

The Canonist

Journal of the Canon Law Society of Australia and New Zealand

Volume 14 Number 2 2023

Contents

Pope Francis and the Art of judging Marriage Nullity Cases Lynda Robitaille	168
The Concept of Moral Certitude in Ecclesiastical Penal Cases involving More Grave Delicts Donna Miller	185
The Canonical Penal Judicial Process Fabio Freda.....	222
The Extrajudicial Penal Process Brendan Daly.....	243
The Charism or Patrimony of a Religious Institute and its Apostolate Thien Hong hi Nguyen.....	260
‘If people in the church knew’: Purity, Stigma and Victim-Blaming Rocio Figueroa, Aton Hungyo and David Tombs	280
Declaration <i>Fiducia Supplicans</i> on the Pastoral Meaning of Blessings V́ctor Manuel Card. Ferńandez.....	292
Observations on the Declaration <i>Fiducia Supplicans</i> Peter Slack	304

‘If people in the church knew’: Purity, Stigma and Victim-Blaming

*Rocio Figueroa, Aton Hungyo and David Tombs

The trial of Bishop Mulakkal

In a country where religious leaders are idealized and the sexual purity of women is a strong value within the society, it was an unprecedented moment for Indian Christians when a 44-year-old nun in Kottayam, Kerala, filed a rape report against a Bishop. In June 2018, the mother superior of a convent from Mission of Jesus (a congregation based in Punjab) filed a rape case against Jalandhar diocese Bishop Franco Mulakkal, at Kottayam police station.¹ This was the first time the authorities arrested a Bishop for a rape case in India. The nun accused Mulakkal of raping her 13 times during visits to her convent.² She stated that on the first occasion (5th May 2014) Bishop Mulakkal had called her to guest room no. 20, and then raped her. He then blackmailed her and forced her to engage in sex acts on twelve subsequent occasions, with the most recent on 23 September 2016.³

According to Catholic News Service, the victim wrote to church authorities in January 2017, the apostolic nuncio in India in January 2018, and then to Pope Francis in May 2018 (and copied this letter to the Pope to the prefects for the congregations for

* Dr Rocio Figueroa, attained Bachelor’s degree in theology at the Pontifical Faculty of Theology in Peru and her doctorate at the Pontifical Gregorian University, is a systematic theology lecturer in Catholic Theological College, Auckland. She has previously lectured and worked in Peru, Italy and Mexico. She worked in the Holy See as head of the women’s section in the Pontifical Council for the Laity. Her present research focus is theological and pastoral responses for survivors of Church sexual and spiritual abuse.

Ngalaton N. Hungyo is from an indigenous community in Northeast India. She is a doctoral student in the department of Christian Ethics at the United Theological College.

Professor David Tombs MA (Oxford) STM (Union Theological Seminary NY) MA (London) PHD (London) is Howard Paterson Professor of Theology and Public Issues, and Director, Centre for Theology and Public Issues, at the University of Otago, New Zealand.

¹ Sneha Mary Koshy, “Kerala Bishop Franco Mulakkal Charged in Nun Rape Case,” in NDTV, 13 August 2020, <https://www.ndtv.com/india-news/kerala-nun-rape-case-bishop-of-jalandhar-diocese-charged-with-repeatedly-raping-nun-2278965> (Accessed 17 June, 2023).

² Koshy, “Kerala Bishop Franco Mulakkal Charged in Nun Rape Case,” in NDTV, 13 August 2020.

³ “Kerala nun rape case: Bishop Franco Mulakkal raped the victim in the same room 13 times between 2014 and 2016,” in *Mirrornews.com*, 22 September 2018, <https://www.timesnownews.com/mirror-now/in-focus/article/kerala-nun-rape-case-jalandhar-bishop-franco-mulakkal-raped-victim-same-room-13-times-remand-report/288455> (Accessed 29 June, 2023).

the Doctrine of Faith and for Bishops).⁴ However, none of the church authorities took effective action. Before the victim took her case to the police, she sent a further reminder to church authorities.⁵ Her plea for help and justice was met with public silence. After months of inaction by church authorities she eventually filed a police complaint on 27th June 2018, and a First Information Report (FIR) was registered on 29th June.

Following the filing of the FIR, Mulakkal was taken into judicial custody on 21st September and the police interrogated him for three days. He was then charged under "Indian Penal Code (IPC) Sections 342 (wrongful confinement), 376 (c) (a) sexual intercourse by a person in authority), 376(2) (k) (sexual intercourse by exhorting authority), 377 (unnatural sex) and 506 (criminal intimidation)."⁶ The arrest received global attention. It was the first time the public witnessed a nun taking a firm stand against a powerful religious leader in India. On 20th September, the Vatican temporarily discharged Mulakkal from the church's administrative work, but he retained his title and status as bishop.⁷ On 16th October 2018 Mulakkal was released on conditional bail pending trial.⁸

On 22nd October, a prime witness Father Kuriakose Kattuthara, who had testified against Mulakkal, was found dead in his room in Jalandhar.⁹ The death of Kattuthara was said to be caused by health conditions. However, his family members are reported

⁴ Catholic News Service, "Indian police charge bishop with repeatedly raping nun," in *Global Sisters Report*, 9 April, 2019, <https://www.globalsistersreport.org/news/trends/indian-police-charge-bishop-repeatedly-raping-nun-56062> (Accessed 29 June, 2023).

⁵ Catholic News Service, "Indian police charge bishop with repeatedly raping nun," in *Global Sisters Report*, 9 April, 2019.

⁶ Dibakar Dutta, "Accused hailed and acquitted, victim shamed by Court and Church: A timeline of the Bishop Franco Mulakkal case," in *Opindia*, 19 January, 2022, <https://www.opindia.com/2022/01/bishop-franco-mulakkal-a-timeline-of-the-case-from-rape-allegations-to-acquittal/> (Accessed 17 June, 2022).

⁷ "Pope Temporarily Relieves Bishop Mulakkal of Pastoral Duties," in *The Wire*, 20 September 2019, <https://thewire.in/religion/pope-temporarily-relieves-bishop-mulakkal-of-pastoral-duties> (Accessed 30 June, 2022).

⁸ "Franco Mulakkal Acquitted: Timeline of Nun's 2018 Rape Case Against Former Bishop," in *News18*, 14 January, 2022, <https://www.news18.com/news/india/franco-mulakkal-acquitted-timeline-of-nuns-2018-rape-case-against-former-bishop-4656440.html> (Accessed 17 June, 2022); "Kerala nun rape case: Accused ex-Bishop Franco Mulakkal's bail extended till January 6," in *Scroll.in*, 30 November, 2019, <https://scroll.in/latest/945369/kerala-nun-rape-case-accused-ex-bishop-franco-mulakkals-bail-extended-till-january6#:~:text=Mulakkal%2C%20who%20was%20arrested%20on%20September%2021%2C%202018%2C,on%20April%209%2C%20seven%20months%20after%20his%20arrest.> (Accessed 28 June, 2022).

⁹ Catholic News Service, "Indian priest, witness against bishop accused of rape, found dead," in *Global Sisters Report*, 22 October, 2018, <https://www.globalsistersreport.org/news/equality/indian-priest-witness-against-bishop-accused-rape-found-dead-55533> (Accessed 29 June 2022).

to believe that his death was linked to his support for the rape victim.¹⁰ Just before Mulakkal's arrest, Sandhya Raju, the legal counsel to the nun, had told the Kerala High Court that threats had been made against both the nun and her family, and money had also been offered to the family.¹¹

Mulakkal denied all charges and insisted the allegations were false. He claimed that the rape case was invented to discredit him.¹² He had support from many powerful people, including a Member of the Legislative Assembly (MLA), A.P.C. George and other bishops.¹³ In response, Sister Ancita a supporter of the complainant, explained that the nun was in a battle with one of the most powerful people in the church.¹⁴ Another nun testified that because the congregation came under the patronage of the bishop of Jalandhar, Mulakkal was seen as "like God."¹⁵

In January 2019, Church authorities asked four of the complainant's supporters to leave their convent. They were issued with transfer orders by the Jalandhar-based Missionaries of Jesus.¹⁶ Another nun, Sister Lucy Kalapura, a member of the Franciscan Clarist Congregation, who publicly protested against Mulakkal, was dismissed from the order.¹⁷

¹⁰ Catholic News Service, "Indian priest, witness against bishop accused of rape, found dead," in *Global Sisters Report*, 22 October, 2018.

¹¹ "Kerala nun rape case: Victim and her family offered money, even threatened: Counsel tells Kerala HC, in *Morrorsnownews.com*, 13 September, 2019, <https://www.timesnownews.com/mirror-now/in-focus/article/kerala-nun-jalandhar-bishop-franco-mulakkal-rape-case-victim-family-offered-money-threatened-high-court/284159> (Accessed 30 June, 2022).

¹² Vishnu Varma and Apurva Vishwanath, "Outrage as bishop acquitted in nun rape, court blames 'rivalry'," in *The Indian Express*, 15 January, 2022, <https://indianexpress.com/article/india/kerala/kerala-nun-rape-case-franco-mulakkal-verdict-7722480/> (Accessed on 29 June, 2022).

¹³ Anand Kochukudy, "Bishop Franco Mulakkal case shows the Kerala Church's fall from grace," in *Daily Beta*, 09 October, 2018, <https://www.dailyo.in/politics/kerala-nun-rape-bishop-franco-mulakkal-bishop-mathew-arackal-pinarayi-vijayan-catholic-church-27085> (Accessed 25 July, 2022).

¹⁴ Pieter Friedrich, "Rape and Power: Bishop Mulakkal's denial could be from Trump's Playbook," in *The Citizen*, 25 September, 2018, <https://www.thecitizen.in/index.php/en/NewsDetail/index/7/15088/Rape-and-Power:-Bishop-Mulakkals-Denial-Could-Be-From-Trumps-Playbook> (Accessed 20 July, 2022).

¹⁵ Nidhi Suresh, "Power, lust and church: Mulakkal verdict brings focus back on sex abuse in convents despite 'checks'," in *Newslaundry*, 19 January, 2022, <https://www.newslaundry.com/2022/01/19/power-lust-and-church-mulakkal-verdict-brings-focus-back-on-sex-abuse-in-convents-despite-checks> (Accessed 25 July, 2022).

¹⁶ P. S. Gopikrishnan Unnithan, "Kerala nun rape case: Four nuns who supported rape survivor asked to leave convent," in *India Today*, 16 January, 2019, <https://www.indiatoday.in/india/story/kerala-nun-rape-case-1432150-2019-01-16> (Accessed 29 June, 2022).

¹⁷ Catholic News Service, "Nun links dismissal from order to protest of Indian bishop accused of rape," in *CatholicPhilly.com*, 9 August, 2019,

A trial date was eventually set for what proved to be a long legal process. The trial began on 16th September 2020 and concluded on 10th January 2022. As a part of the case, 4,000 pages of investigation reports were submitted. These contained 89 witness statements; and 39 witnesses were called to testify. At the conclusion, despite the testimony of the complainant, and supporting evidence from others, Mulakkal was found “not guilty.”¹⁸ The verdict of the court came as a shock to many. The senior police officer who had investigated the case said he was convinced that “he had built a watertight case against the accused.”¹⁹ The judge, G Gopakumar, ruled that “there are exaggerations and embellishments in the version of the victim.”²⁰ The court offered five reasons for finding Mulakkal innocent. First, much of the evidence presented against him was viewed with reservations. The judge concluded that despite the many witness statements the complainant lacked support from a “sterling witness”.²¹ The evidence of a prime witness, Sister Lissy Vadakkal, who attested to knowledge of the rape was declared “unreliable.”²² In support of this, Gopakumar cited a letter written by Vadakkal to the Mother Provincial General on 5th February 2019. He pointed out that the statement Vadakkal gave to the police differed from the letter she wrote to the Mother Provincial General. The police say Vadakkal had been aware of the rape since 2014, however, the letter Vadakkal sent to Mother Provincial General claimed that there had been no rape.²³ The judge pointed to the letter as undermining the credibility of Vadakkal’s evidence. He suggested that the allegation was influenced by in-fighting within the convent and the congregation.”²⁴

Second, the victim was questioned for her delay in registering the case. The court asked why she would have remained silent for all these years if she was repeatedly

<https://catholicphilly.com/2019/08/news/world-news/nun-links-dismissal-from-order-to-protest-of-indian-bishop-accused-of-rape/> (Accessed 30 June, 2022).

¹⁸ Jeemon Jacob, “Why Bishop Mulakkal was acquitted of rape,” in *Indiatoday*, 18 January, 2022, <https://www.indiatoday.in/india-today-insight/story/why-bishop-mulakkal-was-acquitted-of-rape-1901324-2022-01-18> (Accessed 18 June, 2022).

¹⁹ Virginia Saldanha, “Mulakkal verdict leaves nuns more vulnerable,” in *Matters India*, 20 January, 2022, <https://mattersindia.com/2022/01/mulakkal-verdict-leaves-nuns-more-vulnerable/> (Accessed 30 June, 2022).

²⁰ Murali Krishnan, “India: Bishop rape ruling raises questions about role of church,” in *DW*, 17 January, 2022, <https://www.dw.com/en/india-bishop-rape-ruling-raises-questions-about-role-of-church/a-60448012> (Accessed 26 June, 2022).

²¹ Jacob, “Why Bishop Mulakkal was acquitted of rape,” in *India Today*, 18 January, 2022.

²² Dhanya Rajendran, “Bishop Franco Case: Prime Witness Sister Lissy on How Her Letter Was Misused,” in *The Quint*, 16 January, 2022, <https://www.thequint.com/news/india/i-was-devastated-franco-case-prime-witness-sr-lissy-on-how-her-letter-was-misused#read-more> (Accessed 22 June, 2022).

²³ Rajendran, “I was devastated: Franco case prime witness Sr Lissy on how her letter was used,” in *The News Minute*, 16 January, 2022.

²⁴ Haritha John, “Why Bishop Franco Mulakkal was acquitted, even though no witnesses turned hostile,” in *The News Minute*, 18 January, 2022, <https://www.thenewsminute.com/article/why-bishop-franco-mulakkal-was-acquitted-even-though-no-witnesses-turned-hostile-159987> (Accessed 25 July, 2022).

assaulted? It was also argued that the victim did not use the word rape when she told a fellow nun about her brutal encounter. Instead, she said that “I will have to sleep with him.”²⁵ The court also described the victim’s testimony as “unreliable” because there were “inconsistent versions at different points of time to different persons.”²⁶

Third, the victim was accused of having sexual relations “with the husband of her relative,”²⁷ before the rape case was reported. The judge suggested that the complaint might therefore reflect these family tensions.

Fourth, as the case began two years after the rape took place, the court claimed that they did not get concrete evidence in support of the victim. They also suggested that the victim was unable to produce evidence from her mobile phone and laptop where she had sought to save offensive messages sent by Mulakkal. The court also referred to “lack of medical evidence” as the incident occurred two years back.²⁸

Finally, it was found that the medical report presented in the trial was different from the original medical report.²⁹

The acquittal of Mulakkal case attracted criticism in relation to the judge’s reasoning and because the sceptical attitude to the evidence seemed likely to discourage victims from seeking justice through the legal system. On average, according to the National Crime Records Bureau (NCRB) data for 2019, 88 rapes take place every day in India. Virginia Saldanha commented on the Mulakkal case: ‘women are deeply dismayed because such a judgment is a deterrent to any other nun to come forward and report rape. One nun said to me: now women will be careful not to come forward if they do not have strong evidence or they will be further humiliated if they report rape’.³⁰ The negative view of the letter of Sister Vadakkal and the comments made on it have been a particular focus of concern.

In response, the complainant’s lawyers announced they would challenge the verdict in the Kerala high court. On 2nd June 2022, the Apostolic Nunciature, the Vatican’s diplomatic representative in India said in a statement that due to the appeal a request had been made to Mulakkal that he resign. The Nuncio explained:

²⁵ John, “Why Bishop Franco Mulakkal was acquitted, even though no witnesses turned hostile,” in *The News Minute*, 18 January, 2022.

²⁶ Bhadra Sinha, “Inconsistent statements, church rivalry — why Kerala court acquitted ex-Bishop Franco Mulakkal,” in *The Print* (16 January, 2022), <https://theprint.in/judiciary/inconsistent-statements-church-rivalry-why-kerala-court-acquitted-ex-bishop-franco-mulakkal/804613/> (Accessed 22 July, 2022).

²⁷ Jacob, “Why Bishop Mulakkal was acquitted of rape,” in *India Today*, 18 January, 2022.

²⁸ Jacob, “Why Bishop Mulakkal was acquitted of rape,” in *India Today*, 18 January, 2022.

²⁹ Jacob, “Why Bishop Mulakkal was acquitted of rape,” in *India Today*, 18 January, 2022.

³⁰ Virginia Saldanha, ‘Mulakkal verdict leaves nuns more vulnerable to clergy sex abuse’, *Global Sisters Report*, 19 January 2022. Retrieved from: <https://www.globalsistersreport.org/news/religious-life/blog/mulakkal-verdict-leaves-nuns-more-vulnerable-clergy-sex-abuse> (Accessed: 25-07-2023).

.. given the still divisive situation about the aforesaid matter in the Diocese of Jalandhar the resignation has been requested from the Rt. Mulakkal not as a disciplinary measure imposed upon him, but as a *pro bono Ecclesiae*, especially for the good of the Jalandhar diocese, which needs a new bishop, “ the statement said. Mulakkal will be known as a bishop *emeritus* of Jalandhar and he has not any canonical restrictions.³¹

Taken out of context, Vadakkel’s letter might be seen as fatally undermining the credibility of the evidence she presented in court in support of the complainant. However, after the acquittal she offered a plausible explanation for her, and insisted that her evidence should not have been simply discounted.

Sister Vadakkel’s letter

When Vadakkel realised that her own letter to the Mother Provincial General had been used to discredit her court evidence she was devastated. Vadakkel argued for the need to consider the way the Catholic church functions. In India, and elsewhere, Church requirements for chastity mean that nuns feel forced to hide their experience of sexual violation, for fear of sanctions or expulsion from the church.³² Within the Catholic church celibacy determines whether a nun can stay in the convent or not; if a nun is violated, she is expected to give up her vocation and leave the convent.³³

These decisions are made by male clergy who readily position themselves in support of the bishop and the priest.³⁴ When victims of a sexual violation are reported to the church authorities, it is a common practice to take action against the woman who has been violated whilst the violator, who is invariably male, goes free.³⁵ Nuns in India have stated that if they admit that they had a sexual experience, even if it is forced, they risk isolation within their orders and the real possibility of expulsion.³⁶

³¹ “Bishop Franco Mulakkal News: Vatican prevails, nun rape case accused Jalandhar bishop Franco Mulakkal resigns” *Times of India*, 2 June 2023, <https://timesofindia.indiatimes.com/city/kochi/vatican-prevails-franco-mulakkal-steps-down-for-good-of-church/articleshow/100690950.cms>.

³² “Catholic priests have been preying on nuns for sex and raping them for decades in churches across India, investigation finds”, in *Daily Mail*, 2 January, 2019.

³³ Suresh, “Power, lust and church: Mulakkal verdict brings focus back on sex abuse in convents despite ‘checks’,” in *NewsLaundry*, 19 January 2019.

³⁴ Suresh, “Power, lust and church: Mulakkal verdict brings focus back on sex abuse in convents despite ‘checks’,” in *NewsLaundry*, 19 January 2019.

³⁵ “Catholic priests have been preying on nuns for sex and raping them for decades in churches across India, investigation finds,” *Daily Mail*, 2 January, 2019.

³⁶ “Catholic priests have been preying on nuns for sex and raping them for decades in churches across India, investigation finds,” in *Daily Mail*, 2 January, 2019, <https://www.dailymail.co.uk/news/article-6546193/AP-finds-long-history-nuns-abused-priests-India.html> (Accessed 24 June, 2023).

In light of this context, Vadakkel explained, “if people in the church knew that she was violated, they would not allow her to continue as a nun, so I added in the letter that she wasn’t violated. I just wanted to protect her. None of us want to leave our convents, this is where we have lived and where we intend to live till our death.”³⁷ The letter she wrote to the Mother Provincial General reflected her concern to safeguard the victim’s vocation. What Sister Vadakkel did, reflects a common mindset in the church: the virginity of women, and particularly, of nuns is a precious value to be exalted and the lack of it is a shameful condition. That is why, when a woman is raped or violated, the institutional concern is rarely justice; the discussion is limited to women’s virginity and purity and the impact this is seen as having on the reputation of the Church. In doing so, the victim is further victimised.

In India, female virginity is a high priority. A woman’s social value is measured according to her sexual chastity and purity. If a woman is raped the shame falls on the victim; women are invariably blamed for their own violation. A woman, and especially a woman religious, is seen as ‘impure’ because sex is considered as defiling. The woman’s lack consent is seen as unimportant.³⁸ In the Catholic realm, nuns in India have stated that if they admit to a sexual experience, they risk isolation or expulsion, and this applies even if it was a rape or forced experience. Thus, purity culture reinforces the destructive impact of rape culture because it blames rape survivors—particularly female survivors—for their own violation.³⁹ Vadakkel’s fear for the reputation of the complainant, and Vadakkel’s wish to protect this, makes sense of her attempt to reassure the Mother Provincial that the complainant was not violated. Vadakkel explains, “if people in the church knew that she was violated, they would not allow her to continue as a nun, so I added in the letter that she wasn’t violated. I just wanted to protect her”. This was a claim that Vadakkel says she regrets but it is important to recognise her fears and reasoning.

‘The Innocents’ (2016)

To understand the impulse and assumptions behind sister Vadakkel’s letter a helpful perspective is offered by the film *The Innocents* (2016). The film is based on a true story: a group of nuns from a Polish Convent were raped by Russian soldiers in World War II. Some of these nuns became pregnant but their situation was kept secret. A French nurse, Madeleine Pauliac, who served with the French Red Cross in 1945, discovered their predicament and sought to help the nuns. Initially the Superior refused to accept official help because she believed that if the rapes became known the scandal would be devastating. It was only when one of the pregnant nuns became very ill that

³⁷ Rajendran, “Bishop Franco Case: Prime Witness Sister Lissy on How Her Letter Was Misused,” in *The Quint*, 16 January, 2022.

³⁸ Jessica Keady, “Rape Culture Discourse and Female Impurity: Genesis 34 As A Case Study”, 5 October 2017, retrieved from <https://www.shilohproject.blog/rape-culture-discourse-and-female-impurity-genesis-34-as-a-case-study/>.

³⁹ Jessica Keady, “Rape Culture Discourse and Female Impurity: Genesis 34 As A Case Study”.

the Superior accepted Madeleine's help. Even so, she still tried to cover up the truth. She said the pregnant woman was not a nun but had been accommodated by the convent because her father kicked her out from her house. These lies are exposed when other pregnant nuns become known. When the Superior is challenged, and asked why the nuns are not taken to doctors, she answers: "our mission is to protect them. If people know that they are pregnant they will reject them". It is striking that the Superior's words in the film are so like the words of sister Vadakkel: "if people in the church knew".

In a rape culture when the people blame the victim, the negative social judgement has consequences in how victims feel about themselves: they readily absorb and internalise guilt and shame, and reinscribe harsh judgements against themselves. In the film one of the nuns cries: "I don't want to go to hell". A rape culture not only normalizes sexual violence but also insists that it is a woman's responsibility to preserve her purity.⁴⁰

Purity culture within the Church

In the Mulakkal case, the patriarchal and religious dynamics are intertwined with a purity culture. An ethic of feminine purity has existed in almost all societies and in the different social classes.⁴¹ According to Ortner since the emergence of the state, every culture has had different rituals and practices with the common denominator of the control of women's sexual purity. Ortner speaks of this control in terms of "the virginity complex".⁴² This complex is found especially in patriarchal societies where inheritance was associated with legitimate birth. The enforcement of female chastity protected the male blood-line, and that motivated men's control over the sexual behaviour of their wives and daughters: their place and honour in society depended on it.⁴³ In a patriarchal society women's virginity is a political, social, and economic asset for men.

Early Christianity not only assumed the patriarchal view of female purity from the Romans but was also influenced by stoicism and Jewish purity regulations. For example, Tertullian, who had a strong influence on the Latin church considered any sexual activity as negative because it was driven by desire. He spread the belief that abstinence from sex was the most effective technique for achieving clarity of soul.⁴⁴

⁴⁰ Libby Jackson, 'Purity Culture: A Perspective from the North of England' in *The Shiloh Project*, <https://www.shilohproject.blog/purity-culture-a-perspective-from-the-north-of-england/>.

⁴¹ Sherry B. Ortner, "The Virgin and the State", *Feminist Studies*, vol. 4 n. 3 (1978), 22.

⁴² Sherry B. Ortner, "The Virgin and the State", 19.

⁴³ Kathleen Young, "The Imperishable Virginity of Saint Maria Goretti": *Gender & Society*, Vol. 3, n. 4, December 1989, 479.

⁴⁴ "For continence will be a mean whereby you will traffic in a mighty substance of sanctity; by parsimony of the flesh you will gain the Spirit" (Tertullian, *De exhortation castitatis* 10,1-2, Retrieved from: <http://www.documentacatholicaomnia.eu/03d/0160->

The Patristic fathers saw virginity as inseparable from purity.⁴⁵ It was St. Augustine, who had the greatest influence on the doctrine of sexual ethics that persisted throughout the Middle Ages until the twentieth century. For St. Augustine, original sin was transmitted through intercourse, and sexual desire was a punishment inherited from original sin.⁴⁶ Marriage became the cure for all sins associated with fornication and the state of virginity and celibacy was the higher way to reach perfection. The discourse regarding purity was particularly addressed to those who chose sexual renunciation as monks and nuns.

According to Pozzi, it is in the nineteenth century that the Catholic vision of purity changed radically.⁴⁷ Until then purity was linked to chastity, and sexual purity became the standard required not only for monks, nuns, and priests but for any Catholic and especially women. At the end of the 19th century and beginning of the 20th century, scientists, doctors and politicians began to debate the need to discuss sexual topics: the necessity of sex education for young people to avoid the spread of venereal diseases, the importance of sexual pleasure and the need to control reproduction, among other topics. The sexual issue became a matter of public health and therefore also became a central issue for the Catholic church. The Catholic church's response to these debates regarding the reform in sexual education was to extoll the virtue of sexual purity for all believers. Sexual purity became a *modus vivendi* for every Catholic: it was a habit and an attitude that characterized being a Christian.⁴⁸

Secular authorities provided sexual education as a means of halting the spread of venereal diseases. The Catholic communicative strategy, however, was wholly based on purity.⁴⁹ The tone of this campaign grew progressively abrasive after the beginning of the twentieth century and remained as such until World War II with Pius XII's crusades of purity. The modern Catholic ideal of femininity came to be increasingly shaped by sexual purity. It placed a strong emphasis on modest clothing,

0220,_Tertullianus,_De_Exhortatione_Castitatis_[Schaff],_EN.pdf,. Accessed 25-7-2022).

⁴⁵ Lucia Pozzi, *The Catholic Church and Modern Sexual Knowledge, 1850-1950*, (Cham: Palgrave Macmillan, 2021), 91.

⁴⁶ Saint Augustine, *De Nuptiis et Concupiscentia*, Book 1, Chapt. 1 Retrieved from: <http://www.documentacatholicaomnia.eu/03d/0354->

0430,_Augustinus,_De_Nuptiis_Et_Concupiscentia_[Schaff],_EN.pdf,. Accessed 25-7-2022.

⁴⁷ Lucia Pozzi, *The Catholic Church and Modern Sexual Knowledge*, 91.

⁴⁸ Lucia Pozzi, *The Catholic Church and Modern Sexual Knowledge*, 91-92.

⁴⁹ In 1929 Pio XI published the encyclical *Divini Illius Magistri* in which he spoke against the dangers of sex education: ‘That naturalism is really dangerous. At present times it invades the field of education in relation to a very delicate subject: morality. It is very widespread the error of those who promote such sex education—with dangerous arrogance and with an ugly word—considering erroneously that they will protect youth against sensual dangers with merely natural means: like this daring initiation and preventative instruction for all, indiscriminately and publicly. Even worse is the idea of exposing young people to early opportunities, getting them accustomed to the argument almost to harden their spirit against those dangers. Finally, faults of morality are not the effect of intellectual ignorance, but of an unsteady will”.

the upbringing of children, and the virtue of sexual passivity.⁵⁰ In 1950 Pope Pius XII canonized Maria Goretti, an 11 year old child who was brutally murdered by a young man because she would not submit to his sexual advances. Pius XII called Maria Goretti: “the little and sweet martyr of purity”⁵¹ and he added: “From Maria’s story carefree children and young people with their zest for life can learn not to be led astray by attractive pleasures which are not only ephemeral and empty but also sinful”.⁵² This frames virginity as a spiritual commitment which is even more important than the young woman's life.⁵³ Sexual assault is compared to a sexual seduction where Goretti is praised for choosing death. This line of thought seems to be suggesting that if a young woman is raped, she is guilty of not preserving her virginity. At the same time there is a double standard that plays down male virginity. It is rare to hear of virginity being exalted as a virtue in the lives of the male saints and martyrs. It is only the female saints who are praised for their virginity.⁵⁴ Sexual education for girls in Catholic schools has often reinforced the uncritical adulation of St. Maria Goretti. As Marie Fortune affirms:

For girls, the message was that it was better to give up one’s life than one’s virginity. The secondary messages were equally important. A female’s technical virginity takes precedence over her life’ her value as a sexual object is more important than her personhood and survival’ sexual activity is violent and aggressive and woman’s role is to resist and defend her virginity. The confusion between sexual activity and sexual violence is powerfully instilled in this teaching. A more valuable teaching would have been to accurately portray Maria Goretti as a rape victim who attempted to defend herself from attack.⁵⁵

E. J. Graff argues that understanding rape as primarily sexual places the burden on women for not protecting their own bodies.⁵⁶ In *The Innocents* one of the nuns says: ‘We cannot allow anybody to see our bodies. It is considered a sin’. This statement

⁵⁰ Lucia Pozzi, *The Catholic Church and Modern Sexual Knowledge, 1850-1950*, 218-248.

⁵¹ Pio XII, *On the life of Maria Goretti at the canonization of St. Maria Goretti* AAS 42 [1950], 581-582) 1950.

⁵² Pio XII, *On the life of Maria Goretti at the canonization of St. Maria Goretti*, in: Kathleen Young, “The Imperishable Virginity of Saint Maria Goretti”, 476.

⁵³ Kathleen Young, “The imperishable Virginity of Saint Maria Goretti”, 474.

⁵⁴ Libby Jackson, ‘Purity Culture: A Perspective from the North of England’ in *The Shiloh Project*, <https://www.shilohproject.blog/purity-culture-a-perspective-from-the-north-of-england/>

⁵⁵ Marie Fortune, *Sexual Violence. The Unmentionable Sin*, (New York: Pilgrim Press, 1983), 23.

⁵⁶ E. J. Graff, “Purity Culture is Rape culture”, *The American Prospect*, (January 4, 2013) Retrieved from: <https://prospect.org/culture/purity-culture-rape-culture/> Accessed 25-07-2022.

⁵⁶ Marie Fortune, *Sexual Violence. The Unmentionable Sin*, 29.

reflects the longstanding association of the female body with sin and the resultant concern that female bodies should be kept controlled and hidden.

Rape myths and public statements on the Mulakkal case

Our intention in this article is not to re-litigate the complaint, the legal proceedings, or the verdict. Rather, we wish to consider at a more general level how an awareness of widely recognised rape myths can help guard against drawing mistaken inferences when evidence is presented.

A rape culture focuses on public perceptions about women and their actions: victims are often re-victimized through harmful beliefs on shame and stigma. When rape myths have public credibility, they can influence the thinking of the court. An awareness of rape myths illustrates how key decisions in the Mulakkal might have gone differently.

A first argument concerned the victim's slowness in reporting the crime: why did she take so much time to report it? It is well known that rape frequently generates a strong sense of shame and guilt. This often prevents the reporting of rape.

A second argument queried why the nun did not report after the first offence: Why was she raped so many times without reporting it earlier on? Implicitly, this argument suggests that sex is always consented to if it happens more than one time. This gives no acknowledgement of power and coercion.

A third argument was that the nun did not use the word 'rape', but said that she 'slept' with him. For the judge sexual violence seems to depend on physical violence and he did not find sufficient evidence of this. However, a woman can be raped without physical violence. Manipulation and imbalance of power offer opportunities for coercion and should be acknowledged as influences that can threaten the freedom of the victim: manipulation, imbalance of power etc.

Another argument, which was used by the defence, was to cast aspersions about the nun's sexual past experiences. Had she had sexual encounters before? This argument seems to suggest that rape cannot exist if you had sex before: it implies that if you have a sexual past, you somehow become more responsible for sexual violence in the present. The defence attorney used the victim's (alleged) past sexual history as a means to discredit her. The failure here is that it mistakenly suggests an equivalence between consenting sexual activity (which her detractors claim happened previously) and sexual violence, to which she claims she was repeatedly subjected.⁵⁷

Sister Julie George explains that nuns must be on good terms with the bishop, or else, their life will become difficult. The whole structure is controlled and dictated by

⁵⁷ Marie Fortune, *Sexual Violence. The Unmentionable Sin*, 29.

the Canon law which is “written for the governance of the church.”⁵⁸ George also states that, “congregations founded by bishops are completely suppressed and oppressed by the bishop. That was the kind of convent this survivor lived in. Even financial expenditure or how much money a nun can get per month is completely decided by that bishop.”⁵⁹ Father Augustine Vattoli, one of the few priests who supported the victim, states that “the church in India is all powerful” and they will do anything in their power to throw out those who stand against them.⁶⁰ S Harishankar, the former Kottayam police superintendent, stated that “her entire existence itself is dependent on the accused. He is one who gets to decide if she should remain dead or alive...”⁶¹

It is in a context like this that Sister Vadakkal wrote to Mother Provincial General feeling the need to protect the vow of chastity of a nun. And this context needs to be considered while examining the Mulakkal rape case. Father Augustine Vattoli, one of the few priests who supported the victim, states that “the church in India is all powerful” and they will do anything in their power to throw out those who stand against them.⁶² S. Harishankar, the former Kottayam police superintendent, stated that “her entire existence itself is dependent on the accused. He is one who gets to decide if she should remain dead or alive...”⁶³

⁵⁸ Suresh, “Power, lust and church”.

⁵⁹ Suresh, “Power, lust and church”.

⁶⁰ Suresh, “Power, lust and church”.

⁶¹ Suresh, “Power, lust and church: Mulakkal verdict brings focus back on sex abuse in convents despite ‘checks’,” in *NewsLaundry*, 19 January, 2022.

⁶² Suresh, “Power, lust and church”.

⁶³ Suresh, “Power, lust and church: Mulakkal verdict brings focus back on sex abuse in convents despite ‘checks’,” in *NewsLaundry*, 19 January, 2022.