

Editorial

ZERO TOLERANCE

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"Fiat iustitia ruat caelum" a Latin maxim, meaning "Let justice be done though the heavens may fall," signifies the belief that justice must be realized regardless of consequences. The principles of equity and charity in the administration of justice towards the victims and the accused in the cases of abuse of minors and the vulnerable by clerics are important in the life of the Church today. The canonical penalty in the Church is strongly related to its three elements such as, "the repair of scandal, the restoration of justice and the reform of the offender." The Codes of Canon Law and updated teachings from the Apostolic See, try to bring out a balance in administering justice between the rights of the abused and the rights of the accused in the cases of abuse of minors and the vulnerable by clerics. Pope Francis reiterates zero tolerance towards the abuse of minors and the vulnerable by clerics.

Pope Francis addressed members of the Pontifical Commission for the Protection of Minors at the opening of their plenary assembly on 21 September 2017. He reiterated the Church's commitment to the protection of minors from sexual abuse, stating that the Church will continue to take a "zero tolerance" stance against offenders. He said: "Let me say quite clearly that sexual abuse is a horrible sin, completely opposite and in contradiction to what Christ and the Church teach us....That is why, I reiterate today once again that the Church, at all levels, will respond with the application of the firmest measures to all those who have betrayed their call and abused the children of God.... The Church is called a place of piety and compassion, especially for those who have suffered. For all of us, the Catholic Church continues to be a field hospital that accompanies us on our spiritual journey. It

is the place where we can sit with others, listen to them and share with them our struggles and our faith in the Good News of Jesus Christ.”¹

In continuation of Pope Francis’s policy of zero-tolerance stance against offenders, we find the establishment of the Pontifical Commission for the Protection of Minors (It is a Pontifical Commission within the Roman Curia of the Catholic Church) instituted by Pope Francis on 22 March 2014 as an advisory agency serving the pope. Then a series of documents with the rules and regulations in this regard were given from the Apostolic See. They are the following: Apostolic Letters issued in the form of Motu Proprio on 26th March 2019 “On the Protection of Minors and Vulnerable Persons,”² Then in 2021, the updated version of the *Sacramentorum sanctitatis tutela*, was given. It is the revised version of the Motu Proprio *Sacramentorum sanctitatis tutela*³ of 2001 and 2010⁴. They determined that the offence against the sixth commandment of the Decalogue committed by a cleric with a minor below the age of eighteen is reserved to the Dicastery for the Doctrine of Faith (DDF). The scope of such clerical misconduct again has been expanded in the revised *Sacramentorum sanctitatis Tutela* of 2021.⁵ Though the delict is reserved to the Dicastery of Doctrine of Faith, the local ordinary has to conduct the preliminary investigation either personally or through some suitable person.

It was followed by the publication of *Vademecum*⁶ by the Dicastery for the Doctrine of the Faith published on certain points of ‘Procedure in treating cases of Sexual Abuse of Minors committed by Clerics’ on 5 June 2022. In addition to the delicts listed in art. 6 of the *Normae* promulgated by the *motu proprio Sacramentorum sanctitatis*

¹ <http://www.vatican.va> › September › documents › pap., “Address of His Holiness Pope Francis to the Members of the Pontifical Commission for the Protection of Minors,” 21 September 2017.

² <https://www.vatican.va> › *motu proprio* › documents: Pope Francis, Apo. Letter in the form of *motu proprio*, “On the Protection of Minors and Vulnerable Persons,” Vatican, 26 March 2019.

³ https://www.vatican.va/content/john-paulii/en/motu_proprio/documents/hf_jp-ii_motu-proprio_20020110_sacramentorum-sanctitatis-tutela.html, Accessed on 4 December 2023.

⁴ https://www.vatican.va/resources/resources_norme_en.html, Accessed on 4 December 2023.

⁵ https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20211011_norme-delittiservati-cfaith_en.html, Accessed on 4 December 2023.

⁶ https://www.vatican.va/roman_curia/congregations/cfaith/ddf/rc_ddf_doc_20220605_vademecum-casi-abuso-2.0_en.html, Accessed on 4 December 2023.

tutela, what is given in *Vademecum* is to be observed – with eventual adaptations – in all cases involving delicts reserved to the Dicastery for the Doctrine of the Faith. The updating "became necessary mainly as a result of the entering into force of the reformed Book VI of CIC called Penal Sanctions in the Church and the " Norms regarding Delicts Reserved to the Congregation for the Doctrine of Faith" (7 December 2021), the *motu proprio* "*Fidem servare*" (14 February 2022) as well as the *motu proprio* "*Competentias quasdam decernere*"⁷ (15 February 2022), and finally, also of the Apostolic Constitution "*Praedicate Evangelium*"⁸ (5 June 2022). The Dicastery for the Doctrine of Faith concludes its statement by reiterating that the text is again open to future development and says it welcomes input and suggestions. The Dicastery for the Doctrine of the Faith has prepared this *Vademecum*, intended primarily for Ordinaries and other personnel needing to apply the canonical norms governing cases of the sexual abuse of minors by clerics. It is meant to serve as a handbook for those charged with ascertaining the truth in such criminal cases, leading them step-by-step from the *notitia criminis* to the definitive conclusion of the case.

Biju Varghese Perumayan introduces the new changes of the Codes of Canon Law of both the Latin Church and the Code of Canons of the Eastern Churches on the sexual abuse of minors and the vulnerable adults through his article "The New Provisions of the Codes of Canon Law on the Sexual Abuse of Minors and Vulnerable Adults: A Textual Study with a Pastoral Perspective." The penal norms of both the Latin (CIC) and the Eastern (CCEO) Codes were revised recently by Pope Francis: CIC through the apostolic constitution *Pascite gregem Dei* on 1 June 2021, and CCEO through *motu proprio* *Vocare peccatores* on 20 March 2023. In the revised texts of the Codes, canons 1398, 1395 §3 and 1362 §1, 2° of CIC, and canons 1453 §§4-7 and 1152 §2, 2° of CCEO deal with the delict of sexual abuse of minors and vulnerable adults. After making a textual study of the latest norms on the delict of sexual abuse of minors and vulnerable adults, the corresponding penalties, and the procedure to be followed in dealing with this crime, he presents the three pastoral observations regarding the topic, namely,

⁷https://www.vatican.va/content/francesco/en/motu_proprio/documents/2021-12-07-motu-proprio-assegnare-alcune-competenze.html, Accessed on 4 December 2023.

⁸https://www.vatican.va/content/francesco/en/apost_constitutions/documents/20220319-costituzione-ap-praedicate-evangelium.html, Accessed on 4 December 2023.

a) the need for clarity about the concept of vulnerable adults, b) the peculiar nature of relationship among the faithful, clerics and the ecclesiastical judicial authority, and finally, c) the challenges emerging from the parallel ecclesiastical and civil judicial procedures.

Shaji Jerman outlines the policies for the protection of minors and the vulnerable in the context of India through his article "Policies for the Protection of Minors and the Vulnerable in the Institutions of the Church in India." He makes a field analysis on this issue and demonstrates the policies for the protection of minors and the vulnerable in the context of the Church in India. He indicates that in the light of the teachings of Pope Francis, the Dicastery for the Doctrine of Faith and CBCI, have enacted policies by the Universal Church to deal with sexual abuse cases, which are applicable in the context of India; the policies enacted by the Catholic Bishops Conference of India (CBCI) to deal with sexual abuse cases in India, especially the cases in which clerics are involved. He also outlines the procedures to be followed when a sexual abuse case is reported to the bishop or the major superior. Furthermore, according to him, various policies presented may become a practical guide to follow the procedures of the Church in dealing with sexual abuse cases.

Benny Sebastian Tharakunnel indicates the necessity of keeping up a balance in dealing with the cases of the abuse of minors and the vulnerable through his article "Balancing the Rights of the Victims and the Accused in the Cases of Sexual Abuse of Minors and the Vulnerable by Clerics." He illustrates the argument that the cases of sexual abuse of minors and the vulnerable present a challenging dilemma for the penal system in the Church, as they involve the delicate balance of protecting the rights of the victim and ensuring due process for the accused. He explores the complexities of this issue and examines various legal, ethical, and psychological considerations involved in achieving a fair and just resolution. By analysing the rights of both parties, as well as relevant laws and precedents in the Church, he indicates the necessity of providing a comprehensive understanding of the intricate balance required in addressing such sensitive cases.

Paul Pallath's article "Consolidation of Roman Primacy and the Decline of Synodality in the Second Millennium until the Second Vatican Council," is a continuation of his previous article "Primacy and Synodality according to the Common Tradition of the Church in the First Millennium," published in the previous issue of *Iustitia* (June 2023). According to Paul, in the socio-cultural, political and ecclesiastical context

of the second millennium, the primacy of the Roman Pontiff developed into full, supreme and absolute power of universal jurisdiction, culminating in the promulgation of the dogmas of primacy and infallibility at the first Vatican council. Paul concludes that because of these developments, episcopal power of governance or jurisdiction came to be seen as a concession of the Roman Pontiff, and metropolitan and patriarchal authority as sharing in his supreme power. Synodality and conciliarity virtually disappeared in the West and decreased considerably in the East.

Varghese Palathingal illustrates paths of synodality in the Church through his article titled "The Canonical Spectrum of the Paths of Synodality for a Church *sui iuris* in the Third Millennium." The objective of the synodal process is to provide an opportunity for the entire people of God to discern together aiming at a synodal mode of living. Communitarian metanoia, the convergence of attitudinal traits, the value of relationships, participatory bodies, sharing and participation in sacred things are the means to realize synodality in a cultural ethos. Synodality is reflected in all ecclesial spheres. According to Varghese, in contextual analysis, the *yogam* or assembly of Saint Thomas Christian Church is a forerunner of synodality.

The three articles of this issue of *Iustitia* deal directly with the zero-tolerance policy of the Catholic Church today, and two articles are reflections on the synodal culture of the Catholic Church. Pope Francis promulgated Penal Sanctions in the Church, i.e., the revised Penal Law on 23 May 2021 through his Apostolic Constitution *Pascite gregem Dei* and the reformed Book VI of CIC is renamed *Penal Sanctions in the Church* and it became binding on the Latin Church on 8th December 2021. In the same way through the apostolic letter given in the form of Motu Proprio *Vocare Peccatores*⁹ Pope Francis updated the Penal Sanctions in the Church (Titles XXVII and XXVIII) of the CCEO of Oriental Catholic Churches on 20 March 2023 and it became binding on the Oriental Catholic Churches on 29 June 2023. All these steps of the Apostolic See demonstrate powerfully the zero tolerance of the Church towards the abuse of minors and the vulnerable by the clerics.

⁹[https://www.vatican.va/motu_proprio/documents, Litterae Apostolicae Motu Proprio datae "Vocare peccatores"](https://www.vatican.va/motu_proprio/documents/Litterae_Apostolicae_Motu_Proprio_datae_Vocare_peccatores)(20 March 2023).