

Canon Law in 2021 on Sexual Abuse

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Introduction

Following the revelation of the extent of the problem of clerical sexual abuse in North America and in many other countries, Pope John Paul II issued the *motu proprio*, *Sacramentorum Sanctitatis Tutela*, on 30 April 2001.¹ The pope appointed the Congregation for the Doctrine of the Faith to supervise investigations into credible complaints of sexual abuse of children and how they were handled so that there was a system with more transparency and accountability.

Since 2001, there have been many changes in penal law, including revisions of *Sacramentorum Sanctitatis Tutela*. In 2019 Pope Francis promulgated the *motu proprio*, ‘You Are the Light of the World’ (*Vos Estis Lux Mundi*) on 10 May.² Then on 16 July 2020, the Congregation for the Doctrine of the Faith issued its *Vademecum: On Certain Points of Procedure in Treating Cases of Sexual Abuse of Minors Committed by Clerics*.³

The changes in canon law culminated in Pope Francis’ revising Book VI of the Code of Canon Law, ‘Penal Sanctions in the Church’, consisting of canons 1311–1399 in the apostolic constitution, *Pascite Gregem Dei*, ‘Tend the Flock of

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1. John Paul II issued the *motu proprio*, *Sacramentorum Sanctitatis Tutela*, 30 April 2001. AAS 93 (2001): 737–9.
2. Francis, *motu proprio*, *Vos Estis Lux Mundi*, 7 May 2019, http://w2.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html. Hereinafter Francis, VELM.
3. Congregation for the Doctrine of the Faith, *Vademecum: On Certain Points of Procedure in Treating Cases of Sexual Abuse of Minors Committed by Clerics*, 16 July 2020, https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20200716_vademecum-casi-abuso_en.html. Hereinafter CDF, *Vademecum*.

God'.⁴ Of these 89 canons, 63 have been changed and others have been renumbered. Pope Francis said bishops had not been implementing penal law and this had led to 'tolerating immoral conduct, for which mere exhortations or suggestions are insufficient remedies. This situation often brings with it the danger that over time such conduct may become entrenched, making correction more difficult and in many cases creating scandal and confusion among the faithful'.⁵

Penal law is like a fence around the faithful to protect them from offending clerics and lay officials. Penal law also helps to maintain minimum standards of behaviour, because pastoral bishops pull members of the faithful away from the 'fence' and correct them when necessary.

While the focus of changes in penal law has been on the crime of sexual abuse of minors, the penal law for other crimes has been revised too. For example, there have been financial scandals at the Vatican and cases of financial mismanagement in dioceses around the world. Clergy have used parish money for gambling and drinking, and church property has been sold or alienated contrary to canon law. A new canon 1376 includes the crimes of stealing and misappropriation, and selling church property, including that of parishes, without the required consents and consultation.

1. Definition of Sexual Abuse

In 2019 the definition of sexual abuse was expanded in *Vos Estis Lux Mundi*. The definition of sexual abuse is now:

- Art. 1 §1. 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.

There was a canon concerning the sexual abuse of minors in the 1983 Code, in the section under 'Offences against Special Obligations'—that is, as an offence against the obligation to observe celibacy. Victims and the Australian Royal Commission recommended that in the revised penal law there should be

4. Francis, apostolic constitution, *Pascite Gregem Dei*, reforming Book VI of the Code of Canon Law, 23 May 2021, https://www.vatican.va/content/francesco/la/apost_constitutions/documents/papa-francesco_costituzione-ap_20210523_pascite-gregem-dei.html. Hereinafter Francis, PGD.

5. Ibid.

a canon specifically relating to sexual abuse.⁶ Pope Francis has responded to this recommendation with a new canon 1398 in the section of the Code appropriately entitled ‘Offences against Human Life, Dignity and Liberty’:

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

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

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

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

§2. A member of an institute of consecrated life or of a society of apostolic life, or any one of the faithful who enjoys a dignity or performs an office or function in the Church, who commits an offence mentioned in §1 or in can. 1395 §3 is to be punished according to the provision of can. 1336 §§2–4, with the addition of other penalties according to the gravity of the offence.⁷

Vos Estis Lux Mundi had used the term ‘sexual acts’. The revised Book VI returns to the use of the traditional term of ‘offence against the sixth commandment’. This term is also used by the *Catechism of the Catholic Church*, in paragraphs 2351–56,⁸ where it is made clear that these offences include adultery, rape and the accessing of pornography.

‘Sexual acts with a minor or vulnerable adult’ are clarified by the Congregation for the Doctrine of the Faith in its *Vademecum: On Certain Points of Procedure in Treating Cases of Sexual Abuse of Minors Committed by Clerics*:

1. The delict in question includes every external offense against the sixth commandment of the Decalogue committed by a cleric with a minor (cf. canon 1395 §2 CIC; art. 6 §1, 1° SST).

6. Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report*, 2017, https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_16_religious_institutions_book_1.pdf. Hereinafter RCIRCSA, *Final Report*.

7. New Book VI of the Code of Canon Law, <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2021/06/01/210601b.html>. Hereinafter all translations of the changed Book VI are from this source.

8. *Catechism of the Catholic Church*, https://www.vatican.va/archive/ENG0015/_INDEX.HTM.

2. The typology of the delict is quite broad; it can include, for example, sexual relations (consensual or non-consensual), physical contact for sexual gratification, exhibitionism, masturbation, the production of pornography, inducement to prostitution, conversations and/or propositions of a sexual nature, which can also occur through various means of communication.

Bishop Juan Arrieta, the secretary for the penal law revision process, has explained that the term ‘offense against the sixth commandment’ in the revised Book VI is the best-known terminology ‘avoiding notions that may have a different meaning’.⁹

2. Pornography and Online Abuse

The ‘Revised Norms on Dealing with Clerical Sex Abuse of Minors and Other Grave Offenses’ published on 15 July 2010, and approved in *forma specifica* by Pope Benedict XVI on 21 May 2010, made the use of child pornography a crime:

Article 6 §1 2° The acquisition, possession or distribution by a cleric of pornographic images of minors under the age of 14 for purposes of sexual gratification, by whatever means or using whatever technology.¹⁰

While the use of child pornography by clergy had been ruled a canonical crime for many years, there had been no canonical definition or description. Limiting the crime to abusing those under the age of fourteen years was far too restricted. People buying or using pornography are financing its manufacture and are therefore cooperating in the commission of the crime. Clergy doing this are as guilty as the producers. Furthermore, clergy sexting with those under age eighteen commit the crime.

In *Vos Estis Lux Mundi* Pope Francis states that ‘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.¹¹

9. J.I. Arrieta, Question and Answer Session, Canon Law Conference of Australia and New Zealand, 1 September 2021.

10. Revised Norms of *Sacramentorum Sanctitatis Tutela*, 2, <https://www.catholicculture.org/culture/library/view.cfm?recnum=9353#normae>. On the extension of the term of prescription of a criminal action to twenty years, maintaining the right of the Congregation for the Doctrine of the Faith to derogate from prescription on a case-by-case basis (art. 7), see CDF, *Origins* 40 (2010–11): 146.

11. Francis, *VELM*, art. 6.

Also in 2019 Francis amended article 6 §1 2° of *Sacramentorum Sanctitatis Tutela*, changing the age for pornography to include all minors:

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.¹²

The crime of child pornography now includes images of minors under the age of eighteen years.

In jurisprudence, a clear distinction is made between accidentally seeing pornography on the internet and downloading or copying it. Accidentally seeing pornography is not a crime. However, if it is downloaded or copied in any way, a crime has been committed in canon law. Any investigation into an alleged crime concerning pornography must establish whether it was a deliberate act to acquire or use pornography.

The Congregation for the Doctrine of the Faith has pointed out in its *Vademecum* that the law is not retroactive. Investigations of alleged offences must be careful to establish when the action took place to establish if a delict or crime was committed:

6. SST has also introduced (cf. art. 6 §1, 2° SST) three new delicts involving minors, i.e., the acquisition, possession (even temporary) or distribution by a cleric of pornographic images of minors under the age of 14 (as of 1 January 2020, under the age of 18) for purposes of sexual gratification by whatever means or using whatever technology. From 1 June to 31 December 2019, the acquisition, possession, or distribution of pornographic material involving minors between 14 and 18 years of age by clerics or by members of Institutes of Consecrated Life or Societies of Apostolic Life are delicts for which other Dicasteries are competent (cf. arts. 1 and 7 VELM). From 1 January 2020, the CDF is competent for these delicts if committed by clerics.

7. It should be noted that these three delicts can be addressed canonically only after the date that SST took effect, namely, 21 May 2010. The production of pornography involving minors, on the other hand, falls under the typology of delict listed in nos. 1–4 of the present *Vademecum*, and therefore is to be dealt with if it occurred prior to that date.

These provisions concerning pornography are included in the revised canon 1398 (2021):

12. Francis, rescript: some amendments to the *Normae de gravioribus delictis*, 3 December 2019, http://www.vatican.va/roman_curia/secretariat_state/2019/documents/rc-seg-st-20191203_rescriptum_en.html.

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

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

Clearly those who buy and distribute pornography are accomplices¹³ in the crime of the original sexual abuse of filming or photographing the acts. The wording of the canon ensures it includes any use of pornography on social media.

3. Requirement to Implement Penal Law

The 1983 Code allowed bishops and religious superiors wide discretion as to whether or not to impose penalties and many people have complained about clericalism and ‘cheap mercy’ being granted to offending clergy without sufficient account being taken of: justice for victims; protection of the community of the faithful; prevention of scandal; and compensation for the harm that has been caused. Offending clergy certainly do have a right to forgiveness, but this does not mean that they can simply be given new appointments with access to future potential victims.¹⁴ Pope Francis has outlined the overall purpose of penal law by adding another paragraph to canon 1311:

Canon 1311 §2. The one who is at the head of a Church must safeguard and promote the good of the community itself and of each of Christ’s faithful, through pastoral charity, example of life, advice and exhortation and, if necessary, also through the imposition or declaration of penalties, in accordance with the provisions of the law, which are always to be applied with canonical equity and having in mind the restoration of justice, the reform of the offender, and the repair of scandal.¹⁵

Bishops have in the past protected their offending priests and failed to implement penal law and restore justice, repair the scandal and do enough to reform the offender. Pope Benedict XVI felt obliged to apologise for the failures of the Irish Church and to replace some bishops who had been complicit in cover-ups. To priest-abusers in his *Pastoral Letter to the Catholics of Ireland* Benedict stated:

13. Accomplices are subject to penalties in canon 1329.

14. Canon 1350.

15. New Book VI of the Code of Canon Law.

You betrayed the trust that was placed in you by innocent young people and their parents, and you must answer for it before Almighty God and before properly constituted tribunals. You have forfeited the esteem of the people of Ireland and brought shame and dishonour upon your confreres. Those of you who are priests violated the sanctity of the sacrament of Holy Orders in which Christ makes himself present in us and in our actions. Together with the immense harm done to victims, great damage has been done to the Church and to the public perception of the priesthood and religious life.¹⁶

And to the bishops he said:

It cannot be denied that some of you and your predecessors failed, at times grievously, to apply the long-established norms of canon law to the crime of child abuse. Serious mistakes were made in responding to allegations. I recognize how difficult it was to grasp the extent and complexity of the problem, to obtain reliable information and to make the right decisions in the light of conflicting expert advice. Nevertheless, it must be admitted that grave errors of judgement were made and failures of leadership occurred. All this has seriously undermined your credibility and effectiveness.¹⁷

The revised Book VI now makes it a crime for clergy and religious to fail to report an offence when required to by canon law:

Canon 1371 §6. A person who neglects to report an offence, when required to do so by a canonical law, is to be punished according to the provision of can. 1336 §§2–4, with the addition of other penalties according to the gravity of the offence.

4. Warnings before Medicinal Penalties Are Imposed

There are a number of cases around the world of clergy and religious guilty of misconduct who have been verbally corrected or rebuked. The bishop or religious superior did not give a written warning, so later when a recalcitrant offender reoffends it is very difficult to take strong punitive action against them.

The revised Book VI (2021) carefully develops the procedures necessary before a medicinal penalty is imposed on an offender. Paragraphs 4 and 5 have been added to canon 1339:

16. Benedict XVI, *Pastoral Letter to the Catholics of Ireland*, 19 March 2010, accessed 10 April 2012, http://www.vatican.va/holy_father/benedict_xvi/letters/2010/documents/hf_ben-xvi_let_20100319_church-ireland_en.html.

17. *Ibid.*

Canon 1339 §4. If on one or more occasions warnings or corrections have been made to someone to no effect, or if it is not possible to expect them to have any effect, the Ordinary is to issue a penal precept in which he sets out exactly what is to be done or avoided.

§5. If the gravity of the case so requires, and especially in a case where someone is in danger of relapsing into an offence, the Ordinary is also to subject the offender, over and above the penalties imposed according to the provision of the law or declared by sentence or decree, to a measure of vigilance determined by means of a singular decree.

The offender must be given at least one warning, and then a detailed precept must be given in writing to the offender setting out exactly what is to be done or avoided. Canon 1339 §3 states: ‘The fact that there has been a warning or a correction must always be proven, at least from some document to be kept in the secret archive of the curia’. The recalcitrant cleric or religious must understand clearly what behaviour is to be avoided or what is to be done. Furthermore, if warnings are not recorded in writing, it will be difficult to prove they were ever given.

The Ordinary has a duty of vigilance, and the canon makes it clear that the Ordinary has an obligation to investigate allegations as well as an obligation to impose penalties on offenders. Paragraph 5 also speaks of ‘vigilance’. This means Ordinaries have a grave obligation to have a detailed safety plan for offenders and to do everything reasonably possible to prevent the offender reoffending and creating more victims. Lack of supervision of offenders has been a grave omission demonstrated by many cases around the world. There must be real accountability and transparency in how offenders are held to account.

5. Penalties for Abuse by Religious Brothers and Sisters

The 1983 Code recognised that sexual abuse of a minor under the age of fourteen years by a religious brother or sister was a grave offence, for which there was an administrative process for dismissal from the religious institute in canon 695:

Canon 695 §1. A member must be dismissed for the delicts mentioned in canons 1397, 1398, and 1395, unless in the delicts mentioned in can. 1395, §2, the superior decides that dismissal is not completely necessary and that correction of the member, restitution of justice, and reparation of scandal can be resolved sufficiently in another way.

§2. In these cases, after the proofs regarding the facts and imputability have been collected, the major superior is to make known the accusation and proofs to the member to be dismissed, giving the

member the opportunity for self-defence. All the acts, signed by the major superior and a notary, together with the responses of the member, put in writing and signed by that member, are to be transmitted to the supreme moderator.

However, very few religious brothers and sisters have ever been dismissed from religious institutes for abuse, despite the large number of offenders.

The Royal Commission into Institutional Responses to Child Sexual Abuse recommended clergy and religious brothers and sisters convicted of an offence of child sexual abuse be dismissed from the clerical state and/or the religious institute:

Recommendation 16.56

Any person in religious ministry who is convicted of an offence relating to child sexual abuse should:

a. in the case of Catholic priests and religious, be dismissed from the priesthood and/or dispensed from his or her vows as a religious.¹⁸

In 2019 the definition of sexual abuse was expanded in *Vos Estis Lux Mundi*. The definition of sexual abuse is now spelled out:

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.

It is a delict for an Ordinary or a religious superior to fail to report a canonical or civil law crime of sexual abuse by a cleric or religious.

Further on, the *motu proprio* continues:

[Article 1 §1] 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.

18. RCIRCSA, *Final Report*.

This is the first time that religious brothers and sisters have been explicitly included in documents concerning sexual abuse. There had been debate about whether sexual abuse by brothers or sisters was classified as a canonical crime, because canon 695¹⁹ did not make that clear, only saying the abuser could be dismissed from their religious institute for the action of sexual abuse. The norms also encompass members of societies of apostolic life such as the Columbans. Priests and deacons of societies of apostolic life were subject to the norms of *Sacramentorum Sanctitatis Tutela*, but their sisters or brothers were not.

Now crimes of sexual abuse by religious brothers and sisters must be reported to the local Ordinary. This ensures that there is adequate transparency and accountability within the church.

Canon 1398 §2 (2021) legislates that the sexual abuse of minors by religious brothers and sisters is a canonical crime:

Canon 1398 §2. A member of an institute of consecrated life or of a society of apostolic life, or any one of the faithful who enjoys a dignity or performs an office or function in the Church, who commits an offence mentioned in §1 or in can. 1395 §3 is to be punished according to the provision of can. 1336 §§2–4, with the addition of other penalties according to the gravity of the offence.

This change corrects an anomaly in the 1983 Code where, although sexual abuse by religious brothers or sisters was a grave offence that incurred dismissal from the religious institute, it was not made clear that it was also a crime in canon law.

6. Penalties for Lay Officials

The revised penal law (2021) states that lay employees of the church who abuse someone and commit a canonical crime can receive canonical penalties. This major change in canon law reflects the significant sexual abuse by laity in Catholic institutions. The Australian Royal Commission, for example, found that twenty-nine per cent of the offences in Catholic institutions were committed by lay people in roles such as school caretaker or youth leader.²⁰

Canon 1398 (2021) legislates for lay office-holders and volunteers or paid people serving in the church to be punished for the offences of sexual abuse of minors or vulnerable people, grooming and use of pornography:

19. Canon 695 §1. A member must be dismissed for the delicts mentioned in canons 1397, 1398, and 1395, unless in the delicts mentioned in can. 1395, §2, the superior decides that dismissal is not completely necessary and that correction of the member, restitution of justice, and reparation of scandal can be resolved sufficiently in another way.

§2. In these cases, after the proofs regarding the facts and imputability have been collected, the major superior is to make known the accusation and proofs to the member to be dismissed, giving the member the opportunity for self-defence. All the acts, signed by the major superior and a notary, together with the responses of the member, put in writing and signed by that member, are to be transmitted to the supreme moderator.

20. RCIRCSA, *Final Report*.

Canon 1398 §2. A member of an institute of consecrated life or of a society of apostolic life, or any one of the faithful who enjoys a dignity or performs an office or function in the Church, who commits an offence mentioned in §1 or in canon 1395 §3 is to be punished according to the provision of can. 1336 §§2–4, with the addition of other penalties according to the gravity of the offence.

The 1983 Code stated: ‘Canon 1333 §1. Suspension, which can affect only clerics, prohibits ...’ This has been changed in the revised Book VI (2021) so that the phrase ‘which can affect only clerics’ has been removed. This removal was necessary because lay employees of the church can now be punished with suspension from office for crimes such as sexual abuse of minors.

7. Grooming

A significant addition to penal law is the legislation making grooming a crime in 1398 §1 2°:

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

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

Grooming, however, is not defined and what exactly it encompasses will be shown by the jurisprudence of the Congregation for the Doctrine of the Faith or another canonical document.

In New Zealand, Australia and many other countries, one cannot photograph children or obtain children’s phone numbers without parental consent. In our society these actions are considered grooming because of how paedophiles operate using pictures of children’s faces. It will be significant how these actions are interpreted by the Congregation for the Doctrine of the Faith. People normally recognise how an offender had been grooming only in hindsight, but bishops now have the capacity to take preventative measures in particular law to penalise clergy and lay church officials who carry out clearly recognised grooming practices such as: having people under age eighteen stay alone with them; or spending time alone with them. Experience has demonstrated that guidelines on behaviour are insufficient. There is a need for diocesan bishops to legislate safeguarding laws that have consequences if they are not observed.

8. *Vulnerable People*

Pope Francis legislated that abuse of vulnerable people was a crime in *Vos Estis Lux Mundi*:

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.

Vulnerable persons are defined in *Vos Estis Lux Mundi* as ‘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’.

Archbishop Charles Scicluna, speaking to the Fall General Assembly of the United States Conference of Catholic Bishops, said, ‘the vulnerable person is also recognized as “equal in protection”’.²¹ Scicluna clarified that the law did not equate vulnerable adults and ‘a mentally disabled person or a minor’, but pointed out they have been granted equal protection by the law as a separate category. He explained:

This means, however, that the local bishop has to take care of these cases, because the Congregation for the Doctrine of the Faith has and enjoys jurisdiction over the cases in its special norms [which are limited to minors and those who habitually have the imperfect use of reason]. But sexual misconduct with vulnerable adults, for whom the law recognizes equal protection under *Vos estis lux mundi*, is not reserved to the Congregation for the Doctrine of the Faith.²²

To reiterate the relevant part of the revised canon 1398:

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

1° commits an offence against the sixth commandment of the Decalogue with a minor or with a person who habitually has an

21. Charles Scicluna, Address to the USCCB, 18 November 2021, www.pillaratholic.com/p/local-bishops-must-prosecute-abuse.

22. Ibid.

imperfect use of reason or with one to whom the law recognises equal protection.

Arrieta has also noted that ‘vulnerable’ is not accepted in many countries as a legal category of persons who should receive special protection.²³ Nevertheless the legislation of *Vos Estis Lux Mundi* still applies. Arrieta has also pointed out special laws ‘may be established, at the universal or regional level, to grant equal protection to specific categories of persons’.²⁴

Cases of vulnerable people are not within the competence of the Congregation for the Doctrine of the Faith. The *Vademecum* of the CDF states:

5. The revision of the *Motu Proprio SST*, promulgated on 21 May 2010, states that a person who habitually has the imperfect use of reason is to be considered equivalent to a minor (cf. art. 6 §1, 1° *SST*). With regard to the use of the term ‘vulnerable adult’, elsewhere described as ‘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’ (cf. art. 1 §2, b *VELM*), it should be noted that this definition includes other situations than those pertaining to the competence of the CDF, which remains limited to minors under eighteen years of age and to those who ‘habitually have an imperfect use of reason’. Other situations outside of these cases are handled by the competent Dicasteries (cf. art. 7 §1 *VELM*).

This would mean either the Congregation for the Evangelization of Peoples for mission countries or the Congregation for the Clergy.

Pope Benedict XVI, on 19 December 2008, granted the Congregation for the Evangelization of Peoples special faculties concerning clergy violating canons 1394 and 1395.²⁵ The special faculties encompassed the cases of priests:

- (1) who had attempted a civil marriage;²⁶
- (2) who were living in concubinage or had committed sexual crimes;²⁷

23. ‘Bishop Arrieta: How Book VI of Canon Law Has Changed’, *Vatican News*, 1 June 2021, <https://www.vaticannews.va/en/vatican-city/news/2021-06/book-vi-vatican-penal-code-apostolic-constitution.html>.

24. Arrieta, Question and Answer Session.

25. Congregation for the Evangelization of Peoples, Circular Letter, Prot. No. 0579/09, in John Renken, *The Penal Law of the Roman Catholic Church: Commentary on Canons 1311–1399 and 1717–1731 and Other Sources of Penal Law* (Ottawa: Saint Paul University, 2015), 485. Similar faculties were granted to the Congregation for the Clergy on 30 January 2009.

26. The same faculty is also applied to a cleric who is guilty of attempted marriage and, though duly admonished by the competent Ordinary, refuses to mend his ways and continues his irregular and scandalous life (cf. CIC 83 canon 1394 §1).

27. CIC 83 canon 1395.

(3) who had abandoned ministry for more than five consecutive years.²⁸

The faculties enabled the congregations to proceed administratively and bring the cases to the Holy Father to decide.²⁹ The special faculties also enabled cases of deacons to be dealt with:

The same penalty could also be applied to a deacon who has caused scandal in the moral field and is therefore judged by the competent superior not fit to be promoted to the order of priesthood, but does not intend to ask for the pontifical dispensation from the obligations arising from the diaconate ordination.³⁰

These faculties apply in mission countries such as New Zealand and most Asian and African countries.

9. Abuse of Authority

According to canon 2404 of the 1917 Code, the abuse of authority as a cleric was a crime, but the provisions did not include as a crime the failure of a person in authority to act.

The revised penal law reiterates that abuse of authority as a cleric is a crime. It is recognised that many so-called ‘consenting adult’ relationships are not ones with equal consent and often vulnerable people are manipulated by people in positions of power and authority. In the revised Book VI, canon 1389 has become canon 1378:

Canon 1378 §1. A person who, apart from the cases already foreseen by the law, abuses ecclesiastical power, office, or function, is to be punished according to the gravity of the act or the omission, not excluding by deprivation of the power or office, without prejudice to the obligation of repairing the harm.

§2. A person who, through culpable negligence, unlawfully and with harm to another or scandal, performs or omits an act of ecclesiastical

28. Canon 1392; Congregation for the Clergy, Circular Letter, Prot. No. 2009 0556, in Renken, *Penal Law*, 496: The special faculty to handle cases of clerics, who having freely abandoned the ministry for a period of more than five consecutive years and who, after careful verification of the facts insofar as this is possible, persist in such freely chosen and illicit absence from the ministry; taking this situation into account, to declare then their dismissal from the clerical state, with dispensation from the obligations consequent to ordination, including that of celibacy.

29. To proceed administratively and bring to the approval *in forma specifica* and decision of the Holy Father cases regarding the dismissal *in poenam* from the clerical status of those clerics who are found guilty of the offences in canon 1395 (concubinage and other serious scandals), without prejudice to the exclusive competence of the Congregation for the Doctrine of the Faith regarding cases of paedophilia.

30. Congregation for the Evangelization of Peoples, Circular Letter, Prot. No. 0579/09.

power or office or function, is to be punished according to the provision of can. 1336 §§2–4, without prejudice to the obligation of repairing the harm.

Abuse of authority includes culpable negligence and failing to act, such as a bishop's being told of an offence and allowing the abuser to remain in ministry. The revised canon points directly to penalties that may be imposed on an offender and makes explicit mention of their obligation to repair the harm they have caused.³¹

In the 1983 Code, canon 1395 did not mention abuse of authority. The revised canon 1395 (2021) has been changed significantly. Two new paragraphs have been added to canon 1395, and paragraph 3 explicitly addresses abuse of authority by clerics:

Canon 1395 §3. A cleric who by force, threats or abuse of his authority commits an offence against the sixth commandment of the Decalogue or forces someone to perform or submit to sexual acts is to be punished with the same penalty as in §2.

These provisions improve the penal law significantly and will make it easier to deal with clerics abusing their authority with vulnerable adults.

Unfortunately, there will still be cases of so-called consenting adults. For example, a case of a man and a woman having had a sexual relationship and then breaking up. If the man was afterwards ordained, and then later resumed the relationship, I think this would still, although morally wrong, constitute a consenting adult relationship provided the woman was not in a vulnerable state at the time.

Any cleric or religious has significant spiritual authority over lay people. If a cleric had a ministerial relationship with a person he had sex with, the cleric would be guilty of sexual abuse because he is abusing his authority. This would mean a sexual relationship between a bishop and a member of the faithful from his diocese, or between a priest and a parishioner, or between a priest-lecturer and a student, or between a seminary staff member and a seminarian would be a crime of sexual abuse.

The crime of abuse of authority most frequently refers to the crime of bishops or religious superiors failing to act or failing to act properly in response to complaints of sexual abuse. *Vos Estis Lux Mundi* states:

Article 1 §1 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

31. Canon 128. Whoever unlawfully causes harm to another by a juridical act, or indeed by any other act which is malicious or culpable, is obliged to repair the damage done.

or penal, against a cleric or a religious regarding the delicts referred to in letter a) of this paragraph.

Failures by bishops have seen a number removed from office or resign in Chile, Poland, the United States and elsewhere.

10. Prescription

Experience shows that victims take a long time to report sexual abuse. In Australia, for example, victims have taken thirty-three years on average to report having been abused.³² Canon 1362 after the 2021 revision states:

Canon 1362 §1. A criminal action is extinguished by prescription after three years, except for:

1° offences reserved to the Congregation for the Doctrine of the Faith, which are subject to special norms;

2° without prejudice to no. 1, an action arising from any of the offences mentioned in canons 1376, 1377, 1378, 1393 §1, 1394, 1395, 1397, or 1398 §2, which is extinguished after seven years, or one arising from the offences mentioned in can. 1398 §1, which is extinguished after twenty years.

A statute of limitations is similar to prescription and prevents a person being prosecuted for an offence after the passage of a period of time. Prescription extinguishes a criminal action to impose or declare a penalty after the prescription time expires. This means the cause of a criminal action no longer exists. Prescription is still retained for crimes of sexual abuse. Because victims take many years to report sexual abuse, many think there should be no prescription for these crimes. While the revised penal law retains prescription, the Congregation for the Doctrine of the Faith can derogate from prescription so that it does not apply in a particular case.³³ At present the law gives a sexually abused minor until age thirty-eight to make a complaint.

11. Suspension of the Prescription of the Criminal Action

Prescription of the criminal action is suspended for three years from when the petition of accusation is presented in a penal process. The revised canon 1362 (2021) states:

32. RCIRCSA, *Final Report*.

33. Revised Norms of *Sacramentorum Sanctitatis Tutela*, 2. On the extension of the term of prescription of a criminal action to twenty years, maintaining the right of the Congregation for the Doctrine of the Faith to derogate from prescription on a case-by-case basis (art. 7), see CDF, *Origins* 40 (2010–11): 146.

Canon 1362 §3. When the offender has been summoned in accordance with can. 1723, or informed in the manner provided in can. 1507 §3 of the presentation of the petition of accusation according to can. 1721 §1, prescription of the criminal action is suspended for three years; once this period has expired or the suspension has been interrupted through the cessation of the penal process, time runs once again and is added to the period of prescription which has already elapsed. The same suspension equally applies if, observing can. 1720 no. 1, the procedure is followed for imposing or declaring a penalty by way of an extra-judicial decree.

This is a very significant addition to the revised penal law. There had been confusion about prescription in cases where the offence must be reported to civil authorities and delays had occurred with the civil prosecution. Usually, church authorities wait until the civil process has ended before the canonical penal process proceeds so that evidence is not contaminated. Also, in many cases such as financial crimes, the civil process reveals more valuable evidence such as the personal bank records of the accused, because under privacy laws the church cannot obtain them. In a sexual abuse case, police may obtain incriminating photos from the computer of the accused. After a promoter of justice submits a petition, it is now possible for the remainder of the process to be on hold for at least three years.

12. Mandatory Reporting

In Australia the case studies of the Royal Commission exposed major failures by church authorities to deal with abuse crimes that were treated merely as moral failures. There has also been confusion about the meaning of the ‘pontifical secret’, which is one of the most misunderstood concepts in church legislation. The word ‘secret’ has the connotation of ‘cover-up’ and of keeping incidents ‘hidden’. In English the word ‘secretary’ comes from the Latin word *secretum*, meaning ‘secret’. Secretaries handle the highly confidential information of their employers.

Pope Francis promulgated a rescript and an instruction on the confidentiality of cases of sexual abuse of minors on 6 December 2019.³⁴ This law now enables jurisprudence of the Congregation for the Doctrine of the Faith to be published. Officials dealing with sexual abuse cases must still keep confidential what they have learnt from the acts of a case, but the legislation now makes it absolutely clear that there is no obstacle for any victim or witness to report crimes of abuse to the police and civil authorities.

34. Rescriptum ex audientia SS.mi: Rescript of the Holy Father Francis with which the Instruction *On the Confidentiality of Cases* is promulgated, 6 December 2019, http://www.vatican.va/roman_curia/secretariat_state/2019/documents/rc-seg-st-20191206_rescriptum_en.html.

In 2019, the *motu proprio*, *Vos Estis Lux Mundi*, introduced mandatory reporting of sexual abuse by clerics and religious within the church. Article 3 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.

§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*.

This mandatory reporting has been taken into account with the changes in Book VI. All clergy and religious brothers and sisters must report sexual abuse by clergy to the Ordinary even if the offender thinks it is consensual. They must report even suspicions that abuse is happening. This includes a cleric or religious abusing their authority by having sexual contact with anyone. This requirement is now reinforced by canon 1371 §6 in the revised penal law, which provides penalties for clergy and religious who fail to report an offence as required by canon law:

Canon 1376 §6. A person who neglects to report an offence, when required to do so by a canonical law, is to be punished according to the provision of can. 1336 §§2–4, with the addition of other penalties according to the gravity of the offence.

The offence of failure to report includes all Ordinaries. It is helpful for dioceses to have a reporting form available on a safeguarding website to facilitate the making of complaints by complainants/victims or witnesses. This also helps with the informing of other Ordinaries.

13. Protection of Whistle-Blowers

Sometimes in the past people reporting abuse have been criticised or treated badly. Yet civil law in most Western countries protects whistle-blowers reporting sexual abuse crimes. Significantly, the revised penal law provides protection for accusers and whistle-blowers. *Vos Estis Lux Mundi* states:

Article 4 – Protection of the person submitting the report

§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 person making the report is protected from prejudice, retaliation or discrimination as a result of submitting that report. This brings the church legislation into line with most civil jurisdictions.

Obviously, persons making a report could easily be members of a religious institute or diocesan clergy. Paragraph 3 makes it clear that no obligation to silence or secrecy can be imposed on a person about their report or its contents. This eliminates non-disclosure agreements, and makes it clear that a person making the report is free to report to any police or civil authority concerning the abuse.

Some cultures do not approve reporting misconduct by leaders such as clergy. Reporting anonymously can sometimes be necessary. Recently, a priest was reported for having a thirteen-year-old boy stay overnight at the presbytery. The complaint was made anonymously. The bishop wrote to the priest about the incident. The next Sunday the priest preached against those who had reported him. This case illustrates the need for protection for whistle-blowers.

14. Cooperation with Civil Authorities

Observing the civil reporting laws in countries was first addressed canonically on 3 May 2011 in a circular letter sent by the Congregation for the Doctrine of the Faith to Episcopal Conferences, which stated:

e) Cooperation with Civil Authority

Sexual abuse of minors is not just a canonical delict but also a crime prosecuted by civil law. Although relations with civil authority will differ in various countries, nevertheless it is important to cooperate with such authority within their responsibilities. Specifically, without

prejudice to the sacramental internal forum, the prescriptions of civil law regarding the reporting of such crimes to the designated authority should always be followed. This collaboration, moreover, not only concerns cases of abuse committed by clerics, but also those cases which involve religious or lay persons who function in ecclesiastical structures.³⁵

The Vatican has concerns that a global requirement to report to civil authorities would in some places result in victims being harshly dealt with and the clergy being persecuted. For example, in the Middle East, victims could be severely punished by secular authorities. Sometimes there are media reports of rape victims being jailed or punished—for example, a rape victim was stoned in Somalia in 2008.

In 2019 *Vos Estis Lux Mundi* stated:

Article 19 – Compliance with state laws

These norms apply without prejudice to the rights and obligations established in each place by state laws, particularly those concerning any reporting obligations to the competent civil authorities.

Also not observing civil law requirements is explicitly covered in the *motu proprio*:

Article 1 – Scope of application

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

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.

Historical failures of not dealing with complaints are now also encompassed by this legislation. The article in 1 b), c) and d) includes previous leaders by stating ‘who have been in the past leaders’, and refers to moderators of institutes of consecrated life, societies of apostolic life, and monasteries concerning acts or omissions while they were in office.

35. CDF, *Circular Letter to Assist Episcopal Conferences in Developing Guidelines for Dealing with Cases of Sexual Abuses of Minors Perpetrated by Clerics*, 3 May 2011, https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20110503_abuso-minori_en.html.

Although the Congregation for the Doctrine of the Faith's circular letter in 2011 made it clear the church must obey civil laws regarding abuse and reporting, Scicluna claimed *Vos Estis Lux Mundi* was the first time that 'compliance with state laws' had become universal law.

Scicluna pointed out it was unacceptable for people to try to protect the church now, because 'the good of the church requires truth and transparency, which includes respecting civil law'. He added that 'he hoped people felt "empowered to go to the police" to denounce a crime, and he said, "people have an obligation to report already existing crimes, negligence and inappropriate behaviour to church authorities"'. Furthermore, 'If people have the right and the duty to denounce something illicit' in the case of abuse, 'they also have the right to denounce if, after one year, nothing has been done [to address it]'.³⁶

The Congregation for the Doctrine of the Faith in its *Vademecum* goes further and encourages reporting even when there is not a legal obligation to do so:

17. Even in cases where there is no explicit legal obligation to do so, the ecclesiastical authorities should make a report to the competent civil authorities if this is considered necessary to protect the person involved or other minors from the danger of further criminal acts ...

49. When the laws of the state require the Ordinary or Hierarch to report a *notitia de delicto*, he must do so, even if it is expected that on the basis of state laws no action will be taken (for example, in cases where the statute of limitations has expired or the definition of the crime may vary).

Victims are always concerned to protect other potential victims and church authorities must do everything possible to ensure the safety of all.

This law applied canon 1389 (1378 (2021)), which had already made acts, or failures to act, crimes when they constituted an abuse of an office or position:

Canon 1378 §1. A person who, apart from the cases already foreseen by the law, abuses ecclesiastical power, office, or function, is to be punished according to the gravity of the act or the omission, not excluding by deprivation of the power or office, without prejudice to the obligation of repairing the harm.

§2. A person who, through culpable negligence, unlawfully and with harm to another or scandal, performs or omits an act of ecclesiastical power or office or function, is to be punished according to the provision

36. Charles Scicluna, 'Sexual Abuse of Children and Young People by Catholic Priests and Religious: Description of the Problem from a Church Perspective', in *Sexual Abuse in the Catholic Church: Scientific and Legal Perspectives*, ed. R. Hanson, F. Pfafflin and M. Lutz (Vatican City: Libreria Editrice Vaticana, 2004), 239.

of can. 1336 §§2–4, without prejudice to the obligation of repairing the harm.

These provisions of *Vos Estis Lux Mundi* remove any doubt about the application of this canon to sexual abuse cases.

Although the revised penal law does not provide a penalty for not reporting to civil authorities, *Vos Estis Lux Mundi* still requires bishops, religious and clergy to obey civil reporting laws except when the knowledge is under the seal of confession.

Bishops and religious superiors can be removed from office or punished for covering up sexual abuse and not cooperating with civil investigations.

The obligation to observe civil reporting laws is clear. However, the Vatican maintains that mandating reporting to civilian authorities would imperil Catholics in some countries where they already face oppression. Also, privacy laws in some countries conflict with universal mandatory reporting. For example, the Italian privacy law in force in 2019 allowed a family to decide whether they would report a crime to the police and outsiders did not have the right to take the case to the police.

15. Process for Reporting Sexual Abuse of Minors and Vulnerable Adults within the Church

A major advance in the *motu proprio* is the requirement that priests, deacons and religious must report sexual abuse when they know it has happened or they believe that it is happening. Reports might be anonymous or only of suspicions that sexual abuse is taking place. The Congregation for the Doctrine of the Faith explains:

11. At times, a *notitia de delicto* [knowledge of the delict] can derive from an anonymous source, namely, from unidentified or unidentifiable persons. The anonymity of the source should not automatically lead to considering the report as false. Nonetheless, for easily understandable reasons, great caution should be exercised in considering this type of *notitia*, and anonymous reports certainly should not be encouraged.

12. Likewise, when a *notitia de delicto* comes from sources whose credibility might appear at first doubtful, it is not advisable to dismiss the matter *a priori*.³⁷

Experience teaches that anonymous complaints often have a basis in fact, especially when the complaint specifies an exact time and place when the alleged offence occurred. Investigations of these anonymous complaints must

37. CDF, *Vademecum*.

also be reported to the Congregation for the Doctrine of the Faith, including those that the Ordinary decides lack a semblance of truth.³⁸

Vos Estis Lux Mundi article 3 states, concerning the requirement to report:

§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.

The local Ordinary would mean the diocesan bishop, or apostolic or diocesan administrator.³⁹ All clergy and religious need to be informed about their obligation to report sexual abuse that has happened or they think is taking place.

While the obligation to uphold the seal of confession is not stated explicitly, the seal is included by mentioning canon 1548, which cites canon 1550:

Canon 1548 §1. When the judge questions witnesses legitimately, they must tell the truth.

§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.⁴⁰

Canon 1548 refers to canon 1550 §2 concerning those unable to report:

2/ priests regarding all matters which they have come to know from sacramental confession even if the penitent seeks their disclosure;

38. *Ibid.*, n. 19. Even in these cases, however, it is advisable that the Ordinary or Hierarchy communicate to the CDF the *notitia de delicto* and the decision made to forego the preliminary investigation due to the manifest lack of the semblance of truth.

39. Canon 134 §1. In law the term Ordinary means, apart from the Roman Pontiff, diocesan Bishops and all who, even for a time only, are set over a particular Church or a community equivalent to it in accordance with Can. 368, and those who in these have general ordinary executive power, that is, Vicars general and episcopal Vicars; likewise, for their own members, it means the major Superiors of clerical religious institutes of pontifical right and of clerical societies of apostolic life of pontifical right, who have at least ordinary executive power.

§2. The term local Ordinary means all those enumerated in §1, except Superiors of religious institutes and of societies of apostolic life.

§3. Whatever in the canons, in the context of executive power, is attributed to the diocesan Bishop, is understood to belong only to the diocesan Bishop and to those others in Canon 381 §2 who are equivalent to him, to the exclusion of the Vicar general and the episcopal Vicar except by special mandate.

40. Vatican translation, http://www.vatican.va/archive/ENG1104/_P60.HTM.

moreover, matters heard by anyone and in any way on the occasion of confession cannot be accepted even as an indication of the truth.⁴¹

A priest cannot report sexual abuse that is confessed to him by a perpetrator in confession. However, the priest could help a victim who comes to him in confession seeking help, to report or complain about the abuse. It would have been better if *Vos Estis Lux Mundi* stated explicitly the obligation to uphold the seal of confession rather than simply refer to canons stating the obligation to uphold it.

Reports of sexual abuse would usually go to the diocesan bishop. If a complaint involves a bishop or religious superior personally abusing someone or failing to act on abuse complaints, then the report would go to the metropolitan,⁴² the papal nuncio, or directly to the Holy See. Persons making complaints are protected in canon law, and any discriminatory action against them is a criminal act in canon law. There is no requirement in *Vos Estis Lux Mundi* that the acts of the investigation be shared with the accused bishop or religious leader before the Congregation for the Doctrine of the Faith is notified about the complaint or accusation.

The Congregation for the Doctrine of the Faith requires the Ordinary or Hierarch to report to it allegations of sexual abuse that are considered unproven. The congregation's *Vademecum* of 16 July 2020 states:

69. In accordance with art. 16 *SST*, once the preliminary investigation has concluded, whatever its outcome, the Ordinary or Hierarch is obliged to send, without delay, an authentic copy of the relative acts to the CDF. Together with the copy of the acts and the duly completed form found at the end of this handbook, he is to provide his own evaluation of the results of the investigation (*votum*) and to offer any suggestions he may have on how to proceed (if, for example, he considers it appropriate to initiate a penal procedure and of what kind; if he considers sufficient the penalty imposed by the civil authorities; if the application of administrative measures by the Ordinary or Hierarch is preferable; if the prescription of the delict should be declared or its derogation granted).

Even if the Ordinary thinks the accusation is unproven or unfounded, he must report the accusation and what he has done about it to the Congregation for the Doctrine of the Faith.

41. Ibid.

42. The term 'metropolitan' goes back to the early days of the church, when a Roman organisational model was borrowed by the church. The word 'metropolitan' comes from the Greek words for 'mother city'. The original metropolitan diocese normally had other smaller dioceses divided off from it, so it was in a sense the mother diocese.

16. Abandoning Ministry

Since Vatican II many clergy and religious have left ministry with no dispensation. The changed penal law includes the crime of voluntarily and unlawfully abandoning ministry for six months continuously:

Canon 1392. A cleric who voluntarily and unlawfully abandons the sacred ministry, for six months continuously, with the intention of withdrawing himself from the competent Church authority, is to be punished, according to the gravity of the offence, with suspension or additionally with the penalties established in can. 1336 §§2–4, and in the more serious cases may be dismissed from the clerical state.⁴³

This canon reinforces and strengthens the ability of the Ordinary to deal with offenders and is related to other provisions for clergy and religious that have been made in earlier documents.⁴⁴

Conclusion

The failure of bishops and religious superiors to implement penal law has been a major cause of the sexual abuse crisis. There have been many improvements made in the penal law of the church with the Book VI changes of 2021. The changed canons in Book VI address weaknesses in the 1983 Code, made apparent by the sexual abuse crisis and the financial scandals that have occurred in recent years. Because of abuse by lay leaders in organisations such as the Sodalitium Christianae Vitae, there are now more effective laws to deal with lay offenders. Bishops and religious superiors must implement the penal law. As well, bishops need to make particular law for their dioceses to implement safeguarding law and define ‘grooming’ in their cultural context. Law cannot solve every problem, and there needs to be a change in culture and mentality in the church so that clericalism and a sense of entitlement are removed from the life of the church. Pope Francis said in promulgating the changes in Book VI: ‘Charity thus demands that the Church’s pastors resort to the penal system whenever it is required, keeping in mind the three aims that make it necessary in the ecclesial community: the restoration of the demands of justice, the correction of the guilty party and the repair of scandals’.⁴⁵ These criteria have been the key elements for the revision.

43. New Book VI of the Code of Canon Law.

44. Francis, *motu proprio, Communis Vita*, 19 March 2019, *Communicationes* 51 (2019): 15–17. Special faculties for the Congregation for the Evangelization of Peoples and the Congregation for the Clergy, in Renken, *Penal Law*, 485–99.

45. Francis, PGD.