

Spiritual Abuse as a Delict

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Many cases of spiritual abuse are being reported around the world and consideration needs to be given to spiritual abuse as a delict or crime in canon law. It is currently not considered to be such. The Universal Guidelines Framework (UGF) states:

Spiritual abuse means abuse of a person that invokes a person's religious beliefs and faith to perpetrate harm. Spiritual abuse can occur as a secondary experience of abuse when abuse is perpetrated by someone in a position of spiritual authority and trust within the Church and can negatively impact a person's spirituality.¹

This description is a very generic. The New Zealand Royal Commission Report into Abuse in Care did not see spiritual abuse only as a secondary experience and described spiritual abuse as:

where an abuser uses spirituality to gain power and control over a victim or has the result of harming the spiritual wellbeing of an individual. Spiritual abuse can co-occur with or enable physical, sexual or emotional abuse, and can intensify the impacts of that abuse by giving it a spiritual dimension, for example, feeling guilty or 'sinful' after sexual abuse.²

Individual cases demonstrate the different aspects and dimensions of spiritual abuse. Spiritual abuse can be the primary way an abuser gets power and control over the victim. It can be a key part of grooming a victim, enabling abuse, and then exacerbating the effects of abuse by impacting on the victim's relationship with God. Samuel Fernandez also describes spiritual abuse in a more experiential manner.³

Lisa Oakley and Justin Humphrey draw attention to how the abuser often

¹ Pontifical Commission for the Protection of Minors, *Universal Guidelines Framework*, March 2024; https://acrobat.adobe.com/id/urn:aaid:sc:AP:1ed671aa-794e-468b-b48e-3ddebd32c38a?comment_id=a54f1bf5-2d22-49a5-bc78-04f75524ecce&showComments=true. (hereinafter= *UGF*)

² Royal Commission of Inquiry into Abuse in Care, *Whanaketia – Through pain and trauma, from darkness to light Whakairihia ki te tihi o Maungārongo*, 204; <https://www.abuseincare.org.nz/reports/whanaketia/part-4/chapter-2-2/>

³ Samuel Fernández. *Victims Are Not Guilty! Spiritual Abuse and Ecclesiastical Responsibility*. 1; Religions | An Open Access Journal from MDPI. 9. (accessed 26 March 2024) "Spiritual abuse in the Catholic context is the misuse of spiritual authority that controls the victim to the point that the abuser, taking the place of God, obstructs or nullifies the victim's spiritual freedom. This type of abuse is perpetrated by an individual or a system supported by the Church as trustworthy. Hence, it always has an ecclesial dimension. This kind of abuse can harm the person at the spiritual, psychological, and physical levels."

befriends, manipulates and exploits the victim, requiring secrecy and silence, as the victim is controlled by appeals to such things as obedience and use of sacred texts.⁴ This could result in the voice of God being replaced with the voice of the abuser. This abuse can have long-lasting effects, not only on the spiritual well-being of the victim but it can also erode trust in religious leaders. This may result in people eventually ceasing to participate in worship and the sacraments, leading to a profound emptiness and despair from the loss of God. The victim may then feel toxic guilt and shame, creating a profoundly crippling sense of fear. Ultimately that will destabilize someone's spiritual security, resulting in post-traumatic stress disorder (PTSD) and the loss of belief in God and the Church. This often manifests in intergenerational trauma that results in generations of families no longer in the church.⁵

Some examples of spiritual abuse are:

- Stopping a person from practicing their religious /spiritual devotions
- Denying sacraments or significantly delaying sacraments for no good reason
- Implementing unrealistic expectations before they can receive the sacraments
- Using authority to unfairly punish or humiliate
- Forcing a person to keep silent about abuse
- Telling a person they are not good enough and will go to hell
- Turning a parish against a person until that person leaves
- Forcing a person to attend meetings they don't want to
- Forbidding a person to go to confession to anyone else
- Intrusive questioning of women in the sacrament of penance
- Forbidding them to attend any other parish
- Threatening to "go after" the person's family or actually doing it.⁶

1. Examples of Spiritual Abuse

1.1 *Rape Case in India*

In June 2018, in Kottayam, Kerala, a 44-year-old nun filed a complaint of rape at Kottayam police station against Bishop Franco Mulakkal of Jalandhar diocese. This was the first time the authorities had arrested a Bishop for a rape case in India. The nun accused Mulakkal of raping her 13 times during visits to her convent.⁷ The victim wrote to church authorities in January 2017, to the

⁴ Lisa Oakley and Justin Humphrey. 2019. *Escaping the Maze of Spiritual Abuse: Creating Healthy Christian Cultures*. London: SPCK. 151.

⁵ Pam Walsh. Seminar on Trauma. Christchurch. Tribunal of the Catholic Church, March 23, 2024.

⁶ Ibid.

⁷ "Kerala nun rape case: Bishop Franco Mulakkal raped the victim in the same room 13 times between 2014 and 2016," in *Mirrornownews.com*, 22 September 2018,

apostolic nuncio in India in January 2018, and then to Pope Francis in May 2018. On 16th October 2018 Mulakkal was released on conditional bail pending trial and is no longer the bishop of the diocese. On 22nd October 2018 a prime witness, Father Kuriakose Kattuthara, who had testified against Mulakkal, was found dead in his room in Jalandhar. The death of Kattuthara was said to be caused by health conditions. However, family members are reported to believe that his death was related to his support for the rape victim.⁸

Sister Julie George explained the power imbalance between bishops and religious: “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 was completely decided by that bishop.”⁹ Father Augustine Vattoli, one of the few priests who supported the victim, stated that “the church in India is all powerful” and they will do anything in their power to throw out those who stand against them.¹⁰ S Harishankar, the former Kottayam police superintendent, stated that “her entire existence itself is dependent on the accused. He is the one who gets to decide if she should remain dead or alive...”¹¹

1.2 Exorcisms reported in New Zealand

In New Zealand there is a controversy involving the Sons of the Holy Redeemer, a diocesan religious institute of the diocese of Aberdeen in Scotland. The Sons of the Holy Redeemer only celebrate mass in Latin. The focus of news reports has been on exorcism. Newshub reported abusive behaviour in a television programme on TV3.¹² The New Zealand Herald newspaper stated:

<https://www.timesnownews.com/mirror-now/in-focus/article/kerala-nun-rape-case-jalandharbishop-franco-mulakkal-raped-victim-same-room-13-times-remand-report/288455> (Accessed 29 June, 2023); Full details and a thorough analysis of the case are in Rocio Figueroa, Aton Hungyo and David Tombs “‘If people in the church knew’: Purity, Stigma and Victim-Blaming.” *The Canonist*. vol. 14. no. 2. 2023. 280-291.

⁸ 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-bishopaccused-rape-found-dead-55533> (Accessed 29 June 2022).

⁹ Nidhi Suresh, “Power, Lust and the Church: Mulakkal verdict brings focus back on sex abuse in convents despite checks” 20 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 11 March 2024)

¹⁰ Suresh, Power, Lust and the Church.

¹¹ Suresh, Power, Lust and the Church. quoted in R. Figueroa, A. Hungyo and D. Tombs “‘If people in the church knew’: Purity, Stigma and Victim-Blaming.”

¹² Newshub. 14 November 2023; <https://www.newshub.co.nz/home/new-zealand/2023/11/vatican-orders-investigation-into-christchurch-catholic-group-over-allegations-of-abuse-unauthorised-exorcisms.html> (accessed 11 March 2024)

According to a Newshub report tonight, some people who received exorcisms in the church were tied up by the neck and screamed at, while pleading for the rituals - which could last several hours - to stop. This would go on for several hours.

A leader at the church disputed the claims to Newshub and said the participants had agreed only the exorcist could decide when the exorcism would stop, and occasionally a safety harness would be used.¹³

A ritual book for exorcisms was published in 1614. After Vatican II, the 1614 ritual was replaced by a new ritual on 26 January 1999. A slightly amended edition was issued in 2004. Then *De Exorcismis et Supplicationibus Quibusdam*,¹⁴ *editio typica* was printed in November 2014. The final text of *Exorcisms and Related Supplications* (ERS) was confirmed by the Holy See in December 2016 and implemented in the dioceses of the United States as of June 29, 2017.¹⁵

The current ritual has very different procedures and prayers to the former ritual. People should not be tied up. This ritual makes it clear that a person can be exorcised only after thorough medical, psychological, and psychiatric testing. It is only then that an exorcist makes the final decision whether the person is genuinely possessed by the devil.

1.3 *Sexual Manipulation: Rupnik case*

The Dicastery for the Doctrine of the Faith has been conducting an investigation into allegations against Fr. Marko Rupnik, the former Jesuit whom several religious sisters have accused of psychological and sexual abuse. He was dismissed from the Society of Jesus in June 2023.

Anna, a former religious sister has stated:

Father Marko asked me to have threesomes with another sister of the community, because sexuality had to be, in his opinion, free from possession, in the image of the Trinity where, he said, “the third person would welcome the relationship between the two.”¹⁶

¹³ New Zealand Herald. 26 July 2023; <https://www.nzherald.co.nz/nz/catholic-church-accused-of-performing-unlicensed-exorcisms/HS2LQHBQA5GZPHMVT22JI3XPTQ/> (accessed 11 March 2024)

¹⁴ Congregation for Divine Worship and the Discipline of the Sacraments, *De Exorcismis et Supplicationibus Quibusdam, editio typica*. Libreria Editrice Vatican. 2021.

¹⁵ <https://www.usccb.org/prayer-and-worship/sacraments-and-sacramentals/sacramentals-blessings/exorcism> (accessed 26 March 2024)

¹⁶ ‘Descent into Hell’: An alleged Rupnik victim speaks out (pillarcatholic.com) <https://www.pillarcatholic.com/p/descent-into-hell-an-alleged-rupnik-victim-speaks-out>. (Accessed 11 March 2024)

Ms. Kovac, another victim of Rupnik, told reporters about the "spiritual abuse and abuse of conscience" she endured and other abuses she had learned about, which were carried out by someone who was considered a revered figure in the religious community.¹⁷

1.4 *Spiritual Abuse of an 18-year-old seminarian*

Stephen E. de Weger and Jodi Death give this example of spiritual abuse in which Father Thomas Walshe had sex with an 18-year-old seminarian who later claimed he was assaulted while drunk and unconscious. Father Walshe strenuously denied committing any abuse, and complained it was 'completely consensual'. However, the independent commissioner for the Melbourne Response, the Catholic organisation for investigating and dealing with allegations of clergy sexual abuse in the Melbourne Archdiocese, accepted 'Father Walshe had sexually abused the then 18-year-old seminarian'. Archbishop Denis Hart of Melbourne however concluded it "was a consensual homosexual relationship that only breached the teachings of the church and vow of celibacy taken by both men... it was not illegal, it was not child abuse and there was no finding that it was non-consensual (Jacks and Vedelago 2016)."¹⁸ Archbishop Hart summarised the sexual activity of Fr Walshe as 'legal', 'consensual' 'sexual abuse'. This is an illogical, contradictory summation of the case. It is clear that this case involves spiritual abuse and abuse of authority.

1.5 *Unlawful Exercise of Sacred Ministry*

When exorcisms are not carried out according to liturgical law, and are unlawful sacred ministry, canon 1389 would apply:

Canon 1389. A person who, apart from the cases mentioned in canons. 1379-1388, unlawfully exercises the office of a priest or another sacred ministry, is to be punished with a just penalty, not excluding a censure.

Arietta notes that this canon is similar to the previous canon 1384 in the 1983 Code of canon law. He comments "it defines as an offence any conduct not dealt with in cc. 1379-1388 that constitutes unlawful exercise of priestly function or other sacred ministry. This includes a wide range of behaviour contravening mandatory liturgical norms or those regulating the manner of celebrating the sacraments (for example, administering collective absolution without observing

¹⁷ Doctrine of Faith reviews Rupnik case documentation as investigation continues - Vatican News. (Accessed 11 March 2024)

¹⁸ Archbishop Denis Hart quoted in Stephen E. de Weger and Jodi Death. "Clergy Sexual Misconduct Against Adults in the Roman Catholic Church: The Misuse of Professional and Spiritual Power in the Sexual Abuse of Adults" *Journal for the Academic Study of Religion* 130.

the prescriptions of c. 961).¹⁹ Besides unlawful general absolution, officiating at a marriage of divorced person(s) without a declaration of nullity, exorcising a mentally ill person or tying people up to be exorcised would be violations of canon 1389, because these things should not be taking place.

2. Spiritual Abuse and the Sacrament of Penance

Solicitation and absolution of an accomplice in a sin against the sixth commandment obviously include spiritual abuse:

Canon 1384. A priest who acts against the prescription of can. 977 incurs a *latae sententiae* excommunication reserved to the Apostolic See.

The attempt to grant absolution except when the penitent is in danger of death is invalid.²⁰ The delict carries an automatic excommunication and is reserved to the judgment of the Dicastery for the Doctrine of the Faith in article 4 of *Sacramentorum Sanctitatis Tutela*.²¹ When such a case is reported to the Ordinary, he must inform the Dicastery for the Doctrine of the Faith and follow their directions.²²

Canon 1385. A priest who in confession, or on the occasion or under the pretext of confession, solicits a penitent to commit a sin against the sixth commandment of the Decalogue, is to be punished, according to the gravity of the offence, with suspension, prohibitions and deprivations; in the more serious cases he is to be dismissed from the clerical state.

The *Penal Sanctions User Guide* explains this offence by a priest can occur during the sacramental confession, and before or after the confession itself. The Ordinary must communicate information concerning the delict to the Dicastery for the Doctrine of the Faith and carry out their instructions. The penalty will depend on the gravity of the case

¹⁹ Juan Arrieta, *Code of Canon Law Annotated*. 4th ed. Montreal. Wilson & Lafleur. 2004. 1096.

²⁰ c. 977 The absolution of an accomplice in a sin against the sixth commandment of the Decalogue is invalid except in danger of death.

²¹ Art. 4 §1 The more grave delicts against the sanctity of the Sacrament of Penance reserved to the judgment of the Congregation for the Doctrine of the Faith are:

1° the absolution of an accomplice in a sin against the sixth commandment of the Decalogue, mentioned in can. 1384 *CIC* and in can. 1457 *CCEO*;

4° the solicitation to a sin against the sixth commandment of the Decalogue in the act, on the occasion, or under the pretext of confession, as mentioned in can. 1385 *CIC* and in can. 1458 *CCEO*, if it is directed to sinning with the confessor himself. https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20211011_norme-delittiriservati-cfaith_en.html.

²² Dicastery of Legislative Texts, *Penal Sanctions in the Church* 128. <https://www.delegumtextibus.va/content/dam/testilegislativi/TESTI%20NORMATIVI/TESTI%20Norm%20CIC/Libro%20VI/LibroVISussidio/Penal%20sanctions%20User%20guide.pdf>.

and may be dismissal from the clerical state.²³

There are some complaints about intrusive questioning of women concerning sexual matters during the sacrament of penance. The questioning in these cases often goes on for a long time and usually does not meet the criteria for solicitation. However, being asked in great detail about sexual activities is very traumatic for the penitent. The priest does not question men in this way, so it is clearly spiritual abuse of women not properly encompassed by the current legislation.

3. Abuse of Authority

Abuse of authority has been recognised as a crime in canon law for a very long time. The Council of Trent decreed in 1563:

bishops must visit their dioceses personally...and that neither they nor any of their party accept anything for expenses during the visitation, even from money left for pious uses...except what is legally owed to them...nor to intrude on the revenues from stable goods and funds, unless they have a right to do so.²⁴

1917 Code

The decree of the Council of Trent was summarised in the 1917 Code:

Canon 2404. Abuse of ecclesiastical power, in the prudent judgment of the legitimate Superior, shall be punished according to the gravity of the fault, with due regard for the prescriptions of those canons that establish certain penalties for various offenses.²⁵

The council decree was a source of canon 2404. Therefore, Augustine in his commentary emphasises the financial crimes emanating from abuse of authority:

there may be overzealous, or imprudent, or revengeful prelates, who are too ready to inflict penalties, especially censures, before they have lawful proofs against the culprit. Then there is "the root of all evil", (1 Tim 6) avarice, which may prompt some to be too lenient in granting favors, absolutions or dispensations, or in meting out penalties. Another abuse of power would be to demand pecuniary contributions on the occasion of episcopal or canonical visitations"²⁶

Beste in his commentary indicates abuse of authority includes ordinary,

²³ Dicastery of Legislative Texts, *Penal Sanctions in the Church* 129.

²⁴ Council of Trent, session 24, *Decretum de Reformatione*, canon 3. in N. Tanner. ed. *Decrees of the Ecumenical Councils*. Washington, DC: Sheed and Ward, 1990. vol 2:761-763

²⁵ 1917 CIC, translation Edward Peters, *The 1917 Pio-Benedictine Code of Canon Law*, San Francisco, Ignatius Press, 2001. Hereinafter all translations of the 1917 Code from this source.

²⁶ Charles Augustine, *A Commentary on the New Code of Canon Law*. St Louis: Herder, 1919. 8:506.

jurisdiction, administrative or governing authority.²⁷

1983 Code

When the 1983 code was promulgated, abuse of authority was included in canon 1389 which replaced canon 2404:

Canon. 1389 § 1. One who abuses ecclesiastical power, office, or function, is to be punished according to the seriousness of the act or the omission, not excluding deprivation from office, unless a penalty for such abuse has already been established by a law or a precept.

§ 2. One who, through culpable negligence illegitimately places or omits an act of ecclesiastical power, ministry or function which damages another person is to be punished with a just penalty.²⁸

The failure to act, using one's power, ministry or function, must be a deliberate failure or blameworthy negligence. Pope Francis emphasises how Church authority must be exercised in a spirit of service, and so this canon penalises both abuse of power and function as well as negligence that results in harm to other people. Canon 1389 §2 makes it clear that the office holder's negligence and failure to act is also a crime and he may be punished for it. Furthermore, the one neglecting to act could well be liable to compensate the one harmed:

Canon 128. Whoever illegitimately inflicts damage upon someone by a juridic act or by any other act placed with malice or negligence is obliged to repair the damage inflicted.

Bishops have a responsibility to care for all the faithful in their dioceses. This includes a responsibility to care for victims of incardinated diocesan priests:²⁹

Canon 383 §1. In exercising the function of a pastor, a diocesan bishop is to show himself concerned for all the Christian faithful entrusted to his care, of whatever age, condition, or nationality they are, whether living in the territory or staying

²⁷ R.P. Beste OSB, *Introductio in Codicem*, Collegeville. St. John's Abbey. 1946. 995.

²⁸ https://www.vatican.va/archive/cod-iuris-canonici/cic_index_en.html. All translations of the 1983 Code from this source.

²⁹ CCC 1548 In the ecclesial service of the ordained minister, it is Christ himself who is present to his Church as Head of his Body, Shepherd of his flock, high priest of the redemptive sacrifice, Teacher of Truth. This is what the Church means by saying that the priest, by virtue of the sacrament of Holy Orders, acts in persona Christi Capitis.

CCC 1552 The ministerial priesthood has the task not only of representing Christ - Head of the Church - before the assembly of the faithful, but also of acting in the name of the whole Church when presenting to God the prayer of the Church, and above all when offering the Eucharistic sacrifice. Cf. LG 10; SC 33; PO 2, 6. 95 Canons 265; 281. 96.

there temporarily; he is also to extend an apostolic spirit to those who are not able to make sufficient use of ordinary pastoral care because of the condition of their life and to those who no longer practice their religion.

Diocesan bishops must care for victims.

Vos Estis Lux Mundi 2019

In 2019, Pope Francis promulgated the motu proprio *Vos Estis Lux Mundi* in which he stated “the crimes of sexual abuse offend Our Lord, cause physical, psychological and spiritual damage to the victims and harm the community of the faithful.”³⁰ Significantly Pope Francis acknowledged that crimes of sexual abuse caused spiritual damage to the victims and harm the community of the faithful.

Vos Estis Lux Mundi stated:

Art. 5 – Care for persons

§1. The ecclesiastical Authorities shall commit themselves to ensuring that those who state that they have been harmed, together with their families, are to be treated with dignity and respect, and, in particular, are to be:

- a) welcomed, listened to and supported, including through provision of specific services;
- b) offered spiritual assistance;
- c) offered medical assistance, including therapeutic and psychological assistance, as required by the specific case.³¹

Victims are to be offered spiritual assistance which is obviously necessary if they have suffered spiritual harm. But the spiritual harm is not classified as a crime. It is recognised as an effect of the crime of sexual abuse.

The Dicastery for the Doctrine of the Faith in its *Vademecum* reiterated the obligation to offer all kinds of help and support including spiritual help:

55. The ecclesiastical authorities must ensure that the alleged victim and his or her family are treated with dignity and respect, and must offer them welcome, attentive hearing and support, also through dedicated services, as well as spiritual, medical and psychological help, as required by the specific case (cf. art. 5 VELM). The same can be done with regard to the accused. One should, however, avoid

³⁰ Pope Francis. motu proprio. *Vos Estis Lux Mundi*. 7 May 2019. https://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html and 2023

³¹ https://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20190507_vos-estis-lux-mundi.html.

giving the impression of wishing to anticipate the results of the process.³²

Revised Penal Law 2021

Pope Francis revised the penal law of the Church, book VI, in 2021. The former canon 1389 became canon 1378 in the revision.

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 of can. 1336 §§ 2-4, without prejudice to the obligation of repairing the harm.³³

The *Penal Sanctions in the Church: User Guide* explains that this canon addresses:

the abuse of power (can. 1378 §1), and culpable negligence in the exercise of one's duty (can. 1378 §2).

The delict of abuse of power or office defined by can. 1378 §1 includes in a general form any arbitrariness or excess committed by the holder of some managerial power, of an office or of a ministry, either by actions or by equally voluntary omissions. The law considers the so-called "abuse of power" as an autonomous delict, punishable in itself. It is different from other specific types of delicts which necessarily include as a constituent element some sorts of abuse of power or authority, such as the case of those considered, for example, in nn. 113, 136³⁴, 151³⁵. [bribery 1377 §2; illegitimate exercise of sacred ministry 1389;

³² DDF, *Vademecum*. 5 June 2022.

https://www.vatican.va/roman_curia/congregations/cfaith/ddf/rc_ddf_doc_20220605_vademecum-casi-abuso-2.0_en.html.

³³ https://www.vatican.va/archive/cod-iuris-canonici/cic_index_en.html.

³⁴ User Guide 136. *Illegitimate exercise of the sacred ministry* (can. 1389).

The last canon of the section on delicts against the sacraments contains a provision of a general nature which includes any other conduct not explicitly mentioned in the previous canons of the entire title III (cf. nn. 116-135) which in any case represents an illegitimate exercise of a priestly function or other sacred ministry. This is therefore a broad category, open to very different delicts, which include violations of the preceptive liturgical provisions on the manner and conditions of celebrating the sacraments, the use of formulas other than those permitted in the liturgy, etc.

³⁵ 151. *Public sin against the sixth commandment* (can. 1395 §2).

public sin against the 6th commandment]³⁶

In both paragraphs of canon 1378, there was the addition of the obligation for the perpetrator to repair the harm that he caused. This is in accord with canon 128 and the new canon 1361 §4.³⁷ The second paragraph also specifies the expiatory penalties that may be inflicted according to the revised canon 1336. Arietta points out that “since the canon deals with offences not specified elsewhere, there is an indeterminate penalty in paragraph one.”³⁸

4. Complaints about Bishops or their Failure to Act

Sacramentorum Sanctitatis Tutela

In 2001, the Congregation for the Doctrine of the Faith promulgated *Sacramentorum Sanctitatis Tutela*.³⁹ This was revised in 2010.⁴⁰ This legislation already required accountability and transparency from bishops and religious superiors. However, there were no sanctions for Ordinaries failing to act, and the law was not generally enforced.

Pope Francis issued the motu proprio *Come una madre amorevole* (As a loving mother) in June 2016. Bishops must protect the faithful from abusers especially minors and the vulnerable. Provision is made for removing ministers who fail to act from their ecclesiastical office ‘for grave reasons’, and caused grave harm to others, either to physical persons or to the community as a whole. (cf. Art. 1 §1). With regard to the application of these norms, it is further determined that in the case of sexual abuse of minors and vulnerable adults, ‘it is enough that the lack of diligence be grave’ (Art. 1

§2 of can. 1395 defines as a delict the sin against the sixth commandment of the Decalogue committed publicly by a cleric, secular or religious. In this way, autonomy has been granted, as a separate offence.

³⁶ Dicastery of Legislative Texts, *Penal Sanctions in the Church* <https://www.delegumtextibus.va/content/dam/testilegislativi/TESTI%20NORMATIVI/Testi%20Norm%20CIC/Libro%20VI/LibroVISussidio/Penal%20sanctions%20User%20guide.pdf>.

³⁷ c. 1361 §4. Remission must not be granted until, in the prudent judgement of the Ordinary, the offender has repaired any harm caused. The offender may be urged to make such reparation or restitution by one of the penalties mentioned in can. 1336 §§ 2-4; the same applies also when the offender is granted remission of a censure under can. 1358 §1.

³⁸ Juan Arrieta, *Code of Canon Law Annotated*. 4th ed. Montreal. Wilson & Lafleur. 2004.

³⁹ Congregation for the Doctrine of the Faith, *Sacramentorum Sanctitatis Tutela, Revised Norms on Dealing with Clerical Sex Abuse of Minors and Other Grave Offenses, Origins*, 40(2010-2011), 146-151.

⁴⁰ Congregation for the Doctrine of the Faith, *Sacramentorum Sanctitatis Tutela, Revised Norms on Dealing with Clerical Sex Abuse of Minors and Other Grave Offenses, Origins*, 40(2010-2011), 146-151.

§3).⁴¹

Article 1. §1. The diocesan Bishop or Eparch, or one who even holds a temporary title and is responsible for a Particular Church, or other community of faithful that is its legal equivalent, according to can. 368 CIC or can. 313 CCEO, can be legitimately removed from this office if he has through negligence committed or through omission facilitated acts that have caused grave harm to others, either to physical persons or to the community as a whole. The harm may be physical, moral, spiritual or through the use of patrimony.

§2. The diocesan Bishop or Eparch can only be removed if he is objectively lacking in a very grave manner the diligence that his pastoral office demands of him, even without serious moral fault on his part.

§3. In the case of the abuse of minors and vulnerable adults it is enough that the lack of diligence be grave.

§4. The Major Superiors of Religious Institutes and Societies of Apostolic Life of Pontifical Right are equivalent to diocesan Bishops and Eparchs.⁴²

When a bishop or major superior has failed to act when informed about spiritual abuse committed through abuse of authority and taking advantage of vulnerable persons these provisions would apply.

5. Vulnerable People

Sometimes complaints of spiritual abuse are just dismissed or not taken seriously. Myriam Wijlens recounts:

In some files I could read that when hints had been voiced by women, they were often put aside with the written comment: “The woman is problematic and, yes, she is a single parent” or “She wants to draw attention,” “She just wants to make herself important.” (Similar comments can also be found in the McCarrick report). Therefore, bishops and the other faithful who believe that bishops and/or priests have a special gift to judge the true nature of a person need to learn that their ability is fallible.⁴³

⁴¹ Pope Francis. motu proprio. *As a Loving Mother*, 4 June 2016; https://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio_20160604_come-una-madre-amorevole.html.

⁴² Pope Francis. *As a Loving Mother*.

⁴³ Myriam Wijlens, “From Darkness into Light: Canonical Consideration for Church Leaders on Spiritual Abuse”. in S. M. Attard, & J. A. Berry (Eds.), *Fidelis et Verax: Essays in Honour of His Grace Mgr Charles J. Scicluna on the Tenth Anniversary of his Episcopal Ordination*. Malta: Kite Group. 2022. 461.

Ignoring or covering up of spiritual abuse has been all too common in the Church. There has been a lot of publicity about the cases of Cardinals Barbarin (France), McCarrick and Pell (Australia) amongst others. Following this publicity and questions raised about dealing with accusations against bishops, Pope Francis devoted a significant part of his *motu proprio Vos Estis Lux Mundi*, Title II: articles 6 ff. to procedures for dealing with complaints against bishops and other religious leaders failing to act on complaints of abuse as 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.⁴⁴

Pope Francis legislated that abuse of vulnerable people was a crime. Spiritual abuse could easily be abuse of vulnerable people as we saw in those earlier examples. Spiritual abuse of vulnerable people is not within the competence of the Dicastery for the Doctrine of the Faith. The *Vademecum* of the DDF states:

5. The first revision of the *motu proprio* SST, promulgated on 21 May 2010, stated that a person who habitually has the imperfect use of reason is to be considered equivalent to a minor. This extension of the category of those considered equivalent to minors was confirmed without modification in the second revision of SST in 2021 (cf. art. 6, 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 DDF, 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).⁴⁵

Philip Milligan, the dicastery canon lawyer, insisted that lay groups must understand who is considered a “vulnerable adult” when it comes to sexual abuse. He pointed out that seemingly “consensual sexual activity between adults can, because of

⁴⁴ VELM 1.

⁴⁵ Dicastery for the Doctrine of the Faith, *Vademecum* 91, 5 June 2022, https://www.vatican.va/roman_curia/congregations/cfaith/ddf/rc_ddf_doc_20220605_vademecum-casi-abuso-2.0_en.html; hereinafter *Vademecum*; Translations of canons by Canon Law Society of America on the Vatican website. (=DDF, *VADEMECUM*.)

the state of mind or the situation of one of the persons, actually be a situation of sexual abuse.”⁴⁶ This could encompass a person being abused by a formator, novice master, or superior.

The bishop has the right to appoint and remove teachers of religion. While civil law may prevent him doing this in many situations, the diocesan bishop does have rights to remove members of religious institutes for spiritual abuse in an apostolic work:

Canon 805. For his own diocese, the local ordinary has the right to appoint or approve teachers of religion and even to remove them or demand that they be removed if a reason of religion or morals requires it.

Apart from schools, canon law provides this right in other ministries:

Canon 19. If a custom or an express prescript of universal or particular law is lacking in a certain matter, a case, unless it is penal, must be resolved in light of laws issued in similar matters, general principles of law applied with canonical equity, the jurisprudence and practice of the Roman Curia, and the common and constant opinion of learned persons.

If the religious institute does not help the victim of spiritual abuse or repair the harm done, the diocesan bishop must strongly exhort the religious institute or the Ministerial Public Juridic Person (MPJP) to meet their obligations to repair the damage done to victims. The bishop can force the individual religious to leave his diocese.⁴⁷ Also, the Apostolic See can force any religious institute to meet their obligations.

6. Internal and External Forum

Church teaching and canon law requires a careful distinction between actions and information in the external and internal forum. A confessor is absolutely forbidden to use knowledge that he has gained from the sacrament of penance.⁴⁸ This applies to information he learnt in confession before he was in leadership.⁴⁹ There have been instances in recently founded religious associations or movements, where members are

⁴⁶ Junno Esteves, *Purging silence: Vatican expands abuse prevention to lay movements*. June 25, 2019; <https://cruxnow.com/vatican/2019/06/25/purging-silence-vatican-expands-abuse-prevention-to-lay-movements/>.

⁴⁷ c. 679. When a most grave cause demands it, a diocesan bishop can prohibit a member of a religious institute from residing in the diocese if his or her major superior, after having been informed, has neglected to make provision; moreover, the matter is to be referred immediately to the Holy See.

⁴⁸ c. 984 §1.

⁴⁹ c. 984 §2; Wijlens, “From Darkness into Light 462.

required to have spiritual direction and reception of the sacrament of Penance only from members of the association or movement. This is an unsafe practice that traditional orders such as the Carmelites carefully avoid and legislate against in their constitutions.

7. Founding a Diocesan Religious Institute

There have been many instances of various forms of spiritual abuse in religious institutes founded since Vatican II. In 2016, Pope Francis decreed that for the validity of the erection of a religious institute the diocesan bishop must obtain prior approval of the Apostolic See in writing.⁵⁰ In 2020 this became even stricter so “prior consultation with the Holy See is to be understood as necessary *ad validitatem* before establishing a diocesan Institute of consecrated life, otherwise risking nullity of the decree of establishment of this said Institute.”⁵¹ In third world countries there are many instances of religious institutes being established without proper structures. I am aware of one public association of 900 perpetually professed members, whose members claim to be a religious institute, which is accepted as such by millions of people. This group does not have constitutions or statutes.

Pope Francis, in an audience on February 7, 2022, in the presence of the Cardinal Prefect and Archbishop Secretary of the Dicastery for the Institutes of Consecrated Life and the Societies of Apostolic Life, specifically approved the following provision:

The diocesan bishop, before erecting - by decree - a public association of the faithful with a view to becoming an Institute of Consecrated Life or a Society of Apostolic Life of diocesan right, must obtain the written permission of the Dicastery for Institutes of Consecrated Life and Societies of Apostolic Life.⁵²

This rescript was promulgated on June 15, 2022, and became effective immediately. The diocesan bishop, before erecting - by decree - a public association of the faithful with a view to becoming an Institute of Consecrated Life or a Society of Apostolic Life of diocesan right, must obtain the written permission of the Dicastery for Institutes of Consecrated Life and Societies of Apostolic Life. The rescript reinforced the 2020 legal requirements to establish a diocesan religious institute.

8. Reporting Spiritual Abuse

⁵⁰ AAS 108 [2016] 696.

⁵¹ Pope Francis, Motu Proprio “Authenticum charismatis” amending can. 579 of the Codex Iuris Canonici. Cf. www.vatican.va/content/francesco/de/motu_proprio/documents/papa-francesco-motu-proprio-20201101_authenticumcharismatis.html.

⁵² Pope Francis. *Praedicate Evangelium*. March 19, 2022. <https://press.vatican.va/content/salastampa/it/bollettino/pubblico/2022/03/19/0189/00404.html>. Remember this document reflects changes made to the Apostolic Constitution *Pastor Bonus* (PB). In it the Congregation for Institutes of Consecrated Life was changed to the Dicastery for Institutes of Consecrated Life and Societies of Apostolic Life.

The Church clearly needs a system to handle and receive complaints of spiritual abuse, just as they have systems to receive complaints of sexual abuse.

It is not difficult to see how a whole range of questions will also arise around spiritual abuse. Hence, it is possible to learn from the insights and experiences gained from the sexual abuse crises. For example, a very first step could consist of setting up a system that receives and handles complaints about spiritual abuse.

Bishops need to be much more cautious and careful before groups are recognised as associations.⁵³ Church leaders have often dismissed accusations of sexual abuse as being false, yet research shows 95% of them are true.⁵⁴ Many Church leaders do not take the problem of spiritual abuse seriously enough. Myriam Wijlens points out:

Just as Church leaders and believers are struggling to recognise sexual abuse as a systemic problem, it is likely that this will also be the case for spiritual abuse. The situation for the latter is aggravated by the fact that spiritual abuse constitutes no specific offence be it in canon or state law.⁵⁵

The leaders in these associations, groups, and religious institutes have the first and primary responsibility to prevent abuse whether it is spiritual, sexual, emotional, psychological etc.

9. Visitation and Oversight

No association may call itself ‘Catholic’ without the consent of the Church authority.⁵⁶ Since diocesan bishops recognise or establish these associations or religious institutes, and allow or permit one approved in another diocese to have a house or be active in their diocese, a great deal of responsibility lies with them. Bishops also have the power to recommend to the faithful that they join them and be members.⁵⁷ But bishops also have the right and duty to respond to information about abuses including spiritual abuse.

The diocesan bishop has the right and duty in canon law to visit diocesan religious institutes at least once every five years⁵⁸. He also has this right if a diocesan religious institute from another diocese has a house in his diocese. He must also visit their apostolic works or arrange for someone to visit them on his behalf. There are more

⁵³ Wijlens, “From Darkness into Light” 466.

⁵⁴ William O’Donohue, Caroline Cummings & Brendan Willis (2018). The Frequency of False Allegations of Child Sexual Abuse: A Critical Review. *Journal of Child Sexual Abuse*, 27:5, 459-475, DOI: 10.1080/10538712.2018.1477224.

⁵⁵ Wijlens, “From Darkness into Light” 467.

⁵⁶ cc. 300, 312.

⁵⁷ c. 299.

⁵⁸ cc. 396 §1, 397 §1.

limits to a bishop visiting pontifical religious institutes,⁵⁹ but if there are abuses, the bishop must order the superior to deal with them. The diocesan bishop can also deal with abuses on his own authority because he oversees all apostolic works.⁶⁰ The diocesan bishop should also inform the bishop where the diocesan religious institute was founded as well as the supreme moderator about any abuse including spiritual abuse.

Conclusion

A grave sin that is also categorised as a delict or crime in canon law and punished “because it represents conduct which, in addition to being a personal sin in the moral order, damages essential aspects of the spiritual society which is the Church.”⁶¹ There is no specific crime of spiritual abuse in the current norms. However, cases of spiritual abuse potentially involve a number of other canonical crimes such as unlawful exercise of sacred ministry, abuse of authority, abuse of vulnerable people and bishops failing to act on information *notitia delicta* received.

Unfortunately, cases of spiritual abuse are being reported all over the world especially in new religious institutes and new associations of the faithful. Pope Francis has been doing his best to control this spiritual abuse by legislation concerning new associations of the faithful and new diocesan religious institutes. It is important that leaders of associations and institutes are alert to the possibility of spiritual abuse and other forms of abuse. Diocesan bishops need to carefully implement the legislation and carefully fulfil their duties to visit and supervise the associations and institutes operating within their dioceses.

⁵⁹ c. 397 §2

⁶⁰ c. 683 §2

⁶¹ Myriam Wijlens, “From Darkness into Light: Canonical Consideration for Church Leaders on Spiritual Abuse”. in S. M. Attard, & J. A. Berry (Eds.), *Fidelis et Verax: Essays in Honour of His Grace Mgr Charles J. Scicluna on the Tenth Anniversary of his Episcopal Ordination*. Malta: Kite Group. 2022. 481.