

Consociatio

XVII^e CONGRES DE LA CONSOCIATIO INTERNATIONALIS STUDIO IURIS CANONICI PROMOVENDO

Paris, 13 au 16 septembre 2022

**"PERSONNE, DROIT ET JUSTICE :
LA CONTRIBUTION DU DROIT CANONIQUE
DANS L'EXPERIENCE JURIDIQUE CONTEMPORAINE"**



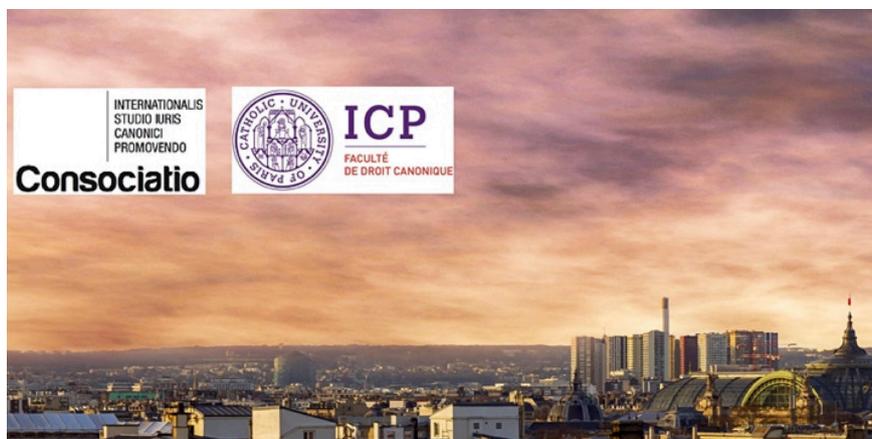
Webinaire

14
septembre
2021, 16h-
18h

"La réforme du Livre VI"

avec la participation des Professeurs

Daniel Ricardo Medina (Buenos Aires), John Renken (Ottawa), Philippe Toxé (Lyon), Andrea D'Auria (Urbaniana), Damiàn Astigueta (Gregorienne), Davide Cito (Sainte Croix).



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"Consociatio Internationalis Studio Iuris canonici promovendo" avec
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Date et heure

mar., 14 septembre 2021
16:00 – 18:30 CEST

**CONSOCIATIO INTERNATIONALIS
STUDIO IURIS CANONICI PROMOVENDO
WEBINAR: RIFORMA DEL LIBER VI^o**

THE DELICTS OF SEXUAL ABUSE IN THE REVISED BOOK VI¹

JOHN A. RENKEN

The Delicts

In the 2021 revision of Book VI, four canons address delicts of sexual abuse or related issues, each of which reflect the development of the canonical response to sexual abuse over the last decades: canon 1398; 1395 § 3; canon 1371, § 6; and canon 1378.

1 – Canon 1398: Sexual Abuse of Minors, Adults Who Habitually Have Imperfect Use of Reason, and Adults for Whom the Law Recognizes Equal Protection

§1. A cleric is to be punished with privation of office and other just penalties, not excluding dismissal from the clerical state if the case warrants it:

1^o who commits a delict against the sixth commandment of the Decalogue with a minor or with a person who habitually has the imperfect use of reason or with a person for whom the law recognizes equal protection;

2^o who grooms or induces a minor or a person who habitually has the imperfect use of reason or a person for whom the law recognizes equal protection, to show himself or herself pornographically or to participate in pornographic exhibitions, whether real or simulated;

3^o who immorally acquires, possesses, exhibits, or distributes, by any means and using whatever technology, pornographic images of minors or of persons who habitually have the imperfect use of reason.

§2. A member of an institute of consecrated life or society of apostolic life, and any member of the faithful who has any dignity or who fulfills an office or function in the Church, if the person commits the delict mentioned in §1 or in can. 1395 §3, is to be punished according to the norm of can. 1336, §§2-4, with other penalties also added according to the gravity of the delict.

Canon 1398 is situated in “Title VI: Delicts against Human Life, Dignity, and Freedom,”² where it underscores that the delicts established by the canon violate the life, dignity, and liberty of the human person. The eight delicts established by canon 1398 are:

¹ An expanded version of this text will appear in *Studia canonica*, 56:1 (2022).

² In the 1983 Code, Title VI was entitled “Delicts against Human Life and Freedom.” The word “Dignity” is added in the 2021 revision.

- (1) To commit a delict against the sixth commandment of the Decalogue with a minor.
- (2) To commit a delict against the sixth commandment of the Decalogue with a person who habitually has the imperfect use of reason.
- (3) To commit a delict against the sixth commandment of the Decalogue with a person for whom the law recognizes equal protection.
- (4) To groom or to induce a minor to show himself or herself pornographically or to participate in pornographic exhibitions, whether real or simulated.
- (5) To groom or to induce a person who habitually has the imperfect use of reason to show himself or herself pornographically or to participate in pornographic exhibitions, whether real or simulated.
- (6) To groom or to induce a person for whom the law recognizes equal protection, to show himself or herself pornographically or to participate in pornographic exhibitions, whether real or simulated.
- (7) To immorally acquire, possess, exhibit, or distribute, by any means and using whatever technology, pornographic images of minors.
- (8) To immorally acquire, possess, exhibit, or distribute, by any means and using whatever technology, pornographic images of persons who habitually have the imperfect use of reason.

Canon 1398 refers to three groups of persons. A “minor” is a person under the age of 18 years (c. 97 § 1). A person “who habitually has the imperfect use of reason” lacks the “stable” and “full” use of reason; this category of a person is mentioned in the 2010 *Normae de gravioribus delictis*, article 6 § 1, 1^o) where the law equates the person to a minor. A person “for whom the law grants equal protection” appears as a reference to “vulnerable persons,” a technical term introduced *ad experimentum* into penal law by Pope Francis in his apostolic letter *Vos estis lux mundi* (7 May 2019).³

Canon 1398 § 1 establishes delicts for clerics. The penalties attached to the delicts are the determinate, preceptive, *ferendae sententiae*, expiatory penalty of privation of office (c. 1336 § 4, 1^o), and other just penalties, not excluding dismissal from the clerical state (c. 1336 § 5) if the case warrants it.

Canon 1398 § 2 applies all the delicts of canon 1398 § 1 to a “member of an institute of consecrated life or society of apostolic life, and any member of the faithful who has any dignity or who fulfills an office or function in the Church.” The penalties for these offenders is “canon 1336 §§ 2-4, with other penalties also added according to the gravity of the delict.”

The prescription period for the delicts of canon 1395 § 3 is twenty years (c. 1362 § 1, 2^o). The prescription period for those delicts of sexual abuse, committed by delicts and reserved to

³ POPE FRANCIS, apostolic letter *Vos estis lux mundi*, 7 May 2019, https://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html

the Congregation for the Doctrine of the Faith as *graviora delicta*, is also twenty years, beginning when the minors completes the eighteenth year of age.⁴

The delicts of clergy sexual abuse reserved to the Congregation for the Doctrine of the Faith (see c. 1362 § 1, 1°) are identified in Article 6 of the *Normae de gravioribus delictis* (21 May 2010) issued by the Congregation for the Doctrine of the Faith. Only those delicts against the sixth commandment of the Decalogue identified in this article 6, *when committed by a cleric*, are *graviora delicta* reserved to the Congregation for the Doctrine of the Faith.

2 – Canon 1395 § 3: Sexual Abuse Achieved through Force, Threats, or Abuse of Authority

A cleric who by force, threats, or abuse of authority commits a delict against the sixth commandment of the Decalogue, or who compels someone to perform or submit to sexual acts, is to be punished with the same penalty mentioned in § 2 [=just penalties, not excluding dismissal from the clerical state if the case so warrants].

Canon 1395 § 3 is situated in “Title V: Delicts against Special Obligations.” It focuses on the obligation of clerics to avoid the delicts of sexual abuse mentioned in the canon. It establishes the following five delicts of sexual abuse:

- (1) To commit a delict against the sixth commandment of the Decalogue by force.
- (2) To commit a delict against the sixth commandment of the Decalogue by threats.
- (3) To commit a delict against the sixth commandment of the Decalogue by abuse of authority.
- (4) To compel someone to perform sexual acts against the sixth commandment of the Decalogue.
- (5) To compel someone to submit to sexual acts against the sixth commandment of the Decalogue.

Canon 1395 § 3 establishes three delicts which had not been found in the 1983 Code – i.e., the delict of sexual abuse committed by abuse of authority, by compelling someone to perform sexual acts, and by compelling someone to submit to sexual acts. Pope Francis has often addressed the abuse of authority (or, abuse of power), especially in relation to sexual abuse of minors and vulnerable persons.

Canon 1395 § 3 establishes delicts for clerics. The penalties attached to the delicts are indeterminate, preceptive “just penalties,” not excluding dismissal from the clerical state (c. 1336 § 5) if the case so warrants.

Canon 1398 § 2 applies all the delicts of canon 1395 § 3 to a “member of an institute of consecrated life or society of apostolic life, and any member of the faithful who has any dignity

⁴ POPE JOHN PAUL II, apostolic letter *Sacramentorum sanctitatis tutela*, 30 April 2001, in *AAS*, 93 (2001), 737-739, https://www.vatican.va/content/john-paul-ii/en/motu_proprio/documents/hf_jp-ii_motu_proprio_20020110_sacramentorum-sanctitatis-tutela.html

or who fulfills an office or function in the Church.” The penalties for these offenders is “canon 1336 §§ 2-4, with other penalties also added according to the gravity of the delict.”

The prescription period for the delicts of canon 1395 § 3 is seven years (c. 1362 § 1, 2°). None of the delicts are reserved to the Congregation for the Doctrine of the Faith (see c. 1362 § 1, 1°).

3 – Canon 1371 § 6: The Delict of Failure to Report a Delict

One who neglects to communicate knowledge of a delict, when obliged to do so by a canonical law, is to be punished according to the norm of can. 1336 §§2-4, with other penalties also added according to the gravity of the delict.

Canon 1371 § 6 is situated in “Title II: Delicts against Ecclesiastical Authority and the Exercise of Functions.” It focuses on the obligation of some persons in the Church to be “mandated reporters” of delicts. Certainly, it is related to canons 1395 § 3 and 1398.

The Code itself does not identify any such mandated reporters. In his apostolic letter *Vos estis lux mundi* (7 May 2019), however, Pope Francis identifies mandated reporters as “a cleric or a member of an institute of consecrated life or of a society of apostolic life.”⁵ Though *Vos estis lux mundi* identifies mandated reporters, it does not establish a delict for non-compliance with this requirement, as does canon 1071 § 6.

No other legislation identifies mandated reporters.⁶ Canon 1071 § 6 would pertain, of course, in future legislation which established mandated reporters for any delicts.

4 – Canon 1378: Abuse of Power, Office, or Function – Deliberately or Negligently

§ 1. One who, in addition to the cases already envisioned in law, abuses an ecclesiastical power, office, or function is to be punished according to the gravity of the act or omission, not excluding their privation, without prejudice to the

⁵ POPE FRANCIS, *Vos estis lux mundi*, article 3 § 1 states: “§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.”

Article 3 exempts mandated reporters from communicating knowledge in accord with the exemption of 1548 § 2: 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.”

⁶ Canon 2368 § 2 of the 1917 Code had said that a person solicited by a confessor is a “mandated reporter.” Indeed, that canon, had imposed a *latae sententiae* excommunication on a person solicited who refused to denounce the confessor within a month; the canon added that this penalty was not to be absolved until the person fulfilled the obligation to denounce the confessor, or at least seriously promised to do so (see c. 904 of the 1917 Code).

obligation to repair harm.

§2. One who through culpable negligence illegitimately places or omits an act of ecclesiastical power, office, or function with harm to another or with scandal is to be punished with a just penalty according to the norm of can. 1336, §§2-4, without prejudice to the obligation to repair harm.⁷

Canon 1378 concerns abuse of ecclesiastical power, office, or function – whether such abuse is rooted in deliberate malice (*dolus*) or in negligence (*culpa*). If the abuse is rooted in *dolus* (c. 1378 § 1), the offender “is to be punished according to the gravity of the act or omission,” perhaps even by penal deprivation of office (c. 1336 § 4, 1°; see c. 196). If the abuse is rooted in *culpa* with harm to another or with scandal (c. 1378 § 2), the offender “is to be punished according to the norm of canon 1336 §§ 2-4,” that is, with an order, prohibition, or privation. Whether the abuse is rooted in *dolus* or *culpa*, the offender has the obligation to repair harm.

Pope Francis, in *Come una madre amorevole* (4 June 2016), addresses the removal from office of a diocesan bishop or eparch, and his equivalents in law,⁸ for negligence in handling cases of sexual abuse of minors and vulnerable persons. This is abuse of office with *culpa*, but the apostolic letter does not identify this conduct as a delict.

Also, Pope Francis, in *Vos estis lux mundi* (7 May 2019), addresses the removal of a diocesan bishop and his equivalents in law,⁹ for “conduct ... 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”¹⁰ of sexual abuse identified in the apostolic letter. This apostolic letter addresses the investigation of an alleged “cover-up.” This is abuse of office with *dolus*, but the apostolic letter does not specifically identify this conduct as a delict.

Both *Come una madre* and *Vos estis lux mundi* remain operative and provide administrative or disciplinary responses to seriously negligent or malicious conduct.

General Observations on the Revised Book VI

⁷ Canon 1378 in the 2021 revision of Book VI modifies canon 1389 of the 1983 Code.

⁸ POPE FRANCIS, apostolic letter *Come una madre amorevole*, 4 June 2016, https://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio_20160604_come-una-madre-amorevole.html Article 1 §§ 1, 4 explains that equivalents of a diocesan bishop or eparch are: “one who even holds a temporary title and is responsible for a particular Church, or other community of faithful that is its legal equivalent” (see c. 368 CIC; c. 313 CCEO), and “major superiors of religious institutes and societies of apostolic life of pontifical right.”

⁹ POPE FRANCIS, apostolic letter *Vos estis lux mundi*, article 6 says that bishops and their equivalents are: “a) cardinals, patriarchs, bishops and legates of the Roman Pontiff; b) clerics who are, or who have been, the pastoral heads of a particular Church or of an entity assimilated to it, Latin or Oriental, including the personal ordinariates, for the acts committed *durante munere*; c) clerics who are or who have been in the past leaders of a personal prelatore, for the acts committed *durante munere*; d) 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*.”

¹⁰ *Ibid.*, art. 1 § 1 b)

Certainly, the revised Book VI of the Code of Canon Law is most welcome legislation for the Church. Some general “early observations” of its treatment of sexual abuse will highlight the positive features of the revision. It will also uncover some questions or possible “next steps” which canonists, Pastors, and eventually the Supreme Legislator may wish to ponder.

1 – Positive Aspects of the Revision’s Treatment of “Sexual Abuse”

In the matter of sexual abuse, the revised Book VI incorporates so much legislation developed over recent years and even expands much of it.

A most obvious feature of the revision is canon 1398 § 1 that addresses the sexual abuse of three categories of persons: (1) minors, (2) persons lacking the habitual use of reason, and (3) persons for whom the law recognizes equal protection. The canon “expands” the simple reference to the offense of sexual abuse “with a minor below the age of sixteen years” in canon 1395 § 2 of the 1983 Code – a delict which is listed among several other clerical delicts against the sixth commandment of the Decalogue.

Another especially welcome feature of the revision of Book VI is canon 1398 § 2. This provides that the delicts in canons 1395 § 3 and 1398 § 1 apply also to a “member of an institute of consecrated life or society of apostolic life, and any member of the faithful who has any dignity or who fulfills an office or function in the Church.” This clarifies the ambiguity of canon 695 § 1 regarding whether or not canon 1395 § 2 of the 1983 Code applies to non-ordained religious. It also acknowledges that many laypersons in the Church provide service-leadership, formal and informal, paid and volunteer, throughout the world.

The delicts of sexual abuse identified in canon 1398 are situated in “Title VI: Delicts against Human Life, Dignity, and Freedom” in order to stress that these delicts violate the human person. In the 1983 Code, delicts of sexual abuse were situated in canon 1395 § 2 in “Title V: Delicts against Special Obligation,” in order to stress that the delicts violated clerical chastity. The new arrangement focuses on the dignity of the person abused, not on the sin of the person abusing.

Yet another welcome feature of the 2020 revision is canon 1395 § 3 that establishes the delict of sexual abuse which results from the manipulation of a perpetrator’s force, threats, and abuse of authority. This delict remains in “Title V: Delicts against Special Obligations” where it focuses on appropriate chaste conduct of clergy (and others: see c. 1398 § 2) with adults.

Also, the establishment in canon 1371 § 6 of a delict for those mandated reporters who fail to communicate knowledge of a delict (of sexual abuse) is a welcomed addition to penal law. This new delict intends to be an additional means to safeguard persons from sexual abuse.

2 – Some Possible Issues to Ponder for Future Development of Law

Given the warm welcome with which the revised Book VI is rightly received, it may seem unbecoming to consider yet further development or refinement in the Church’s penal laws on sexual abuse. Nonetheless, while extolling the importance of a true “stability” of (penal) law, one also realizes that law always can and must be reformed (*lex semper reformanda*) in order to address changing ecclesial challenges and new pastoral concerns. Any ongoing development of law does not require another immediate revision of codified law. Indeed, the Church’s experience in addressing sexual abuse over the last decades demonstrates that innovations occur

gradually and effectively through various extra-codal instruments (e.g., apostolic letters, circular letters, *rescripta ex audientia*, etc.).

In this spirit, and with the greatest gratitude and deepest respect for the 2021 revision of Book VI, the following are possible points to consider calmly in response to sexual abuse in the Church and society, even as the universal Church welcomes warmly the revised Book VI.

- **MANDATED REPORTERS.** Canon 1371 § 6 establishes the “general” delict of a mandated reporter failing to communicate knowledge of a delict, but does not identify who is a mandated reporter and for what delict. *Vos estis lux mundi* identifies the “specific” mandated reporters for “specific” delicts of sexual abuse.

In the future, should not every Catholic be a mandated reporter of the delicts of sexual abuse?

- **RESERVED DELICTS.** At the present time, some delicts of sexual abuse committed by clerics (only) are reserved to the Congregation for the Doctrine of the Faith, as listed in the 2010 *Normae de gravioribus delictis*, article 6.

In the future, in light of the revised canons 1395 § 3 and 1398, should not *all* delicts of sexual abuse committed by *all* persons identified in law as potential offenders be reserved to the Congregation for the Doctrine of the Faith? If delicts reserved to the Congregation only involve clerics, does this further an inappropriate sense of “clericalism”?

Nowadays, persons commonly mention the possibility of establishing regional penal tribunals (e.g., national or multi-national), perhaps as “branches” of the Congregation for the Doctrine of the Faith. If *all* delicts of sexual abuse, identified in canons 1395 § 3 and 1398, be reserved to the Congregation for the Doctrine of the Faith, should not regional penal tribunals conveniently provide proper proximity to the *locus delicti* with sufficient staff?

- **PENAL PRIVATION FOR ABUSE OF OFFICE IN ADDRESSING DELICTS OF SEXUAL ABUSE.** At the present time, *Come una madre amorevole* and *Vos estis lux mundi* address both negligent (with *culpa*) and malicious (with *dolus*) abuse of office in investigating and processing (with an administrative or judicial penal process) alleged delicts of sexual abuse. The departure from office of church leaders (bishops and their equivalents) is not necessarily penal in character.

In the future, inasmuch as *Pascite gregem Dei* intends to promote the pastoral character of penal law (not in opposition to charity, but as an expression of charity), should not all abuse of office in addressing delicts of sexual abuse be treated as delicts, in accord with canon 1378 § 1 (delicts omitted with *dolus*) and 1378 § 2 (delicts committed with *culpa*)?

- **TIMELY RESOLUTION OF ALLEGATIONS OF SEXUAL ABUSE.** A very helpful feature of *Vos estis lux mundi* is its requirement that investigations commonly be completed within 90 days (art. 14 § 1). Canon 1453 says that, “without prejudice to justice,” trials should be completed as soon as possible: “in the first instance they are not [to be] prolonged beyond a year and in a tribunal of second instance beyond six months.”

In the future, should not this be reiterated (and enforced) in penal trials, and should not the same timeline be established for the extrajudicial penal process (c. 1720; see c. 1342 § 1)? Further, should not legislation establish a common time period for the completion of the penal preliminary investigation (cc. 1717-1719), subject to extension by a higher authority if necessary?

- DEVELOPMENT OF THE NOTION OF “ABUSE OF AUTHORITY” OR “ABUSE OF POWER” LEADING TO SEXUAL ABUSE. Canon 1395 § 3 identifies delicts of sexual abuse committed through the predator’s manipulation “by force, threats, or abuse of his [or her]¹¹ authority.” Pope Francis has introduced the concept of “abuse of power” into conversations concerning sexual abuse by Church leaders.

In the future, should not such manipulations, especially the “abuse of authority” and “abuse of power” be refined through interdisciplinary studies, critical reflections, and canonical jurisprudence? Are those manipulated by these abuses also “vulnerable persons” for whom the law recognizes equal protection (c. 1398 § 1, 1^o-2^o)?

- DEVELOPMENT OF THE NOTION OF A “PERSON FOR WHOM THE LAW GRANTS EQUAL PROTECTION.” Canon 1398 § 1, 1^o-2^o establishes delicts committed against “a person for whom the law recognizes equal protection.” This phrase refers indirectly to the “vulnerable person,” a category of persons that may be considered imprecise or subject to multiple interpretations. It is not a univocal term.

In the future, should not the phrase “person for whom the law grants equal protection” be refined through interdisciplinary studies, critical reflection, and canonical jurisprudence? Is the term “vulnerable person” an accurate rendering of this phrase, or is some other term (perhaps one not subject to multiple interpretations and usages) more appropriate?

- PRESCRIPTION PERIODS FOR DELICTS OF SEXUAL ABUSE. The prescription period for the delicts of sexual abuse in canon 1398 is twenty years (c. 1362 § 1, 2^o). The 2010 *Normae de gravioribus delictis* establish the prescription period of twenty years for some delicts of sexual abuse committed by clerics, but they add that “prescription begins to run from the day on which a minor completes his eighteenth year of age” (art. 7 § 2).

In the future, should not the twenty year prescription period for all the delicts of canon 1398, whether committed by the ordained or the non-ordained, begin to run when the minor completes the eighteenth year?

- REVISION OF OTHER CANONS IN THE CODE OF CANON LAW. In 2011, the Pontifical Council for Legislative Texts distributed the *Schema recognitionis Libri VI Codicis iuris canonici (Reservatum)* to various bodies: conferences of bishops, faculties of canon law, dicasteries of the Roman curia, unions of major superiors of both genders, and members and consultants of the Pontifical Council. The *Preface* of this 2011 *Schema*,¹² states:

¹¹ Canon 1398 § 2 expands the offenders of the delict of canon 1395 § 3 to include non-ordained persons, both male and female.

¹² *Communicationes*, 43 (2011) 317-320.

“Besides the canons from Book VI, this revision of penal law leads to a change in canon 695 (concerning certain penalties about religious) and canons 1717, 1718 and 1720 (regarding the penal process).”¹³

In the future, should not other canons in the 1983 Code be modified to conform to the 2021 revision of Book VI?

- REVISION OF CANONS IN THE CODE OF CANONS OF EASTERN CHURCHES. As Pope John Paul II wrote in his encyclical *Ut unum sint* (25 May 1995), “the Church must breathe with her two lungs.”¹⁴ He also remarked that, with the promulgation of the 1990 Code of Canons of the Eastern Churches, “the canonical ordering of the whole Church is thus at length completed” following the promulgation of the 1983 Code of Canon Law and the 1988 apostolic constitution on the Roman Curia, *Pastor bonus*.¹⁵ Through his apostolic letter *Sacramentorum sanctitatis tutela* (30 April 2001), he established for the entire Catholic Church *graviora delicta* that are reserved to the Congregation for the Doctrine of the Faith.

In the future, should not the Code of Canons of the Eastern Churches be modified to reflect elements of the 2021 revision of the Code of Canon Law, thereby strengthening the uniform penal legislation for both lungs of the one Church?

- SEXUAL ABUSE AS AN “IMPEDIMENT.” If someone has committed acts of sexual abuse (whether or not these acts constitute canonical delicts or civil crimes), the perpetrators certainly ought not to be admitted to formation for leadership-service in the Church, nor should they be permitted to continue the same. *De facto*, sexual abuse constitutes a disqualification for ordained and lay ministry, ecclesiastical office and functions (whether paid or volunteer), consecrated life, etc.

In the future, given the breadth of sexual abuse and its lasting harmful effects in its victims, and given the desire of the Church to eradicate the threat and trauma of sexual abuse, should not sexual abuse be established formally, *de iure*, as a “perpetual impediment” (see c. 1040) to various roles of ecclesiastical leadership-service – e.g., the irregularity to receive orders (c. 1041); to exercise orders received (c. 1044 § 1); to enter formation in a religious institute (c. 643), a secular institute (c. 721), or a society of apostolic life (c. 753 § 2)? Why would the Church, which can create such disqualifications, not establish them *pro bono et tutela Ecclesiae*?

¹³ PONTIFICAL COUNCIL FOR LEGISLATIVE TEXTS, *Schema recognitionis Libri VI Codicis iuris canonici (Reservatum)*, Preface, 6).

¹⁴ POPE JOHN PAUL II, encyclical *Ut unum sint*, 25 May 1995, no. 54, https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_25051995_ut-unum-sint.html

¹⁵ POPE JOHN PAUL II, apostolic constitution *Sacri canones*, 18 October 1991, in *Codex canonum Ecclesiarum orientalium, auctoritate Ioannis Pauli PP. II promulgatus, fontium annotatione auctus*, Vatican City, Libreria editrice vaticana, 1995, English translation: Code of Canons of the Eastern Churches: Latin-English Edition, New English Translation, prepared under the auspices of the CLSA, Washington, DC, Canon Law Society of America, 2001, xxv.

Conclusion

At the conclusion of his apostolic constitution *Pascite gregem Dei* whereby he promulgates the 2021 revision of Book VI of the Code of Canon Law, Pope Francis expresses his hope that the revised penal legislation will foster ecclesial unity, that it will be an instrument for the good of souls, and that it will be received as a pastoral tool for the good of the faithful:

The revision also respects the principle of reducing cases in which the imposition of a sanction is left to the discretion of authorities, so that in the application of penalties, *servatis de iure servandis*, ecclesial unity will be fostered, especially in the case of those delicts that cause the greatest harm and scandal in the community.

In light of the foregoing, by this apostolic constitution I promulgate the revised text of Book VI of the Code of Canon Law as ordered and revised, in the hope that it will be an instrument for the good of souls and that its prescriptions will be applied by the Church's pastors, whenever necessary, with justice and mercy, in the awareness that it is part of their ministry, as a duty of justice – an eminent cardinal virtue – to impose punishment when the good of the faithful demands it.¹⁶

The revision certainly refines penal law and promotes its proper application as a pastoral instrument. Such is especially true of its consideration of the delicts of sexual abuse that bring ruin to victims and compromise to the effective witness of the Gospel. The reflections of these pages extol the revised penal law. At the same time, the reflections intend gently to invite conversations for even further effective response to sexual abuse within the Church that, with its synodal nature, always welcomes respectful and well-intended sharing.

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8 September 2022

¹⁶ POPE FRANCIS, apostolic constitution *Pascite gregem Dei*, 23 May 2021, https://www.vatican.va/content/francesco/en/apost_constitutions/documents/papa-francesco_costituzione-ap_20210523_pascite-gregem-dei.html