta* reserved to CDF need to follow the procedure for the reserved delicts, for other delicts, follow the procedure applicable to them as per the Codes of Canon Law.

iii) Child Pornography

The third delict against the sixth commandment of decalogue given is child pornography. Accordingly, the production, exhibition, possession, distribution are punishable offences. Recruiting or inducing a minor or vulnerable person to participate in pornographic exhibitions is punishable delict against the sixth commandment of decalogue.

Child pornography is explicitly mentioned in the 2010 *Normae de gravioribus delictis*. It is a further jurisprudential development seen in the 2010 modification. Article 6 §1, 2° gives pornography as an offence against sixth commandment which is reserved to CDF:

2° 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;

§2 A cleric who commits the delicts mentioned above in §1 is to be punished according to the gravity of his crime, not excluding dismissal or deposition.⁴⁷

Catechism of the Catholic Church describes:

Pornography consists in removing real or simulated sexual acts from the intimacy of the partners, in order to display them deliberately to third parties. It offends against chastity because it perverts the conjugal act, the intimate giving of spouses to each other. It does grave injury to the dignity of participants (actors, vendors, the public), since each one becomes an object of base pleasure and illicit profit for others. It immerses all who are involved in the illustration of a fantasy world. It is a grave offence.⁴⁸

What was reserved to CDF as *graviora delicta* is 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.

⁴⁷ Revised *Normae de gravioribus delictis*, Article 6.

⁴⁸ *Catechism of the Catholic Church*, no. 2354.

According to the law such actions (acquisition, possession, or distribution of child pornography) becomes an offence if they are committed “for the purpose of sexual gratification.” In the original Latin text, it is mentioned as *clericus turpe patrata*. The words *turpis*, *libidinos* and *obscaenus* have the similar meaning in the canonical tradition and they were interchangeably used to represent one of the objective elements of an offence against sixth commandment, which means, the content of pornography is unmistakably obscene.⁴⁹ The legislator penalizes the acquisition, possession or distribution of pornographic images of minor under the age of fourteen by a cleric for the purpose of sexual gratification.⁵⁰ It is going against the personal privacy. It may be done by whatever means and or through the use of whatever technology.⁵¹ The inherent purpose of pornography always is to incite a person to seek sexual gratification, but there could be an exception when it is having a decent or *bona fide* purpose. That is, when they are used for medicinal, scientific, educational, judicial or similar purpose. According to article 6 §1, 2°, it would not be a punishable offence, if a cleric acquired, possessed or distributed pornographic images of minors, if there is a legitimate purpose. For example, a priest delegated by the Ordinary to conduct the preliminary investigation in a case of sexual abuse of a minor, may acquire and possess such image for the purpose of the investigation. If they are handed over to the Ordinary, the distribution has occurred. But none of these acts would be a punishable offence, since they are for a legitimate purpose.⁵²

If the one committing this delict is not a cleric, or if there are cases of the pornography of a minor above the age of fourteen committed by a cleric before 1 January 2020, they are not cases reserved to CDF. They are delicts but they need to be treated like the other cases which are not reserved to CDF.

⁴⁹ Cf. M. L. Bartchak, “Child Pornography and the Grave Delict of an Offence against the Sixth Commandment of the Decalogue Committed by a Cleric with a Minor”, in *The Jurist*, 72 (2012), 192.

⁵⁰ Cf. F. R. Aznar Gil, “Los ‘graviora delicta’ reservados a la congregación para la doctrina de la fe. texto modificado (2010)”, 300; D. Cito, “Le nuove norme sui *delicta graviora*”, in *Ave Maria International Law Journal*, Fall (2011), 133-134.

⁵¹ Cf. T. J. Green, “*Sacramentorum sanctitatis tutela*: Reflections on the Revised May 2010 Norms on More Serious Delicts”, 139.

⁵² Cf. M. L. Bartchak, “Child Pornography and the Grave Delict of an Offence against the Sixth Commandment of the Decalogue Committed by a Cleric with a Minor”, 192.

Vos estis lux mundi uses the terms production, exhibition, possession and distribution. There is a slight change in the wording. This document does not use the term acquisition, but uses the terms production and exhibition.

Production can be explained as the act of creating or manufacturing. Producing pornography of a minor or a vulnerable by a cleric or a member of the Institute of Consecrated Life or Society of Apostolic Life is a canonical delict.

Exhibition could be explained as showing something for someone to view. Therefore, showing the pornography of a minor to any one is a canonical delict for the persons mentioned in article one of this document.

The explicit description of pornography in terms of images of minors "by whatever means or whatever technology" is one of the significant specification in the 2010 *Normae de gravioribus delictis*, article 6 §1, 2^o.⁵³ It should be noted that as a result of advancement of technology the images can be generated or altered. The teaching of the Church is that the use of various technologies to manipulate or to enhance images which are obscene cannot be defended or justified in the name of art or culture.⁵⁴

Law on 'Possession' has its origin in the Roman law concerning *possessio*, which formed the basis for ownership or rights pertaining to property and material goods. However, possession and ownership are not the same. It is possible for the owner of an object not to actually or physically possess that object, and it is possible for a person to possess, control, or use an object and not to own it. In case of child pornography, it is not the ownership that is relevant, but the use and enjoyment.⁵⁵ Possession is the detention or use of a physical thing with the intension to hold it as one's own.⁵⁶ In this sense, the term *detentio* is

⁵³ Only images are mentioned and no mention is made of the written works. The term 'image' would include photography, cinematography or videography, but not written works, unless include pornographic images. (Cf. M. L. Bartchak, "Child Pornography and the Grave Delict of an Offence against the Sixth Commandment of the Decalogue Committed by a Cleric with a Minor", 193).

⁵⁴ *Inter mirifica*, 6-7.

⁵⁵ Cf. M. L. Bartchak, "Child Pornography and the Grave Delict of an Offence against the Sixth Commandment of the Decalogue Committed by a Cleric with a Minor", 209-210.

⁵⁶ Cf. B. A. Garner (ed.), *Black's Law Dictionary*, St. Paul MN., 2009, 1281.

used in the 2010 *Normae de gravioribus delictis*, which has explicitly established possession of child pornography as a punishable offence in article 6 §1, 2°. To retain such prohibited material means to keep it in one's possession permanently or temporarily.⁵⁷ By whatever means including electronic means, if a person mentioned in first paragraph of the article one possesses pornographic material of minors, it constitutes a delict.⁵⁸

According to article 6 §1, 2° of the 2010 *Normae de gravioribus delictis*, the distribution of child pornography by a cleric is established as a punishable offense. The Latin text used the term *divulgatio*. *Lenocinium* is another word in legal vocabulary, which can be translated as 'pandering.' *Lenocinium* is an offence involving physical persons (for example, procuring a prostitute by threats, promises or inducing others to engage in immoral activities), whereas *divulgatio*, as prescribed in article 6 §1, 2° of the 2010 *Normae de gravioribus delictis*, involves distribution of obscene images of minors.⁵⁹ It is not a private activity because viewing, acquiring, or processing child pornography encourages the illicit activity of those who produce it and distribute it.⁶⁰

The recruitment to child pornography is also a punishable offence in canon law. Recruiting to child pornography can be explained as the process of hiring a child to make pornographic works. Inducing is persuading someone to do something. Sometimes recruitment includes also persuading. This can be by various ways like offering money, brain washing, by blackmailing, etc.

Rescript of 2019: The Supreme Pontiff in an audience granted to the Cardinal Secretary of State and the Prefect CDF on 4 October 2019 has decided to amend this law. This derogation was signed by the above-mentioned Cardinals on 3 December 2019 and was made public on 17

⁵⁷ Cf. M. L. Bartchak, "Child Pornography and the Grave Delict of an Offence against the Sixth Commandment of the Decalogue Committed by a Cleric with a Minor", 210-211

⁵⁸ Cf. C. J. Scicluna, "The Procedure and Praxis of the Congregation for the Doctrine of Faith Regarding *Graviora delicta*", 238.

⁵⁹ Cf. M. L. Bartchak, "Child Pornography and the Grave Delict of an Offence against the Sixth Commandment of the Decalogue Committed by a Cleric with a Minor", 212-213.

⁶⁰ Cf. M. Taylor and E. Quayle, *Child Pornography: An Internet Crime*, New York, 2003, 197-198.

December 2019 and has taken effect from 1 January 2019.⁶¹ Article 1 of the document states:

Art. 6 §1, 2° *Sacramentorum sanctitatis tutela* is replaced 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'.⁶²

There is derogation in the law here. As per the modification, for the delict regarding pornography the age of minor is raised from fourteen to eighteen. It has taken effect from 1 January 2019.

b) Conducts of Actions or Omissions to Interfere with or Avoid Investigations

Second broad division of the delict given in the first paragraph is actions and omissions of the authorities in the Church in order to interfere with or to avoid civil or canonical investigations for the delicts referred to in the previous section, that is, forcing some one for sexual acts, sexual abuse of minors or vulnerable and the delicts of child pornography.

According to canon law, if any one abuses an ecclesiastical office or functions, that person is to be punished according to the gravity of the act or omission, not excluding the removal from the office.⁶³ In the year 2016, the apostolic letter issued *motu proprio Come una madre amorevole*⁶⁴ established that one of the "grave reasons" for the removal from the office is the negligence of a bishop and those equalant to bishops in the exercise of his office, and in particular in relation to cases of sexual abuse inflicted on minors and vulnerable adults. It decreed:

§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 canon 368 CIC or canon 313 CCEO, can be legitimately removed

⁶¹ Rescriptum Ex Audientia SS.MI: Rescript of the Holy Father Francis to introduce some amendments to the *Normae de gravioribus delictis*, 3 December 2019, in <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2019/12/17/191217a.html>, accessed on 26/12/2019.

⁶² Rescript of the Holy Father Francis to introduce some amendments to the *Normae de gravioribus delictis*, 3 December 2019, Article 1.

⁶³ Canons 1389 CIC 1983; 1464 CCEO 1990.

⁶⁴ Francis, *Motu Proprio Come una madre amorevole*, 4 June 2016 in AAS 108 (2016), 715-717.

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.

§4. The Major Superiors of Religious Institutes and Societies of Apostolic Life of Pontifical Right are equivalent to diocesan Bishops and Eparchs.⁶⁵

The negligence by a bishop or one equal to bishop in acting in legal way against the cases of abuse of minors or vulnerable persons constitutes a grave reason for the removal from office. *Vos estis lux mundi* states that conduct carried out by actions or omission intended to interfere with or avoid civil or canonical investigations regarding delicts against the sixth commandment of the decalogue referred in the first part of the same article also come under the scope of the application of these norms. In fact, this delict refers to those who hold positions of particular authority in the Church, and who, instead of pursuing abuses committed by others, have hidden them, and instead of protecting the victims have protected alleged offenders.⁶⁶ Since it is not a delict reserved to CDF the competent dicastery should take up the matter as per the procedures given in the law. It should be also noted that all the Major Superiors of Religious Institutes and Societies of Apostolic Life of Pontifical Right are not referred in article 6 of this document, it mentions only the Supreme Moderators of the same, and the Supreme Moderators of the monasteries *sui iuris*. Therefore, the procedure given at the second part of *Vos estis lux mundi* is applicable for the Supreme Moderators of Religious Institutes and Societies of Apostolic Life of Pontifical Right and the Supreme Moderators of the monasteries *sui iuris*.

⁶⁵ *Come una madre amorevole*, Article 1.

⁶⁶ Cf. A. Tornielli, "Pope Francis' Motu Proprio *Vos estis lux mundi*: New norms for the whole Church against those who abuse or cover up", in *L'Osservatore Romano*, English Edition, 10 May 2019, 3.

§2 Clarification of Three Terms

The second paragraph of the first canon clarifies three terms by giving the meaning of these terms for the purpose of this document.

a) Minor

For the purpose of these norms, a minor means any person who has not completed eighteen years of age or those considered to be equalant to a minor by law. It is almost negative presentation of canon 97 of CIC 1983 which stipulates that any person who completes the eighteenth year of age reaches majority; a person is a minor if he is below this age. And canon 99 says anyone habitually lacks the use of reason is equated with infants by law because he is considered not responsible for oneself (*non sui compos*). The previous sections dealing with the abuse of minor has already discussed about the changes that took place in canon law with regard to the age.

b) Vulnerable Person

For the purpose of these norms, vulnerable person is any person who is in a state of sickness which is physical or mental deficiency, or deprivation of personal freedom, which actually, even occasionally, limits their ability to understand or will or in any case of resistance to an offence. In other words, a vulnerable person is in a position or situation from which he or she cannot mount an adequate defence. Therefore, the Church wants to safeguard and protect the rights of every individual who are defenceless due to various reasons.

c) Child Pornography

Child pornography is any representation of a minor, by the use of any means, involved in explicit sexual activities, whether real or simulated, and any representation of genital organs of minors for primarily sexual purposes.

2. Reception of Reports and Data Protection

Article 2

§1. Taking into account the provisions that may be adopted by the respective Episcopal Conferences, by the Synods of the Bishops of the Patriarchal Churches and the Major Archiepiscopal Churches, or by the Councils of Hierarchs of the Metropolitan Churches *sui iuris*, the Dioceses or the Eparchies, individually or together, must establish within a year from the entry into force of these norms, one or more public, stable and easily accessible systems for submission of reports, even through the institution of a specific ecclesiastical

office. The Dioceses and the Eparchies shall inform the Pontifical Representative of the establishment of the systems referred to in this paragraph.

§2. The information referred to in this article is protected and treated in such a way as to guarantee its safety, integrity and confidentiality pursuant to canons 471, 2° CIC and 244 §2, 2° CCEO.

§3. Except as provided for by article 3 §3, the Ordinary who received the report shall transmit it without delay to the Ordinary of the place where the events are said to have occurred, as well as to the Ordinary of the person reported, who proceed according to the law provided for the specific case.

§4. For the purposes of this title, Eparchies are equated with Dioceses and the Hierarch is equated with the Ordinary.

The second article which deals with the reception of reports and data protection has four paragraphs.

§1. System to be Established at Local Level

The first paragraph directs dioceses or eparchies individually or together to establish within a year from the entry into force of these norms, one or more stable systems that are easily accessible to the public to submit reports, even though the establishment of a special ecclesiastical office. But in order to establish this accessible system they need to take into account the provisions that are adopted by the Episcopal Conferences, by Synod of Bishops either of the Patriarchal Churches and of the Major Archiepiscopal Churches, or by the council of hierarch of the Metropolitan Church *sui iuris*. After establishing this accessible system, the dioceses or the eparchies are directed to inform the pontifical representative about its establishment. There is no specification about what these “systems” consist of, because it leaves operational choices to each diocese; because these may differ according to various cultures and local conditions. The basic requirement is that anyone who has suffered abuse can have recourse to the local Church, with the assurance of being well received, protected from retaliation, and that their reports being treated with the utmost seriousness.⁶⁷

The Latin dioceses are to take into account of the provisions given by their respective Episcopal Conference. Following the procedure given

⁶⁷ Cf. A. Tornielli, “Pope Francis’ Motu Proprio *Vos estis lux mundi*: New norms for the whole Church against those who abuse or cover up”, 3.

in canon 455 CIC 1983, the Episcopal Conference might have given certain provisions. The dioceses are obliged to follow these provisions.

For the Oriental Catholic Churches, depending on the different status of the Church *sui iuris* the consulting authority varies. CCEO 1990 gives a description of 'Church *sui iuris*' in its canon 27. It states: "A community of Christian faithful united by a hierarchy according to the norm of law which the supreme authority of the Church expressly or tacitly recognizes as *sui iuris* is called in this Code a Church *sui iuris*."⁶⁸ This is a term used to enable the Oriental Catholic Churches to secure in a juridical way their own various disciplinary patrimony.⁶⁹ CCEO 1990 divides the Churches *sui iuris* into four grades in the Oriental Catholic Church and they are Patriarchal, Major Archiepiscopal, Metropolitan or other Church *sui iuris*.⁷⁰

A Patriarchal Church is a Church *sui iuris* which is presided over by a Patriarch. Because according to CCEO 1990 in the most ancient tradition of the Church, recognized by the first ecumenical councils, the Patriarchal institution existed in the Church; therefore a special honor is given to the Patriarchs of the Oriental Catholic Churches, each of whom presides over his Patriarchal Church as father and head.⁷¹ A Patriarch is a bishop who has power over all bishops including metropolitans and other Christian faithful of the Church *sui iuris* over which he presides in accordance with the norm of law approved by the supreme authority of the Church.⁷²

A Major Archiepiscopal Church is a Church *sui iuris* presided over by a Major Archbishop. He is the Metropolitan of a See determined or recognized by the Supreme Authority of the Church, to preside over an entire Eastern Church *sui iuris* not endowed with the Patriarchal title.⁷³ With regard to his power the CCEO 1990 States: "What is stated

⁶⁸ Canon 27 CCEO 1990.

⁶⁹ Cf. M. Kuchera, "A Juridical Safeguard and Bulwark for the Oriental Catholic Family", in Pontificio Consilio per i Testi Legislativi, *L'attenzione pastorale per i fedeli orientali*, Vatican City, 2017, 180-181.

⁷⁰ Canon 174 CCEO 1990; Cf. G. Thanchan, *The Juridical Institution of Major Archbishop in Oriental Canon Law*, Bangalore, 2017, 184; M. Souckar, "The Principle of Subsidiarity in the *Codex Canonum Ecclesiarum Orientalium*", in *CLSA Proceedings*, 65 (2003), 225.

⁷¹ Canon 55 CCEO 1990; Cf. G. Nedungatt, *A Companion to the Eastern Code*, Rome, 1994, 32.

⁷² Canon 56 CCEO 1990.

⁷³ Canon 151 CCEO 1990; Cf. G. Thanchan, *The Juridical Institution of Major Archbishop in Oriental Canon Law*, 184.

in common law concerning Patriarchal Churches or Patriarchs is understood to be applicable to Major Archiepiscopal Churches or Major Archbishops, unless the common law expressly provides otherwise or it is evident from the nature of the matter."⁷⁴

A Metropolitan Church *sui iuris* is a Church *sui iuris* "presided over by a Metropolitan of a determined See" (cf. CCEO c. 155) which is established as such by the supreme authority of the Church. He is appointed by the Roman Pontiff and assisted by a council of hierarchs according to the norm of law.⁷⁵ Only the supreme authority of the Church has the right to erect, modify, suppress and define the territorial boundaries of Metropolitan Churches *sui iuris*.⁷⁶

What comes under the category of 'Other Churches *sui iuris*' is a Church *sui iuris*, which is neither Patriarchal, Major Archiepiscopal nor Metropolitan but entrusted to a Hierarchy to preside over it, in accordance with the norm of common law and particular law established by the Roman Pontiff.⁷⁷

§2. Protection of Safety, Integrity and Confidentiality

The second paragraph of the second article assures the safety, integrity and confidentiality of the information. They are protected in accordance with canons 471, 2° CIC 1983 and 244 §2, 2° CCEO 1990. Both the canons impose two obligations: one to promise faithful fulfilment of the obligations of the office and two, to observe the confidentiality within the limits determined by the law. The obligation of keeping the necessary confidentiality could be seen as an expectation of faithful fulfilment of the office.⁷⁸ This would mean that the information received about such offences by the persons involved in the investigation of such delicts are to guarantee safety, integrity and confidentiality. They should not share such information with third parties unrelated to the case.

⁷⁴ Canon 152 CCEO 1990.

⁷⁵ Cf. G. Thanchan, *The Juridical Institution of Major Archbishop in Oriental Canon Law*, 187.

⁷⁶ Canon 155 CCEO 1990.

⁷⁷ Canon 174 CCEO 1990; Cf. G. Nedungatt, *A Companion to the Eastern Code*, 60.

⁷⁸ Cf. J. P. Beal *et alii* (eds), *New Commentary on the Code of Canon Law*, 624-625.

§3. Initial Procedure at the Local Level

The third paragraph of the second article states that the Ordinary who receive the report about any of the delicts mentioned in article one should transmit without delay to the Ordinary of the place where the events would have occurred as per the complaint as well as to the proper Ordinary of the accused, he is to proceed according to the law provided for the specific case.⁷⁹ Depending on the type of cases, the Ordinary should follow the procedures and if it is a case reserved to the CDF, he should follow the procedures given for *graviora delicta* cases. The exception is for the persons referred in article 3 §3. They are the persons indicated in article 6. For them, special provisions are given in the second tile of this document from article 6.

§4. Equation of Terms

The fourth paragraph of the second article clarifies that in the first title the terms eparchies are equated with dioceses and the hierarch is equated with the Ordinary. Because the term 'eparchy' used in CCEO corresponds to the term 'diocese' in CIC 1983 and 'Hierarch' is the Eastern counterpart of the term 'Ordinary' of CIC 1983.⁸⁰ Here in order to avoid repetition and confusion, the Western counterpart of the Eastern terms are used. In the previous paragraph only the term Ordinary is used, but for the Oriental Catholic Churches it is equal to people referred as hierarchs in CCEO 1990.

3. Reporting

Article 3

§1. Except as provided for by canons 1548 §2 CIC and 1229 §2 CCEO, whenever a cleric or a member of an Institute of Consecrated Life or of a Society of Apostolic Life has notice of, or well-founded motives to believe that, one of the facts referred to in article 1 has been committed, that person is obliged to report promptly the fact to the local Ordinary where the events are said to have occurred or to another Ordinary among those referred to in canons 134 CIC and 984 CCEO, except for what is established by §3 of the present article.

⁷⁹ Cf. J. I. Arrieta, "Explanatory Note: Motu Proprio *Vos estis lux mundi*", accessed on 07/11/2019.

⁸⁰ Cf. Z. Rihmer, "Remarks on the Latin of the *Codex Canonum Ecclesiarum Orientalium*", in *Eastern Canon Law*, 1 (2012), 140.

§2. Any person can submit a report concerning the conduct referred to in article 1, using the methods referred to in the preceding article, or by any other appropriate means.

§3. When the report concerns one of the persons indicated in article 6, it is to be addressed to the Authority identified based upon articles 8 and 9. The report can always be sent to the Holy See directly or through the Pontifical Representative.

§4. The report shall include as many particulars as possible, such as indications of time and place of the facts, of the persons involved or informed, as well as any other circumstance that may be useful in order to ensure an accurate assessment of the facts.

§5. Information can also be acquired *ex officio*.

§1. Obligation to Report

Article three deals with the procedure for the reporting. Whenever a cleric or a member of an Institute of consecrated Life or of a Society of Apostolic Life has received a notice of or just reasons to believe that, one of the delicts mentioned in article 1 is committed, that person has the obligation to promptly report the fact to the local Ordinary where the event would have happened or to another Ordinary among those mentioned in canons 134 of CIC 1983 or 984 of CCEO 1990. There are two exemptions to this. First one is the people who are exempted to respond to the information that they receive mentioned in canons 1548 §2 of CIC 1983 and 1229 §2 of CCEO 1990. As per this canon:

Without prejudice to the prescript of can. 1550, §2, n. 2, the following are exempted from the obligation to respond:

- 1) clerics regarding what has been made known to them by reason of sacred ministry; civil officials, physicians, midwives, advocates, notaries, and others bound by professional secrecy even by reason of having given advice, regarding those matters subject to this secrecy;
- 2) those who fear that from their own testimony ill repute, dangerous hardships, or other grave evils will befall them, their spouses, or persons related to them by consanguinity or affinity.

According to canon 1550, §2, n. 2,⁸¹ the confessors and anyone who received the knowledge through the confession are incapable of being

⁸¹ §2. The following are considered incapable: [...]

a witness to the case. So, they are not only exempted but they are incapable. The second exemption is for the cases established by §3 of this same article. For them the matter is to be reported to the competent authority referred in title two of this Motu Proprio and the procedure to be followed too is specified in title two.

§2. Person Capable of Submitting the Report

The second paragraph of the article 3 gives freedom to any person to submit the report concerning any of the delicts indicated in article 1 either by using the method referred in the previous article or through any other adequate means. It remains clear, that anyone, even if he or she does not belong to the Church, can make use of such established systems to report such delicts.⁸²

§3. The Special Procedure to be followed for Certain Authority

The third paragraph of the article 3 specifies if the report concerns one of the persons referred in article 6 of *Vos estis lux mundi* (bishops and others who are equivalent to them), it is to be addressed to the competent authority identified in article 8 and 9. The reports can be sent either through the pontifical representative or directly to the competent dicastery of the Holy See.

§4. Content of the Report

The fourth paragraph of the article 3 indicates what are the particulars that are to be included in the report. The report should have as many particulars with possible details like time and place of the fact, the persons involved, the person informed as well as any other circumstance or details which may become useful in order to ensure an accurate evaluation of the facts.

§5. Ex officio Information

The fourth paragraph of the article 3 gives opportunities for those in ecclesiastical office to acquire the information *ex officio*.

2) priests regarding all matters which they have come to know from sacramental confession even if the penitent seeks their disclosure; moreover, matters heard by anyone and in any way on the occasion of confession cannot be accepted even as an indication of the truth.

⁸² Cf. J. I. Arrieta, "Explanatory Note: Motu Proprio *Vos estis lux mundi*", accessed on 07/11/2019.

4. Protection of the Person Submitting the Report

Article 4

§1. Making a report pursuant to article 3 shall not constitute a violation of office confidentiality.

§2. Except as provided for by canons 1390 CIC and 1452 and 1454 CCEO, prejudice, retaliation or discrimination as a consequence of having submitted a report is prohibited and may constitute the conduct referred to in article 1 §1, letter b).

§3. An obligation to keep silent may not be imposed on any person with regard to the contents of his or her report.

The fourth article of the document deals with the protection of the persons submitting the report.

§1. Not Constituting a Violation of Office Confidentiality

The first paragraph clearly states that making a report according to Article 3 of this document does not constitute a breach of professional secrecy or in other words it is not a violation of the confidentiality of the office.

§2. No Prejudice, Retaliation or Discrimination to the Person Reporting

The second paragraph of the fourth article states prejudice, retaliation or discrimination shown to a person for the fact of having submitted a report is prohibited and it may constitute the conduct referred to in article 1 §1, b).

§3. Not Bound by the Obligation to keep Silence

As per the third paragraph to those who make the report an obligation to keep silence cannot be imposed with regard to the content of the report. On 6 December 2019 the Supreme Pontiff through a rescript decided to abolish pontifical secrecy in cases of the sexual abuse of minors, sexual violence and child pornography.⁸³ This instruction in its number 5 states: “The person who files the report, the person who alleges to have been harmed and the witnesses shall not be bound by

⁸³ Rescriptum Ex Audientia SS.MI: Rescript of the Holy Father Francis to promulgate the Instruction on the Confidentiality of Legal Proceedings, 6 December 2019 in <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2019/12/17/191217b.html>, accessed on 26/12/2019.

any obligation of silence with regard to matters involving the case".⁸⁴ Therefore, the persons involved in such cases are not bound by the obligation to keep silence.

5. Care for Persons

Article 5

§1. The ecclesiastical Authorities shall commit themselves to ensuring 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 provision of specific services;
- b) offered spiritual assistance;
- c) offered medical assistance, including therapeutic and psychological assistance, as required by the specific case.

§2. The good name and the privacy of the persons involved, as well as the confidentiality of their personal data, shall be protected.

Article 5 deals with the care of the persons who are harmed by such delicts.

§1. Commitment Towards the Victims

From the beginning, the persons who claim to be victims of the indicated delicts must be welcomed and assisted, and their privacy must be protected.⁸⁵ Therefore, the ecclesiastical authorities are to commit themselves to make sure that the victims, together with their families, are treated with dignity and respect. Following are the particular ways in which they may be cared for.

a) To Be Welcomed, Listened to and Supported

Victims and their families are to be welcomed, listened to and supported, even through the provision of specific services. It is a fact that in the past, there was a failure to listen to the distressing cries of those who were abused as children by clerics. Many who wanted to speak about what had happened to them, found that no one would listen to them. Leaders of the Church need to listen with openness, sensitivity and care to those who have been abused. The Church personnel need to make themselves personally available to meet with

⁸⁴ Instruction on the Confidentiality of Legal Proceedings, 5.

⁸⁵ Cf. J. I. Arrieta, "Explanatory Note: *Motu Proprio Vos estis lux mundi*", accessed on 07/11/2019.

the survivors of abuse and to listen attentively to their experience.⁸⁶ The Ordinary or his representative should offer to meet with the victims and their families to listen with patience and compassion and to share with them the profound sense of solidarity and concern. The victim should feel vindicated that the wrongdoing has been acknowledged and that the perpetrator as well as the Church authorities is sorry about it.⁸⁷ It is also vital that parish communities become places of welcome, listening and supports for those who have suffered physical and sexual abuse by clerics. What has happened within the Church need to be acknowledged openly and honestly by all. Thus, the parish community has a key role to play in giving expression to the commitment of the Catholic Church to addressing the sexual abuse of minors and bringing healing and renewal to all, who have been harmed.⁸⁸

b) Spiritual Assistance

Sexual abuse of minors by the clergy has a profoundly negative impact on the faith of those abused and on that of their families. Many accusers have stated that the Church has failed to offer sufficient help to work through these particular consequences of their abuse. Therefore, the local Church needs to have a structure of spiritual support for those dealing with the issues of faith following the trauma of sexual abuse by clergy.⁸⁹ All the members of the Church have a role to play with regard to the faith formation of its members (canon 774 § 1). In order to help the victims to overcome the loss of faith, the local Church may make use of the various means of catechetical formation by employing all those aids, educational resources and means of social communication which seem more effective (canon 779). Spiritual accompaniment is an essential thing that we need to give to the survivors of abuse. Together with trained lay people, the clerics should assist those dealing with the issues of faith following the trauma. An experienced spiritual director will be a great help to the survivors.

⁸⁶ Cf. Irish Catholic Bishop's Conference, *Towards Healing and Renewal*, 9.

⁸⁷ Cf. The Missionaries of St. Francis de Sales, *Integrity in Consecrated Life and Pastoral Ministry: Code of Ethics of the Missionaries of St. Francis de Sales*, Rome, 2010, 26.

⁸⁸ Cf. Irish Catholic Bishop's Conference, *Towards Healing and Renewal*, 9.

⁸⁹ Cf. Irish Catholic Bishop's Conference, *Towards Healing and Renewal*, 10.

c) Medical Assistance

Very often, the poor and vulnerable are the victims of abuse. They may not be in a position to get help from a physician. According to the situations, the Ordinary should see that such victims are supported financially for their treatment and other needs of survival. In some countries, because of the paucity of resources, the dioceses have adopted various methods of raising funds.⁹⁰

The impact of the sexual abuse of children can be very serious and long lasting. Hence it is important for the victims to feel that justice has been done to them and the victims should be given an opportunity to state what exactly has happened. In all charity and justice to the victims, with a pastoral solicitude, the Ordinary is to do his utmost to reach out to the victims of sexual abuses, their families and the communities affected by such abuse. If possible, the Ordinary also must arrange restitution by providing psychological and pedagogical follow-up of the victims for the purpose of healing and reconciliation.⁹¹

§2. Protection of Good Name and Privacy

The second paragraph clearly instructs to protect the good name and the privacy of the persons involved as well as the confidentiality of their personal data. Both CIC 1983 as well as CCEO 1990 express the right of the person to protect the good reputation and privacy.⁹² In certain countries, dignity and name of persons involved in the cases of the delicts mentioned in this document remain stained forever and the person ends up in suffering physical, mental and moral damage, therefore, it is necessary in fact to protect the good name of all the persons involved. Therefore, the Church authorities must exercise a great caution to protect the rights of both the accuser as well as the accused.⁹³ "The best results and the most effective resolution that we can offer to the victims, ... are the commitment to personal and collective conversion, the humility of learning, listening, assisting and protecting the most vulnerable."⁹⁴

⁹⁰ Cf. Irish Catholic Bishop's Conference, *Towards Healing and Renewal*, 13.

⁹¹ Cf. The Missionaries of St. Francis de Sales, *Integrity in Consecrated Life and Pastoral Ministry: Code of Ethics of the Missionaries of St. Francis de Sales*, 23-27.

⁹² Cf. Canons 220 CIC 1983; 23 CCEO 1990.

⁹³ Cf. J. P. Beal *et alii* (eds), *New Commentary on the Code of Canon Law*, 278.

⁹⁴ Francis, Address at the End of the Eucharistic Concelebration for the Meeting "The Protection of Minors in the Church" on 24 January 2019 in

Conclusion

Any kind of sexual abuse and especially of minors or the vulnerable is a serious violation of the physical and moral order. Because of the special rights and obligations arising from the sacred ordination for cleric or the membership in the Institutes of Consecrated Life or Societies of Apostolic life for its members, canon law allows them to be prosecuted and punished. They are subject to special canonical penalties in the area of sexual misconduct because they are called to observe perpetual continence or the evangelical counsel of chastity. Reading the signs of the time, the Church has changed its norms in order the better to keep abreast to the needs of the time. *Vos estis lux mundi* is one of the best examples of it. The first part of the document in its five articles provides us with the general norms. In fact, this brings together various delicts of sexual offences and conducts of actions or omissions to tamper with the investigations. It also demands a system to be established at the local level with the necessary protection of safety, integrity and confidentiality. Pastoral desire of the Church too is given importance by making it easier for the victims to approach the ecclesial authority for justice and make it obligatory for the authority to care for the persons with all the possible helps including spiritual and medical assistance.