Perth, 23 July 2020

To :

Legislative Council

Parliament of Western Australia

Subject: Children and Community Services Amendment Bill 2019

Dear Sir or Madame,

I, , would like to petition to the Parliament to abandon and reject in full the proposed amendment related to mandatory reporting of child sexual abuse for minister of religions. Although, it was not mentioned clearly but it has become clear to us Catholic that this bill was aimed at our clerics. In this submission, I am trying not to repeat what has been submitted by our Archbishop but it might be inevitable.

The Catholic Church as a religious body has its own law which governs her operation, which is called Code of Canon Law. Canon 979 explicitly asks priests to refrain from asking the name of an accomplice during confession. Canon 983 clearly states that the sacramental seal is inviolable and Canon 984 prohibits priests to use any knowledge gained from confession to the detriment of the penitent. As stated in Canon 1388, priests who violate this will incur an automatic excommunication. Therefore, Archbishop Costelloe was not exaggerating when he said in his submission that if he agrees to this proposal it is the same like asking Pope Francis to sack him from his office.

As a Catholic and a father, I am disappointed with how the Church's authority dealt with unholy priests who abused children. However, I believe that the Church has shown their commitment to improve the way they handle complaints. In every parish here in Archdiocese of Perth has Safeguarding Officers. The latest news from the Vatican, The Congregation for the Doctrine of the Faith released a guideline regarding sexual abuse committed by clerics on 16 July 2020. I have attached this document for your perusal. Certainly, everyone hopes that this document is created decades ago. Nonetheless, it is better late than never. I believe it is best if state affairs and religious affairs are not mixed up and the state should not try to criminalize clerics as this might violates the human rights of Catholics in Western Australia.

I have to mention here that I have three sons. My second son passed away in January 2019 in a car accident. My car was hit by a drug addict who just came out of a prison one month before he reoffended. So, I can assure you that I would like to do everything I can to protect every children from any physical or mental harm. However, I might ask what has the Parliament of WA done these last 18 months to prevent children being killed on our streets every day? Or is my son just another statistic to you? This felon stated in court that he was sexually abused by one of his stepfathers. This is a public statement. Why was not there anyone following this up? Why was not this abusive stepfather arrested? Are you waiting for this stepfather to go to confession and then asking the priest to report it to the police? Do you think that every abuser is Catholic?

I believe that the Bill has been going in the wrong direction. The offered solution will result in religion genocide instead of better protection for the children and community. All Catholics

will be afraid to go to confession. Who knows that maybe tomorrow you will legislate that priests should also report those who do insider trading, tax fraud, money laundering, drug smuggling or having an affair with colleagues? Then Australia will become a dictatorial country where the government tries to control every aspects of people's life.

Dr. Jeremy Sammut from The Centre for Independent Studies wrote an article in 2014 highlighting the relation between family breakdown and child sexual abuse. Article is attached. Family breakdown is one of the major causes of child sexual abuse. As mentioned above, this felon and drug addict who took my son's life was sexually abused by one of his stepfathers. I do not know for sure how many stepfathers did he have. My questions for you, honourable MPs: Why there are not a single bill or act to prevent family breakdown? Have we thought to make it mandatory for the law enforcer to follow up all admissions regarding sexual abuse at the court? Do we realize that sexual abuse during childhood is so damaging that the victims will have higher tendency of becoming a criminal? Should not we legislate FREE psychological/counselling/psychiatric help for these victims? The professional help will empower the victims to stand up against their violator. Should not we provide more funding to Police WA to enable them to have more specialised officers who deal with child sexual abuse? It is such a shame that our police officers need to ask for a better salary. If the government could not provide adequate financial rewards to our police officers, why should then the government pretend to care for the safety of our children and community?

In conclusion, the current proposal will not benefit the community and off-target. The current bill would only serve an anti-Catholic agenda. If the Government (and the Parliament) really care with the safety of our children and community, then there should be a mandatory and progressive jail terms for offenders and at the same time offenders should NOT be allowed to serve their sentences CONCURRENTLY. So, a repeat offender or serial offender should get much more jail terms then a first offender. We might as well be creative in punishing sexual offenders as they are ever creative to lure their prey. We should not limit ourselves with jail terms or financial compensation. For example, we could imitate Indonesia that introduced chemical castration for child sex abuser.

Thank you for your attention.

Sincerely yours,

ISSUEANALYSIS

The New Silence: Family Breakdown and Child Sexual Abuse

Jeremy Sammut

EXECUTIVE SUMMARY No. 142 • 30 January 2014

The Royal Commission into Institutional Responses to Child Sexual Abuse has been heralded a new epoch in Australian life that will finally 'break the silence' surrounding child sexual abuse.

Sceptical commentators, however, have questioned how the royal commission will ensure children are better protected in the future when its restrictive terms of reference (which only authorise an inquiry into how *institutions* such as churches, schools and sporting bodies respond to child sexual abuse) ignores the 70% to 80% of cases of child sexual abuse in which the perpetrator has a 'familial relationship' with the abused child.

The limited scope of the royal commission is symptomatic of the wider gaps and silences in the national conversation about child sexual abuse.

That the vast majority of child sexual abuse occurs within the family setting obscures a larger and more significant truth.

Numerous studies have found that children who do not live with both biological parents, irrespective of socioeconomic status, are far more likely to be sexually abused than their peers in intact families. In particular, girls living in non-traditional families are found to have been sexually abused by their 'stepfathers,' either the married, cohabiting or casual partner of a divorced or single mother, at many times the rate girls are sexually abused by their natural fathers in intact families.

The 2010 US Fourth National Incidence Study of Abuse and Neglect (NIS-4) found that compared to peers in two biological parent married families, children who lived with a single parent with no cohabiting partner were five times more likely to be sexually abused; children who lived in a step-family (with married biological and non-biological parents) were eight to nine times more likely to be sexually abused; and children who lived with a single parent with a partner in the home were 20 times more likely to be sexually abused.

Step- and single-parent families accounted for only one-third (33%) of all children in the United States but accounted for more than two-thirds (66.8%) of all children who were sexually abused. The over-representation of 'broken' families implies that if all children in the United States lived with both married biological parents, the rate of child sexual abuse could be halved at least.

Child sexual abuse statistics publicly available in the United States are far more comprehensive and meaningful than in Australia. Despite the scholarly interest in the relationship between non-traditional families and child sexual abuse, and regardless of the good evidence that family breakdown is a major risk factor, data published by the Australian Institute of Health and Welfare (AIHW) and the Australian Bureau of Statistics (ABS) do not provide specific information about

Dr Jeremy Sammut is a Research Fellow at The Centre for Independent Studies.

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family structure, the identity of the perpetrators, and their relationship with the abused child. The silence of the statistics regarding this crucial information should be corrected by the agencies responsible in the interests of transparency and informed discussion of child sexual abuse.

Despite family breakdown exposing children to greater risk of sexual abuse, the issue receives scant attention in this country. When the Australian Christian Lobby (ACL) released a major report on child welfare in 2011 that detailed the studies and statistics demonstrating the links between family structure and child sexual abuse, the evidence was neither disputed nor acknowledged in the little public discussion that ensued; the report simply washed in and out of the public domain and left little trace on community attitudes.

Child sexual abuse is not fully and frankly discussed because the public discourse is self-censored by politicians, academics, social service organisations, and the media in compliance with politically correct attitudes towards 'family diversity'—the socially 'progressive' and 'non-judgmental' fiction that says the traditional family is just one among many, and equally worthy, family forms.

In hindsight, we are justifiably critical of the silences that in earlier times kept child sexual abuse a hidden problem. Yet a comparable silence exists today. To avoid repeating the mistakes of the past, we need to speak openly and honestly about the well-established but under-publicised links between family breakdown and child maltreatment—especially given the strong association between childhood sexual abuse and major mental health problems, particularly among women.

Greater community awareness is needed of the impact the relationship and reproductive choices of adults have on child welfare. This could be achieved by a government-commissioned, anti-child sexual abuse public information campaign, modelled on pro-marriage campaigns in the United States.

The campaign should emphasise that the two-biological parent married family is a protective factor that prevents child sexual abuse. It should also publicise how divorce and single-motherhood endangers children by increasing the risk of sexual abuse for the more than one in four Australian children who currently do not live with both natural parents.

Governments already conduct advertising campaigns—such as anti-smoking and anti-drink driving campaigns—to educate citizens, promote certain values, and change attitudes and behaviours. A public information campaign that advertises the risks associated with family breakdown, and promotes the array of benefits marriage bestows on children, would end the new silence that hides the culturally inconvenient truth about the modern family.

Introduction: The Royal Commission and its limitations

On 12 November 2012, the Gillard government established a Royal Commission to inquire into the mishandling of allegations and instances of child sexual abuse by institutions, including churches, schools, sporting bodies, and other government and non-government organisations. Mounting community concern, along with pressure from victims groups and members of parliament, had already led the Victorian and NSW state governments to order separate inquiries following widespread media coverage of the systemic cover-up and protection of 'paedophile priests' by the Catholic church.

The Royal Commission into Institutional Responses to Child Sexual Abuse is set to run for four years at an initial estimated cost of $434.1 million. The commission's three main objectives are: (1) provide a forum for victims to tell their stories and have their experiences acknowledged; (2) investigate where organisations have gone wrong in failing to deal appropriately with abuse; and (3) recommend ways to improve laws, practices and policies to better protect children in the future.† The six commissioners, led by NSW Supreme Court Judge Peter McClellan, face a huge and complex task, given that more than 5,000 victims are expected to give evidence. The first public hearings began in September.

The political sponsors of the royal commission have heighted expectations by proclaiming the significance of the 'unprecedented' national inquiry. The former Prime Minister Julia Gillard declared that the decision to call the royal commission was prompted by 'too many revelations of adults who have averted their eyes from this evil.'[1] She subsequently described the inquiry as an important 'moral moment' for the nation, which would require 'our country to stare some very uncomfortable truths in the face.'[2] The federal government had acted not only because 'every child has the right to grow up safe,'[3] but also because 'we've let children down in the past as a country,' and 'we need to learn what we can do as a nation to better protect our children in the future.'[4] The commission, Gillard told Parliament in her valedictory speech in August, will 'change the nation' so long as we 'grasp the opportunity, not turn away but face what has occurred … Only that will prevent the abhorrent injustices of the past from being revisited on Australian children present and future.'[5]

The conviction expressed by Gillard and commonly presented in media coverage is that the commission marks a new epoch in Australian life that will finally 'break the silence' surrounding child sexual abuse. By justly condemning the mishandling of sexual abuse of children by faith-based and other organisations, honest and open modern Australia is purported to have learned from the mistakes of deceitful and repressed old Australia, which for so long had turned a blind eye to a 'shameful' issue.[6] *The Sydney Morning Herald*, in an editorial in April 2013, welcomed the commission for offering the 'hope of catharsis to calmly explore how society can better fulfil in future its duty to protect the most vulnerable.'[7]

The belief the royal commission will end the silence about child sexual abuse overlooks the key question some sceptical commentators are asking.

The belief that the royal commission will end the silence about child sexual abuse overlooks the key question some sceptical commentators are asking. The commission's restrictive terms of reference (which only authorise an inquiry into how *institutions* respond to child sexual abuse) ignores the circumstances in which the vast majority of child sexual abuse occurs.[8] According to leading Australian researcher Professor

† The commission's recommendations for new safeguards and best practice will almost certainly focus on ensuring that all abusers, regardless of their positions, and all organisations, regardless of their status, are held accountable for their actions under the law by ensuring that (1) all claims of child sexual abuse are treated seriously; (2) reporting of all allegations to the proper civil authorities for investigation is mandatory and takes precedence over internal procedures; and (3) concealment of any allegation is criminalised.

Stephen Smallbone of Griffith University, in an estimated 70% to 80% of cases of child sexual abuse, 'There is a familial relationship between the child victim and the offender.'[9] That the bulk of child sexual abuse will be beyond the purview of the commission draws attention to the apparent mismatch between the expectations that have built up around the inquiry and its likely outcomes. How can the worthy goal of better protecting children be achieved when the commission is only required to examine child sexual abuse inside institutions while ignoring the much greater risk of abuse within families?[10]

The limited scope of the royal commission is symptomatic of the wider gaps and silences in the national conversation about the multifaceted scourge of child sexual abuse. Delving deeper than institutional abuse reveals a problem with the way the issue of child abuse is framed and analysed in this country. The well-established but under-publicised impact of the social changes of the last 40 years (rising rates of divorce and single motherhood) on the traditional family and child welfare is insufficiently acknowledged. In Australia, child abuse occurs disproportionately in non-traditional families. However, the over-representation of 'broken' families, and the subject of family breakdown in general, does not receive the political, media and academic attention this major social issue warrants. Rather, the silence on the links between family structure and child sexual abuse is deafening. That the vast majority of child sexual abuse occurs within family settings obscures a larger and more significant truth: Children living in non-traditional families are far more likely to be sexually abused.

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Child sexual abuse and family structure

Child sexual abuse occurs in many kinds of families and is perpetrated by a multiplicity of mostly male offenders, including family friends, relatives, neighbours and fathers. However, numerous studies show that children who do not live with both biological parents are at significantly greater risk of being sexually abused, especially by men living in their homes who are not their father. Girls living in non-traditional families have been found to be sexually abused by their 'stepfathers,' either the married, cohabiting or casual partner of a divorced or single mother, at six to seven times the rate girls are sexually abused by their natural fathers in intact families.[11]

The founding study that identified this problem was Diane Russell's 1984 random survey of 930 adult women in San Francisco. This study found that:

> … 17% or one of approximately every six women who had a stepfather as a principal figure in her childhood years, was sexually abused by him. The comparable figures for biological fathers were 2% or one out of approximately 40 women.[12]

Subsequent scholarship has confirmed elevated levels of stepfather/stepchild sexual abuse. As Jeffrey Rosenberg and W. Bradford Wilcox observed in a 2006 report on family structure and child development for the United States Children's Bureau:

> A 1997 study of more than 600 families in upstate New York found that children living with stepfathers were more than three times more likely to be sexually abused than children living in intact families. Another study found that the presence of a stepfather doubles the risk of sexual abuse for girls—either from the stepfather or another male figure.[13]

Some studies have even suggested that the rate of sexual abuse of girls by 'stepfathers' could be 40 times higher.[14]

Based on her 2000 review of the 'overwhelming empirical evidence,' the American legal academic Robin F. Wilson identified 'more than seventy social studies' that established the link between child sexual abuse and family breakdown:

> Virtually all studies of child sexual abuse report that girls living with stepfathers are at high risk, leading one sociologist to conclude that the presence of a stepfather is '[t]he family feature whose risk has been most dramatically demonstrated.' This dim appraisal reflects an emerging consensus that disagrees about details but not essentials … [T]he evidence is legion that stepfathers represent a greater portion of abusers than their incidence in the general population, suggesting they are more likely to abuse their daughters than biological fathers.[15]

These findings do not say that all stepfathers and boyfriends are abusers. As Rosenberg and Wilcox say:

> There are, of course, countless stepfathers who step into the role of dad with both competence and caring. And many live-in boyfriends provide both love and structure for the children in the household.[16]

Nor is this to say that most child sexual abuse is perpetrated by 'stepfathers.' Unlike other forms of child abuse, most sexual abuse is not perpetrated by those occupying a 'parental' role.[17] Studies examining the prevalence of child sexual abuse in different types of families have also found the overall number of children sexually abused by biological fathers to be greater because a minority of children grow up with stepfathers. But retrospective studies clearly find that proportionately more 'stepfathers' abuse their divorced or never-married partner's children.[18]

Numerous studies show that children who do not live with both biological parents are at significantly greater risk of being sexually abused.

The explanation for the higher rates of all forms abuse and neglect in non-traditional families offered by evolutionary biology is that children tend to be safer with their biological fathers because the natural protective instinct is stronger than for non-biological stepfathers and other male figures.[19] Biological fathers are less likely to sexually abuse their own children because the 'incest taboo' is stronger compared to non-biological 'fathers.'[20] Children living in non-traditional families, particularly girls, seem particularly vulnerable to sexual abuse by unrelated men who live in their home because their divorced or single-mother's new relationships allow predatory men to have unmonitored contact with minors. Similarly, the likely explanation for the higher rates of sexual abuse by 'other' perpetrators of children living in single-parent families compared to their peers in intact families is the relatively lower level of parental supervision provided in lone-parent households.[21]

More likely to experience

According to the Personal Safety Survey conducted by the Australian Bureau of Statistics (ABS) in 2005, 12% of Australian women and 4.5% of Australian men were sexually abused before the age of 15. Of those who had experienced sexual abuse as a child, 30.2% reported being abused by a male relative, 16.3% by a family friend, and 15.6% by an acquaintance/neighbour. Sexual abuse by 'father or stepfather' was reported by 13.5% of all victims.[22] That the ABS data fails to distinguish the two groups of biological fathers and non-biological 'fathers' is both unhelpful and surprising, given the scholarly interests in the relationship between non-traditional families and child sexual abuse, and the good international evidence that family breakdown is a major risk factor ('more than seventy social studies'). This is indicative of how opaque child sexual abuse statistics are in Australia.

The Australian Institute of Health and Welfare's (AIHW) annual report on child protection provides more but still incomplete insight into the relationship between family structure and child maltreatment. In 2009–10, 17% of families with

dependent children were single-mother families, according to the ABS' Family Characteristic Survey.[23] In 2011–12, 'female single parent families' accounted for 29% of all substantiated cases of all forms of child abuse and neglect (including physical and emotional abuse, neglect, and sexual abuse).[24] The 7% of step- and blended families accounted for the third-highest proportion (13.7%) after two-parent intact families (36%). Non-traditional families were substantially over-represented, with the 24% of step-, blended and single-mother families accounting for over 42% of all proven child abuse cases.[25]

While the number of substantiated cases of child sexual abuse is published annually by the AIHW (there were more than 5,800 cases Australia-wide in 2011–12), the official statistics are not transparent.[26] The AIHW does not provide a breakdown for different kinds of abuse according to perpetrator or even family type.[27] The ABS' 'Recorded Crime—Victims, Australia, 2011' reports that more than 6,500 children aged 0–14 were sexually assaulted in 2011—almost 40% of all sexual assaults recorded.[28] The vast majority of children were assaulted by an offender 'known to victim'—a broad category—and very few by 'strangers.'[29] However, like the AIHW figures, no specific information is given about family structure, the identity of perpetrators, and their relationship with the abused child. The silence of the statistics regarding this crucial information should be corrected by the agencies responsible in the interests of transparency and informed discussion on child sexual abuse.

The child protection are data publicly available in the United States is far more comprehensive and meaningful than in Australia. The 2010 US Fourth National Incidence Study of Abuse and Neglect (NIS-4) established that:

Child protection data are publicly available in the United States is far more comprehensive and meaningful than in Australia.

> Children living with their married biological parents had the lowest rate of abuse and neglect, whereas those living with a single parent who had a partner living in the household had the highest rate. Compared to children living with married biological parents, those whose single parent had a live-in partner were at least 8 times more likely to be maltreated in one way or another. They were 10 times more likely to experience abuse and 8 times more likely to experience neglect.[30]

This confirms the findings of studies that show that while biological parents perpetrate the majority of all forms of child maltreatment,[31] the incidence is far higher in non-traditional families.[32] Child sexual abuse, however, has a different profile. NIS-4 reported that biological parents were the perpetrator of 72% of physical abuse compared to 19% for non-biological parent or partners, and 9% for other people. By contrast, biological parents were the perpetrators of 37% of sexual abuse (80% male), compared to 23% for non-biological parents or partners (97% male), and 40% for other offenders.[33] The incidence of child sexual abuse was much higher in non-traditional families. NIS-4 found that children living with two biological parents were assaulted at significantly lower rates, with only 0.5 children per 1,000 population experiencing child sexual abuse. This compares to 4.3 children per 1,000 population for step-families; 2.4 children per 1,000 population for single parent (no cohabiting partner) families; and 9.9 children per 1,000 population for single parent (cohabiting partner) families. Compared to children living in married two biological parent families, children who lived with a single parent with no cohabiting partner were five times more likely to experience sexual abuse; children who lived with one biological and one non-biological step-parent were eight to nine times more likely to experience sexual abuse; and children who lived with a single parent with a partner in the home were an astonishing 20 times more likely to experience sexual abuse.[34]

The links between family type and child sexual abuse appear even stronger when the proportion of child sexual abuse is examined by family type. During the period covered by NIS-4 (2005–2006), 61% of children lived with both married biological parents, and these traditional families accounted for around one-fifth (18%) of the 135,300 cases of child sexual abuse (see Table 1). By comparison, the 7% of children who lived in a step-family (with married biological and non-biological parents) accounted for almost the same proportion (17.8%) of cases. Only 3% of children lived with a single parent with a live-in partner. However, these families accounted for 16.6% of all child sexual abuse. Single parents with no partners were not over-represented to the same degree, but were still significantly over-represented. The 23% of single parent no partner families accounted for almost one-third of all child sexual abuse.

Step- and single-parent families accounted for one-third of all children in the United States (33%) but accounted for more than two-thirds (66.8%) of all children who experienced child sexual abuse. The over-representation of 'broken' families implies that if all children in the United States lived with both married biological parents, the rate of child sexual abuse could be halved at least.

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Table 1: Child Sexual Abuse (CSA) by family type in the United States

Family type*#	Number of children	Percentage of children	Number experiencing CSA per 1,000	Percentage experiencing CSA
(1) Married biological parents	44,799,000	61%	0.5	18%
(2) Other married parents	5,152,000	7%	4.3	17.8%
(3) Unmarried parents	2,192,000	3%	2.4	4.2%
(4) Single parent w/partner	2,081,000	3%	9.9	16.6%
(5) Single parent, no partner	16,962,000	23%	2.4	32.8%
(6) Neither parent	2,449,000	3%	5.3	10.4%

Source: NIS-4.

* (1) Living with two married biological parents; (2) Living with other married parents (not both biological but both having a legal parental relationship to the child); (3) Living with two unmarried parents (biological or other); (4) Living with one parent who had an unmarried parent (not the child's parent) in the household; (5) Living with one parent who had no partner in the household; (6) Living with no parent.

Note that the relevance of these statistics to other jurisdictions needs to be adjusted to account for racial differences in incidence of child sexual abuse in the United States. An estimated 2.6 black children per 1,000 population were sexually abused, at a rate of nearly double that of white children (1.4 per 1,000 population) and at a rate of more than one-third higher than Hispanic children. The higher incidence among black children was found to be 'statistically marginal (.10≥p>.0.5).' However, there were no racial differences detected in the perpetrators of sexual abuse. It would be useful to compare the US data with the United Kingdom's, but the British authorities do not publish statistics on the number of substantiated child abuse cases.

Realities and euphemisms

Despite the evidence being 'legion' and social scientists 'disagree[ing] about details but not essentials,' when the facts about family structure and child sexual abuse are highlighted, the issue receives scant attention in Australia.

In September 2011, Professor Patrick Parkinson of the University of Sydney, one of Australia's leading experts on family law, entered the debate about family policy advocating traditional social values. In a major report for the Australian Christian Lobby (ACL) on child welfare, he reported the links between the breakdown of the family and increased risk of harm to children. Among a range of measures demonstrating the adverse impact of family breakdown on children, he cited the studies and statistics showing higher rates of child sexual abuse in non-traditional families.[35] In an article in the *Sydney Morning Herald*, Parkinson drew attention to the 'harsh reality … that children are much more at risk of sexual abuse from men who are not biologically related to them than from their own dads.'[36]

Some of the reactions to the ACL report were predictable. Proponents of the traditional family, such as federal Liberal MP Kevin Andrews applauded the fearless, evidence-based discussion of family breakdown and adverse outcomes for children.[37] Critics, such as Jane Stanley from the Council of Single Mothers and their Children, found the analysis to be simplistic because many separated and single-parent families produce well-adjusted children.[38] Advocates of 'marriage equality,' such as gay rights activist Rodney Croome, even cited the findings to call for legalising homosexual and lesbian marriage to ensure that children of same-sex couples are raised by married parents.[39]

Those who should be making the prevention of the child sexual abuse in non-traditional families a prominent issue choose instead to stay silent.

Yet one would think that this dose of harsh reality delivered by an academic of Parkinson's stature would provoke stronger reactions. Child welfare advocates, along with select politicians and media outlets, might have been expected to call for 'something' to be done to protect children at significantly greater risk of violation. In response, defenders of sole parenting in the welfare lobby and academia might have mounted the metaphorical barricades, given the authoritative connection between family structure and the risk of sexual victimisation.

However, Parkinson's article (and report) prompted neither outrage nor denial. The response to his sober and scholarly directing of attention to 'how often' children are sexually abused in non-traditional families was silence. The facts were neither disputed nor acknowledged in the little public discussion that ensued; the report simply washed in and out of the public domain and left little trace on community attitudes.

The lack of traction can partly be attributed to the way those who should be making the prevention of the child sexual abuse in non-traditional families a prominent issue choose instead to stay silent.

In 2009, federal and state governments jointly released the first National Framework for Protecting Australia's Children. The section of the framework on prevention of child sexual abuse listed a range of risk factors—'family violence, other types of abuse and neglect, pornography'—including 'inadequate supervision.'[40] This euphemism for divorce/single motherhood is typical of what those ostensibly responsible for promoting child welfare in Australia are not prepared to think, say and reveal about child sexual abuse and family breakdown.

The Australian social services sector should be leading the debate and advocating child protection. Instead, the state government community service departments in charge of child protection services, together with non-government charitable organisations that provide family and child welfare services, practises the non-judgmental attitudes that characterise the modern social work profession. 'Progressive' social attitudes and anti-traditional family values are endorsed by promoting the fiction that says all families, however constituted, are of equal worth. Endorsing 'family diversity' chiefly entails downplaying the links between family

type and child abuse—such as the over-representation of single mother and other non-traditional families in child protection caseloads—so as to avoid 'judgemental discrimination of certain types of families.'[41] A 2012 report on family structure and child abuse published by the taxpayer-funded Child Family Community Australia (CFCA) information exchange, exemplifies the studied non-judgmentalism which is the norm among social workers and the organisations they work for. Authors Cathryn Hunter and Rhys Price-Robertson protested against stigmatising non-traditional families on the grounds that 'much of the perceived relationship between family structure and child maltreatment can be explained by factors such as poverty, substance misuse and domestic violence.' [42]

Most of the families, regardless of type, that come to the attention of child protection authorities constitute an underclass of families suffering a range of complex dysfunctions.[43] There is also great diversity among non-traditional families, and many single-mothers, for example, overcome the difficulties of sole parenting and raise safe and well-adjusted children. However, the 'welfare paradigm' the social services sector employs to explain child abuse as a product of poverty, drugs and family dysfunction does not explain the prevalence of child sexual abuse. While low socioeconomic status is a powerful determinant of physical abuse and neglect, this does not apply to sexual abuse. (The National Framework also misleads on this point.) Child sexual abuse occurs across all socioeconomic groups and 'community survey studies find almost no socio-economic effects.'[44] The lack of association between class, dysfunction and child sexual abuse proves that family structure is a risk factor that cannot be ignored. This is consistent with the wealth of evidence showing that children raised outside two biological parent married families are at much greater risk of experiencing sexual abuse.

Resolutely ignored

The 'new silence' about family breakdown and child sexual abuse is a troubling insight into contemporary social mores.

The 'new silence' about family breakdown and child sexual abuse is a troubling insight into contemporary social mores. The lack of attention paid to this issue means the public discourse is self-censored, in effect, in compliance with politically correct attitudes towards family diversity, because of strong cultural resistance to a message that contradicts 'progressive' social values.

The silence stems from the lasting influence on mainstream culture of the social revolution of the 1960s, which fundamentally altered the social conventions governing marriage and the raising of children.

The most significant social changes since the 1960s are the introduction of 'no fault' divorce and escalating rates of marriage breakdown; the collapse of the social stigmas forbidding sexual relations and cohabitation outside marriage; and increasing numbers of children born out of wedlock and living in single-parent households, mostly with mothers and often relying on government benefits.[45] Accompanying these social changes has been a shift in moral sentiment, which has seen 'progressive' Western societies such as Australia cease to make collective moral judgments about good and bad behaviour.[46] As a result, the negative social consequences of the social revolution are rarely criticised, and key social issues are insufficiently scrutinised, including the potentially harmful impact on children of adult behaviours such as divorce and having children out of wedlock that were previously judged immoral and irresponsible but now socially accepted.[47]

Yet a large volume of evidence shows that the key non-judgmental idea the social revolution has popularised and elevated into an alleged marker of social progress and greater tolerance—that the traditional family is just one among many and equally valid and worthwhile family forms—is plainly wrong. Decades of studies examining family structure and child outcomes have found that children who live in an intact family in which the biological mother and father are married derive, on average, modest but consistent educational, social, cognitive and

behavioural benefits.[48] Conversely, family breakdown and family non-formation have been found to be significantly associated, on average, with a range of adverse outcomes that persist into adulthood.[49] Marriage, as the foundation of family life, seems to be in a child's best interests while the alternative—raising children outside of intact two-parent married families—appears to compromise their care and socialisation.[50]

A recent summary of the evidence compiled by the US political scientist Charles Murray outlined the array of benefits for children associated with marriage:

> No matter what the outcome being examined—the quality of the mother-infant relationship, externalizing behaviour in childhood (aggression, delinquency, and hyperactivity), delinquency in adolescence, criminality as adults, illness and injury in childhood, early mortality, sexual decision making in adolescence, school problems and dropping out, emotional health, and any other measure of how well or poorly children do in life—the family structure that produces the best outcomes for children, on average, are two biological parents who remain married. Divorced parents produced the next-best outcomes. Whether the parents remarry or remain single while the children are growing up makes little difference. Never married women produce the worst outcomes. All of these statements apply after controlling for the family's socio-economic status.[51]

Social sciences have repeatedly and consistently demonstrated that marriage makes a real difference, on average, to the welfare of children irrespective of class.

The social sciences have repeatedly and consistently demonstrated that marriage makes a real difference, on average, to the welfare of children irrespective of class. Nevertheless, mainstream cultural gatekeepers prefer to avert their eyes. Murray writes:

> I know of no other set of important findings that are as broadly accepted by social scientists who follow the technical literature, liberal as well as conservative, and yet are so resolutely ignored by network news programs, editorial writers for the major newspapers, and politicians of both major parties.[52]

Murray's description of the wilful blindness among cultural elites equally applies to Australian public life—especially to the way the demonstrable risk that family breakdown poses to the sexual safety of children is resolutely ignored. Child sexual abuse is not fully and frankly discussed by the Australian community, and attempts to flag the issue, such as the 2011 Australian Christian Lobby report, end up disappearing into the ether, due to the gatekeeping role cultural elites play in policing debates on contentious social issues. The terrible and widespread mishandling of child sexual abuse by the Catholic and other churches has provided apparent proof that all traditional institutions and sources of moral authority are corrupt and hypocritical; these scandals have thus fitted neatly with the default countercultural values embraced since the social revolution of the 1960s by the majority of university-educated elites with culture-shaping positions in key institutions in politics, journalism and academia.[53] However, many politicians, journalists and academics who rightly criticise the failings of the churches have their own blind spot, and would prefer to discuss child sexual abuse in a context that supports rather than challenges the post-1960s 'progressive' consensus. Criticism of the behaviour of culturally unfashionable religious organisations is thus combined with a reluctance to give prominence to culturally unfashionable, socially conservative issues.[54]

Public discussion of family matters is inhibited by acts of omission—facts not reported in the media 'do not exist' in terms of public debate and policy.

For instance, Lixia Qu and Ruth Weston's 2012 longitudinal data study for the Australian government on marital status and child wellbeing was not reported by the media, despite its challenging and important finding that Australian children 'living with sole mothers appeared to fare less well in terms of social-emotional, learning, and physical development' compared to children living with married parents.[55] This is an example of what the social commentator and author Bettina Arndt describes as the chronic failure by agenda-setting media organisations, especially the highly-influential Australian Broadcasting Corporation (ABC), to discuss family-related social issues and trends that challenge the pro-family diversity orthodoxy.[56] Hence, despite the importance of child wellbeing to national wellbeing, the subject of family breakdown receives negligible attention and generates little debate compared to other subjects, such as the environment, population and preventive health, which feature prominently in the public discourse about the nation's future.

Advertising the risks

In her ground-breaking 1984 paper on child sexual abuse in non-traditional families, Diane Russell offered advice that is still relevant. Having shown that divorced and single mothers needed 'to be more careful in their evaluation of prospective men friends, lovers, or marriage partners because of the tremendous risk of stepfathers sexually abusing their stepdaughters,'[57] Russell called for a public health information campaign to raise awareness. Yet almost 30 years later, no action (in Australia at least) has been taken to translate this advice into action.

To promote greater personal responsibility for child welfare, the link between child abuse and the relationship and reproductive choices of adults should be stressed.

Russell's advice remains relevant because greater community awareness of how important marriage is to child welfare can be fostered if Australian governments (either state and/or federal) commissioned an anti-child sexual abuse public information campaign—especially given the strong association between childhood sexual abuse and major mental health problems, particularly among women.[58] Governments already conduct advertising campaigns to educate citizens and promote certain values that are in the public interest—such an anti-smoking and anti-drink driving—to change attitudes and behaviours. A pro-marriage public information campaign should acknowledge family breakdown and family non-formation for what they often are—risky for children. The campaign should encourage marriage and discourage single-motherhood and divorce (except in the minority of high conflict marriages where children benefit from parental separation[59]). The fact that among the myriad benefits for children, the two biological parent married family is a protective factor that prevents child sexual abuse, as well as other forms of abuse and neglect, should be publicised. Conversely, the campaign should also acknowledge that divorce and single motherhood put children at much greater risk of sexual abuse by creating opportunities for abusive men to gain access to children. It should also be made plain that ultimate responsibility for offences against children lies with the perpetrators. But to promote greater personal responsibility for child welfare, the link between child abuse and the relationship and reproductive choices of adults should be stressed.

This is not as radical as it sounds, at least compared to countries where the debate on family structure and child welfare is far more sophisticated and advanced.

In the United States, a new consensus is emerging on marriage and the best way to improve the welfare of children. Encouraging parents to commit to marriage before having children is increasingly acknowledged by experts and policymakers as an effective way to reduce poverty and social disadvantage. Cynics will say that this kind of 'old-fashioned' moralising on social issues is to be expected in a country that clings to traditional religious morality. But it isn't Bible Belt zealots who are promoting marriage; the 'marriage movement' is being driven from inside the beltway by social scientists working at the most prestigious Washington think tanks,

which are transcending the standard Left-Right cultural divide in ardent agreement about the benefits of marriage.

Secular think tank organisations are articulating the secular, evidence-based case for marriage by informing the community about the risks to child welfare associated with divorce and single-parenting, and the positive impact on children of parents getting wed, staying hitched, and providing their families with superior economic and emotional security.[60] The views of Murray of the right-of-centre American Enterprise Institute are matched by Isabel Sawhill of the left-of-centre Brookings Institution, who argues that child poverty would significantly reduce if single mothers were married and these families enjoyed the same financial resources as socially similar married households.[61] Robert Rector, the architect of the Clinton welfare reforms of the 1990s and senior research fellow at the conservative Heritage Foundation, argues that government should discourage child birth out of wedlock as an anti-poverty strategy, and 'provide information that will help people form and maintain healthy marriages and delay childbearing until they are married and economically stable.'[62]

Secular think tank organisations are articulating the secular, evidence-based case for marriage.

The weight of expert opinion in favour of marriage is starting to help shape policy—even in the most 'progressive' states in the union. In March 2012, then city of New York Mayor Michael Bloomberg initiated a citywide public information campaign against teen pregnancy, featuring 4,000 subway and bus shelter ads, plus a range of online and mobile platforms (Figure 1). This attempt to 'send the right message' and 'encourage responsibility' highlighted, among other things, the negative consequences of having a child before marriage, including the financial costs to parents and poor child developmental and life outcomes.[63] Putting aside politically correct concerns about 'stigmatising' unmarried mothers and being 'judgmental,' the campaign set out the 'incontrovertible facts that social science has known for decades but that professors and politicians have not dared inject into the public sphere.'[64]

Figure 1: New York's anti-teen pregnancy campaign

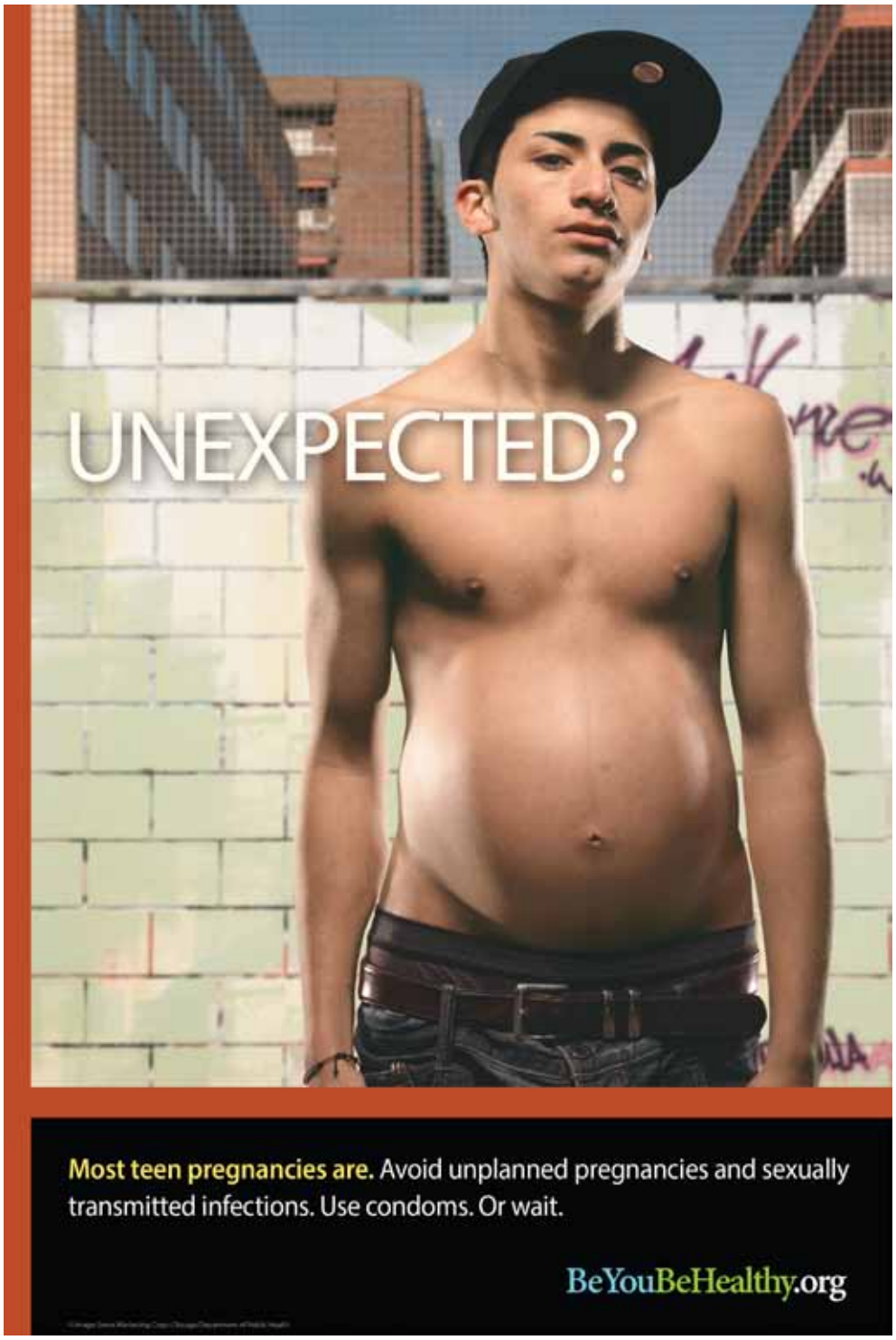
The New York campaign is modelled on a similar initiative in Milwaukee. A 2006 report on the social costs of teen pregnancy found that each child born to a teenage mother cost the state of Wisconsin $80,000 over its lifetime. The report also found that 71% of babies born to teenage mothers were fathered by males over 20 years old. The anti-teen pregnancy advertising campaign subsequently launched also targeted predatory sex with underage girls (Figure 2), and has contributed to a 36% drop in teenage pregnancy in Milwaukee, compared to a 16% drop in the rest of the Wisconsin.[65]

Figure 2: Milwaukee's anti-teen pregnancy campaign

President Barack Obama has stressed the need to reduce rates of single motherhood in America, particularly in the black community, to address poverty and violence.

Other jurisdictions have also realised that having children outside of marriage 'isn't just something that preachers worry about' and is 'something that policymakers need to worry about.'[66] Chicago too has introduced a campaign to raise awareness of teen pregnancy, emphasising the 'clear message that it doesn't only affect young women' (Figure 3).[67] This is a theme taken up by Chicago's favourite son, President Barack Obama, who (though being raised by a single mother) has stressed the need to reduce rates of single motherhood in America, particularly in the black community, to address poverty and violence. Obama's politically savvy strategy has been to avoid singling out unmarried mothers, and to instead focus on the need for fathers to fulfil their responsibility to their children. In a widely reported speech in Chicago in February 2013, the president said that individual opportunity and community safety requires 'strong, stable families, which means we should do more to promote marriage and encourage fatherhood.'[68]

Figure 3: Chicago's anti-teen pregnancy campaign



Approximately 27% (more than one in four) Australian children do not currently live with both natural parents.

Conclusion

Approximately 27% (more than one in four) Australian children do not currently live with both natural parents.[69] This compares to around 90% of children who lived with both natural parents in 1960.[70] Rising rates of divorce and ex-nuptial births have led to substantial growth in the number of step-, blended and single-parent

families. Only 7.1% of families with dependent children were single-parent families in the late 1960s compared to 17% today, and the proportion of step- and blended families has approximately doubled.[71] The social changes of the recent decades have transformed the character of Australian families and placed larger numbers of children in non-traditional families at greater risk of maltreatment, including sexual abuse. Despite this, there is little community debate and discussion about the risk that family breakdown poses to the welfare of children. Even when the subject is raised, usually by Christian family groups like the ACL, it remains on the political fringe and does not become the mainstream issue central to the nation's future that it ought to be.

In hindsight, we are justifiably critical of the silences that in earlier times kept child sexual abuse a hidden problem. However, the belief—which has underpinned much of the response to the royal commission into institutional abuse—that the community has moved on from repressive attitudes of earlier times that kept child sexual abuse a hidden problem, and that no subject is now off limits, is an overstatement. A comparable silence surrounding family breakdown and child welfare confronts us today, because cultural politics intervene and render us mute.

Admitting that a major threat to the welfare of children stems from the breakdown of the traditional family demands a re-evaluation of the progressive social values in which cultural elites have invested much political and intellectual capital. The unwillingness to challenge the conventional, socially progressive attitudes that now constitute the established order is similar to the veil of silence that helped hide the crimes of paedophile priests. Many paedophiles deliberately infiltrated the clergy to gain access to children and exploit the deferential attitudes towards traditional institutions like churches and authority figures like priests that were once the norm. Many got away with their crimes, and children who disclosed abuse were not believed because people struggled to accept that 'dear father,' that pillar of the established order, would interfere with little children. Today we still pay due deference to deeply held but erroneous values and do not deal with society the way it is but the way we would prefer it to be: The mirage of moral tolerance, personal liberation, and family diversity is preferred to the reality of child harm. Inconvenient truths about the family and child welfare thus have little cultural salience, and the burden of our cultural angst is once again left to rest on abused children.

If we are to avoid repeating the mistakes of the past, it is essential that cultural politics is set aside and that we speak openly and honestly about issues such as the known risk of 'boyfriend abuse.' Speaking honestly requires ditching the anti-stigmatisation sophistry that says we shouldn't make people feel bad about their relationship and reproductive choices, no matter how bad some choices are for children. Informed individuals should be expected to make responsible choices in the best interests of their children. A public information campaign promoting a pro-responsibility, pro-marriage and pro-child message, and which draws attention to the facts about family structure and child wellbeing, would end the new silence that hides the culturally inconvenient truth about the family.

To avoid repeating the mistakes of the past, it is essential that cultural politics is set aside and that we speak openly and honestly about issues such as the known risk of 'boyfriend abuse.'

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The Centre for Independent Studies l PO Box 92, St Leonards, NSW 1590 Australia l p: +61 2 9438 4377 l f: +61 2 9439 7310 l cis@cis.org.au

CONGREGATION FOR THE DOCTRINE OF THE FAITH

VADEMECUM

ON CERTAIN POINTS OF PROCEDURE IN TREATING CASES OF SEXUAL ABUSE OF MINORS COMMITTED BY CLERICS

Version 1.0

of 16 July 2020

NOTA BENE:

a. In addition to the delicts listed in art. 6 of the *Normae* promulgated by the Motu Proprio *Sacramentorum Sanctitatis Tutela*, what follows is to be observed – with eventual adaptations – in all cases involving delicts reserved to the Congregation for the Doctrine of the Faith;

b. The following abbreviations will be used: CIC: *Codex Iuris Canonici*; CCEO: *Codex Canonum Ecclesiarum Orientalium*; SST: Motu Proprio *Sacramentorum Sanctitatis Tutela* – 2010 Revised Norms; VELM: Motu Proprio *Vos Estis Lux Mundi* – 2019; CDF: *Congregatio pro Doctrina Fidei*.

* * *

0. Introduction

In response to numerous questions about the procedures to be followed in those penal cases for which it is competent, the Congregation for the Doctrine of the Faith has prepared this *Vademecum*, intended primarily for Ordinaries and other personnel needing to apply the canonical norms governing cases of the sexual abuse of minors by clerics.

The present manual is meant to serve as a handbook for those charged with ascertaining the truth in such criminal cases, leading them step-by-step from the *notitia criminis* to the definitive conclusion of the case.

While not issuing new norms or altering current canonical legislation, this manual seeks to clarify the various stages of the procedures involved. Its use is to be encouraged, since a standardized praxis will contribute to a better administration of justice.

Reference is made above all to the two Codes presently in force (CIC and CCEO); the *Norms on Delicts Reserved to the Congregation for the Doctrine of the Faith* in the revised 2010 version, issued with the Motu Proprio *Sacramentorum Sanctitatis Tutela*, taking account of the revisions introduced by the *Rescripta ex Audientia* of 3 and 6 December 2019; the Motu Proprio *Vos Estis Lux Mundi*; and, not least, the praxis of the Congregation for the Doctrine of the Faith, which has in recent years become increasingly clear and consolidated.

Intended to be flexible, this manual can be periodically updated if the norms to which it refers are modified, or if the praxis of the Congregation calls for further clarifications and revisions.

A choice was made not to include in this *Vademecum* guidelines for carrying out the judicial penal process in the first grade of judgment, since it was felt that the procedure set forth in the present Codes is sufficiently clear and detailed.

It is hoped that this handbook will assist Dioceses, Institutes of Consecrated Life and Societies of Apostolic Life, Episcopal Conferences and the various ecclesiastical circumscriptions to better understand and implement the requirements of justice regarding a *delictum gravius* that constitutes for the whole Church a profound and painful wound that cries out for healing.

I. What constitutes the delict?

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, 1º SST).

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.

3. The concept of "minor" in these cases has varied over the course of time. Prior to 30 April 2001, a minor was defined as a person under 16 years of age (even though in some particular legislations – for example in the United States [from 1994] and Ireland [from 1996] – the age had already been raised to 18). After 30 April 2001, with the promulgation of the Motu Proprio *Sacramentorum Sanctitatis Tutela*, the age was universally raised to 18 years, and this is the age currently in effect. These variations must be taken into account when determining whether the "minor" in question was in fact such, according to the legal definition in effect at the time of the facts.

4. The use of the term "minor" does not reflect the distinction occasionally proposed by the psychological sciences between acts of "paedophilia" and those of "ephebophilia", that is, involving post-pubescent adolescents. Their degree of sexual maturity does not affect the canonical definition of the delict.

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, 1º 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).

6. SST has also introduced (cf. art. 6 § 1, 2º 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 also to be dealt with if it occurred prior to that date.

8. In accordance with the law governing religious who are members of the Latin Church (cf. canons 695ff. CIC), the delict mentioned above in no. 1 can also entail dismissal from a religious Institute. The following should be kept in mind: a/ such dismissal is not a penalty, but rather an administrative act of the supreme Moderator; b/ to issue a decree of dismissal, the relevant procedure described in canons 695 § 2, 699 and 700 CIC must be carefully followed; c/ confirmation of the decree of dismissal demanded by canon 700 CIC must be requested from the CDF; d/ dismissal from the Institute entails the loss of membership in the Institute and the cessation of vows and obligations deriving from profession (cf. canon 701 CIC), as well as the prohibition of exercising any sacred orders received until the conditions referred to in canon 701 CIC are met. The same rules, suitably adapted, are also applicable to definitively incorporated members of Societies of Apostolic Life (cf. canon 746 CIC).

II. What must be done when information is received about a possible delict (*notitia de delicto*)?

a/ What is meant by the term *notitia de delicto*?

9. A *notitia de delicto* (cf. canon 1717 § 1 CIC; canon 1468 § 1 CCEO; art. 16 SST; art. 3 VELM), occasionally called *notitia criminis*, consists of any information about a possible delict that in any way comes to the attention of the Ordinary or Hierarch. It need not be a formal complaint.

10. This *notitia* can come from a variety of sources: it can be formally presented to the Ordinary or Hierarch, orally or in writing, by the alleged victim, his or her guardians or other persons claiming to have knowledge about the matter; it can become known to the Ordinary or Hierarch through the exercise of his duty for vigilance; it can be reported to the Ordinary or Hierarch by the civil authorities through channels provided for by local legislation; it can be made known through the communications media (including social media); it can come to his knowledge through hearsay, or in any other adequate way.

11. At times, a *notitia de delicto* 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*.

13. At times, a *notitia de delicto* lacks specific details (names, dates, times…). Even if vague and unclear, it should be appropriately assessed and, if reasonably possible, given all due attention.

14. It must be pointed out that a report of a *delictum gravius* received in confession is under placed the strictest bond of the sacramental seal (cf. canon 983 § 1 CIC; canon 733 § 1 CCEO; art. 4 § 1, 5º SST). A confessor who learns of a *delictum gravius* during the celebration of the sacrament should seek to convince the penitent to make that information known by other means, in order to enable the appropriate authorities to take action.

15. The responsibility for vigilance incumbent on the Ordinary or Hierarch does not demand that he constantly monitor the clerics subject to him, yet neither does it allow him to consider himself exempt from keeping informed about their conduct in these areas, especially if he becomes aware of suspicions, scandalous behaviour, or serious misconduct.

b/ What actions should be taken upon receiving a *notitia de delicto*?

16. Art. 16 SST (cf. also canons 1717 CIC and 1468 CCEO) states that, when a *notitia de delicto* is received, a preliminary investigation ought to ensue, provided that the report is *"saltem verisimilis"*. If that plausibility proves unfounded, there is no need to pursue the *notitia de delicto*, although care should be taken to keep the documentation, together with a written explanation regarding the reasons for the decision.

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.

18. Given the sensitive nature of the matter (for example, the fact that sins against the sixth commandment of the Decalogue rarely occur in the presence of witnesses), a determination that the *notitia* lacks the semblance of truth (which can lead to omitting the preliminary investigation) will be made only in the case of the manifest impossibility of proceeding according to the norms of canon law. For example, if it turns out that at the time of the delict of which he is accused, the person was not yet a cleric; if it comes to light that the presumed victim was not a minor (on this point, cf. no. 3); if it is a well-known fact that the person accused could not have been present at the place of the delict when the alleged actions took place.

19. Even in these cases, however, it is advisable that the Ordinary or Hierarch 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.

20. Here it should be mentioned that in cases of improper and imprudent conduct, even in the absence of a delict involving minors, should it prove necessary to protect the common good and to avoid scandal, the Ordinary or Hierarch is competent to take other administrative provisions with regard to the person accused (for example, restrictions on his ministry), or to impose the penal remedies mentioned in canon 1339 CIC for the purpose of preventing delicts (cf. canon 1312 § 3 CIC) or to give the public reprimand referred to in canon 1427 CCEO. In the case of delicts that are *non graviora*, the Ordinary or Hierarch should employ the juridical means appropriate to the particular circumstances.

21. According to canon 1717 CIC and canon 1468 CCEO, responsibility for the preliminary investigation belongs to the Ordinary or Hierarch who received the *notitia de delicto*, or to a suitable person selected by him. The eventual omission of this duty could constitute a delict subject to a canonical procedure in conformity with the Code of Canon Law and the Motu Proprio *Come una madre amorevole*, as well as art. 1 § 1, b VELM.

22. This task belongs to the Ordinary or Hierarch of the accused cleric or, if different, the Ordinary or Hierarch of the place where the alleged delicts took place. In the latter case, it will naturally be helpful for there to be communication and cooperation between the different Ordinaries involved, in order to avoid conflicts of competence or the duplication of labour, particularly if the cleric is a religious.

23. Should an Ordinary or Hierarch encounter difficulties in initiating or carrying out the preliminary investigation, he should immediately contact the CDF for advice or help in resolving any eventual questions.

24. It can happen that the *notitia de delicto* comes directly to the CDF and not through the Ordinary or Hierarch. In that case, the CDF can ask the latter to carry out the investigations or, in accordance with art. 17 SST, can carry them out itself.

25. The CDF, according to its own judgment, by explicit request or by necessity, can also ask any other Ordinary or Hierarch to carry out the preliminary investigation.

26. The preliminary canonical investigation must be carried out independently of any corresponding investigation by the civil authorities. In those cases where state legislation prohibits investigations parallel to its own, the ecclesiastical authorities should refrain from initiating the preliminary investigation and report the accusation to the CDF, including any useful documentation. In cases where it seems appropriate to await the conclusion of the civil investigations in order to acquire their results, or for other reasons, the Ordinary or Hierarch would do well to seek the advice of the CDF in this regard.

27. The investigation should be carried out with respect for the civil laws of each state (cf. art. 19 VELM).

28. For the delicts considered here, it should be noted that the terms of prescription for the criminal action have varied significantly over time. The terms currently in effect are defined by art. 7 SST.[1] Yet since art. 7 § 1 SST permits the CDF to derogate from prescription in individual cases, an Ordinary or Hierarch who has determined that the times for prescription have elapsed must still respond to the *notitia de delicto* and carry out the eventual preliminary investigation, communicating its results to the CDF, which is competent to decide whether prescription is to be retained or to grant a derogation from it. In

forwarding the acts, it would be helpful for the Ordinary or Hierarch to express his personal opinion regarding an eventual derogation, basing it on concrete circumstances (e.g., cleric's health status or age, cleric's ability to exercise right of self-defence, harm caused by the alleged criminal act, scandal given).

29. In these sensitive preliminary acts, the Ordinary or Hierarch can seek the advice of the CDF (as is possible at any time during the handling of a case) and freely consult with experts in canonical penal matters. In the latter case, however, care should be taken to avoid any inappropriate or illicit diffusion of information to the public that could prejudice successive investigations or give the impression that the facts or the guilt of the cleric in question have already been determined with certainty.

30. It should be noted that already in this phase one is bound to observe the secret of office. It must be remembered, however, that an obligation of silence about the allegations cannot be imposed on the one reporting the matter, on a person who claims to have been harmed, and on witnesses.

31. In accordance with art. 2 § 3 VELM, an Ordinary who has received a *notitia de delicto* must transmit it immediately to the Ordinary or Hierarch of the place where the events were said to have occurred, as well as to the proper Ordinary or Hierarch of the person reported, namely, in the case of a religious, to his major Superior, if the latter is his proper Ordinary, and in the case of a diocesan priest, to the Ordinary of the diocese or the eparchial Bishop of incardination. In cases where the local Ordinary or Hierarch and the proper Ordinary or Hierarch are not the same person, it is preferable that they contact each other to determine which of them will carry out the investigation. In cases where the report concerns a member of an Institute of Consecrated Life or a Society of Apostolic Life, the major Superior will also inform the supreme Moderator and, in the case of Institutes and Societies of diocesan right, also the respective Bishop.

III. How does the preliminary investigation take place?

32. The preliminary investigation takes place in accordance with the criteria and procedures set forth in canon 1717 CIC or canon 1468 CCEO and cited below.

a/ What is the preliminary investigation?

33. It must always be kept in mind that the preliminary investigation is not a trial, nor does it seek to attain moral certitude as to whether the alleged events occurred. It serves: a/ to gather data useful for a more detailed examination of the *notitia de delicto*; and b/ to determine the plausibility of the report, that is, to determine that which is called *fumus delicti*, namely the sufficient basis both in law and in fact so as to consider the accusation as having the semblance of truth.

34. For this reason, as the canons cited in no. 32 indicate, the preliminary investigation should gather detailed information about the *notitia de delicto* with regard to facts, circumstances and imputability. It is not necessary at this phase to assemble complete elements of proof (e.g., testimonies, expert opinions), since this would be the task of an eventual subsequent penal procedure. The important thing is to reconstruct, to the extent possible, the facts on which the accusation is based, the number and time of the criminal acts, the circumstances in which they took place and general details about the alleged victims, together with a preliminary evaluation of the eventual physical, psychological and moral harm inflicted. Care should also be taken care to determine any possible relation to the sacramental internal forum (in this regard, however, account must be taken of the prescriptions of art. 24 SST[2]). At this point, any other delicts attributed to the accused (cf. art. 8 § 2 SST[3]) can be added, as well as any indication of problematic facts emerging from his biographical profile. It can be useful to assemble testimonies and documents, of any kind or provenance (including the results of investigations or trials carried out by civil authorities), which may in fact prove helpful for substantiating and validating the plausibility of the accusation. It is likewise possible at this point to indicate eventual exempting, mitigating or aggravating factors, as provided for by law. It could also prove helpful to collect at this time testimonials of credibility with regard to the complainants and the alleged victims. An Appendix to the present *Vademecum* contains a schematic outline of useful data that those carrying out the preliminary investigation will want to compile and have at hand (cf. no. 69).

35. If, in the course of the preliminary investigation, other *notitiae de delicto* become known, these must also be looked into as part of the same investigation.

36. As mentioned above, the acquisition of the results of civil investigations (or of an entire trial before a tribunal of the state) could make the preliminary canonical investigation unnecessary. Due care must be taken, however, by those who must carry out the preliminary investigation to examine the civil investigation, since the criteria used in the latter (with regard, for example, to terms of prescription, the typology of the crime, the age of the victim, etc.) can vary significantly with respect to the norms of canon law. In these situations too, it can be advisable, in case of doubt, to consult with the CDF.

37. The preliminary investigation could also prove unnecessary in the case of a notorious and indisputable crime (given, for example, the acquisition of the civil proceedings or an admission on the part of the cleric).

b/ What juridical acts must be carried out to initiate the preliminary investigation?

38. If the competent Ordinary or Hierarch considers it appropriate to enlist another suitable person to carry out the investigation (cf. no. 21), he is to select him or her using the criteria indicated by canons 1428 §§ 1-2 CIC or 1093 CCEO.[4]

39. In appointing the person who carries out the investigation, and taking into account the cooperation that can be offered by lay persons in accordance with canons 228 CIC and 408 CCEO (cf. art. 13 VELM), the Ordinary or Hierarch should keep in mind that, according to canons 1717 § 3 CIC and 1468 § 3 CCEO, if a penal judicial process is then initiated, that same person cannot act as a judge in the matter. Sound practice suggests that the same criterion be used in appointing the Delegate and the Assessors in the case of an extrajudicial process.

40. In accordance with canons 1719 CIC and 1470 CCEO, the Ordinary or Hierarch is to issue a decree opening the preliminary investigation, in which he names the person conducting the investigation and indicates in the text that he or she enjoys the powers referred to in canon 1717 § 3 CIC or 1468 § 3 CCEO.

41. Although not expressly provided for by law, it is advisable that a priest notary be appointed (cf. canon 483 § 2 CIC and canon 253 § 2 CCEO, where other criteria are indicated for the choice), who assists the person conducting the preliminary investigation, for the purpose of ensuring the authenticity of the acts which have been drawn up (cf. canons 1437 § 2 CIC and 1101 § 2 CCEO).

42. It should be noted, however, that since these are not the acts of a process, the presence of the notary is not necessary for their validity.

43. In the investigative phase the appointment of a promoter of justice is not foreseen.

c/ What complementary acts can or must be carried out during the preliminary investigation?

44. Canons 1717 § 2 CIC and 1468 § 2 CCEO, and articles 4 § 2 and 5 § 2 VELM speak of protecting the good name of the persons involved (the accused, alleged victims, witnesses), so that the report will not lead to prejudice, retaliation or discrimination in their regard. The one who carries out the preliminary investigation must therefore be particularly careful to take every possible precaution to this end, since the right to a good name is one of the rights of the faithful upheld by canons 220 CIC and 23 CCEO. It should be noted, however, that those canons protect that right from illegitimate violations. Hence, should the common good be endangered, the release of information about the existence of an accusation does not necessarily constitute a violation of one's good name. Furthermore, the persons involved are to be informed that in the event of a judicial seizure or a subpoena of the acts of the investigation on the part of civil authorities, it will no longer be possible for the Church to guarantee the confidentiality of the depositions and documentation acquired from the canonical investigation.

45. In any event, especially in cases where public statements must be made, great caution should be exercised in providing information about the facts. Statements should be brief and concise, avoiding clamorous announcements, refraining completely from any premature judgment about the guilt or innocence of the person accused (since this is to be established only by an eventual penal process aimed at verifying the basis of the accusation), and respecting any desire for privacy expressed by the alleged victims.

46. Since, as stated above, in this phase the possible guilt of the accused person has yet to be established, all care should be taken to avoid – in public statements or private communication – any affirmation made in the name of the Church, the Institute or Society, or on one's own behalf, that could constitute an anticipation of judgement on the merits of the facts.

47. It should also be noted that accusations, processes and decisions relative to delicts mentioned in art. 6 SST are subject to the secret of office. This does not prevent persons reporting – especially if they also intend to inform the civil authorities – from making public their actions. Furthermore, since not all forms of *notitiae de delicto* are formal accusations, it is possible to evaluate whether or not one is bound by the secret, always keeping in mind the respect for the good name of others referred to in no. 44.

48. Here too, consideration should be given to whether the Ordinary or Hierarch is obliged to inform the civil authorities of the reception of the *notitia de delicto* and the opening of the preliminary investigation. Two principles apply: a/ respect for the laws of the state (cf. art. 19 VELM); and b/ respect for the desire of the alleged victim, provided that this is not contrary to civil legislation. Alleged victims should be encouraged – as will be stated below (no. 56) – to exercise their duties and rights vis-à-vis the state authorities, taking care to document that this encouragement took place and to avoid any form of dissuasion with regard to the alleged victim. Relevant agreements (concordats, accords, protocols of understanding) entered into by the Apostolic See with national governments must always and in any event be observed.

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).

50. Whenever civil judicial authorities issue a legitimate executive order requiring the surrender of documents regarding cases, or order the judicial seizure of such documents, the Ordinary or Hierarch must cooperate with the civil authorities. If the legitimacy of such a request or seizure is in doubt, the Ordinary or Hierarch can consult legal experts about available means of recourse. In any case, it is advisable to inform the Papal Representative immediately.

51. In cases where it proves necessary to hear minors or persons equivalent to them, the civil norms of the country should be followed, as well as methods suited to their age or condition, permitting, for example, that the minor be accompanied by a trusted adult and avoiding any direct contact with the person accused.

52. During the investigative process, a particularly sensitive task falling to the Ordinary of Hierarch is to decide if and when to inform the person being accused.

53. In this regard, there is no uniform criterion or explicit provision in law. An assessment must be made of all the goods at stake: in addition to the protection of the good name of the persons involved, consideration must also be given, for example, to the risk of compromising the preliminary investigation or giving scandal to the faithful, and the advantage of collecting beforehand all evidence that could prove useful or necessary.

54. Should a decision be made to question the accused person, since this is a preliminary phase prior to a possible process, it is not obligatory to name an official advocate for him. If he considers it helpful, however, he can be assisted by a patron of his choice. An oath cannot be imposed on the accused person (cf. *ex analogia*, canons 1728 § 2 CIC and 1471 § 2 CCEO).

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

56. It is absolutely necessary to avoid in this phase any act that could be interpreted by the alleged victim as an obstacle to the exercise of his or her civil rights vis-à-vis the civil authorities.

57. Where there exist state or ecclesiastical structures of information and support for alleged victims, or of consultation for ecclesial authorities, it is helpful also to refer to them. The purpose of these structures is purely that of advice, guidance and assistance; their analyses do not in any way constitute canonical procedural decisions.

58. To defend the good name of the persons involved and to protect the public good, as well as to avoid other factors (for example, the rise of scandal, the risk of concealment of future evidence, the presence of threats or other conduct meant to dissuade the alleged victim from exercising his or her rights, the protection of other possible victims), in accordance with art. 19 SST, the Ordinary or Hierarch has the right, from the outset of the preliminary investigation, to impose the precautionary measures listed in canons 1722 CIC and 1473 CCEO.[5]

59. The precautionary measures found in these canons constitute a taxative list, in other words, only one or more of those delineated can be chosen.

60. This does not prevent the Ordinary or Hierarch from imposing other disciplinary measures within his power, yet these cannot be strictly defined as “precautionary measures”.

d/ How are precautionary measures imposed?

61. First, it should be stated that a precautionary measure is not a penalty (since penalties are imposed only at the end of a penal process), but an administrative act whose purposes are described by the aforementioned canons 1722 CIC and 1473 CCEO. It should be clearly explained to the party in question that the measure is not penal in nature, lest he think that he has already been convicted and punished from the start. It must also be emphasized that precautionary measures must be revoked if the reason for them ceases and that they themselves cease with the conclusion of the eventual penal process. Furthermore, they can be modified (made more or less severe), if circumstances so demand. Still, particular prudence and discernment is urged in judging whether the reason that suggested them has ceased; nor is it excluded that – once revoked – they can be re-imposed.

62. It has been noted that the older terminology of *suspensio a divinis* is still frequently being used to refer to the prohibition of the exercise of ministry imposed on a cleric as a precautionary measure. It is best to avoid this term, and that of *suspensio ad cautelam*, since in the current legislation suspension is a penalty, and cannot yet be imposed at this stage. The provision would more properly be called, for example, *prohibition* from the exercise of the ministry.

63. A decision to be avoided is that of simply transferring the accused cleric from his office, region or religious house, with the idea that distancing him from the place of the alleged crime or alleged victims constitutes a sufficient solution of the case.

64. The precautionary measures referred to in no. 58 are imposed by a singular precept, legitimately made known (cf. canons 49ff. and 1319 CIC and 1406 and 1510ff. CCEO).

65. It should be noted that whenever a decision is made to modify or revoke precautionary measures, this must be done by a corresponding decree, legitimately made known. This will not be necessary, however, at the conclusion of the possible process, since at that moment those measures cease to have legal effect.

e/ What must be done to conclude the preliminary investigation?

66. It is recommended, for the sake of equity and a reasonable exercise of justice, that the duration of the preliminary investigation correspond to the purpose of the investigation, which is to assess the plausibility of the *notitia de delicto* and hence the existence of the *fumus delicti*. An unjustified delay in the preliminary investigation may constitute an act of negligence on the part of ecclesiastical authority.

67. If the investigation has been carried out by a suitable person appointed by the Ordinary or Hierarch, he or she is to consign all the acts of the investigation, together with a personal evaluation of its results.

68. In accordance with canons 1719 CIC and 1470 CCEO, the Ordinary or Hierarch must decree the conclusion of the preliminary investigation.

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).

70. In cases where the Ordinary or Hierarch who carried out the preliminary investigation is a major Superior, it is best that he likewise transmit a copy of all documentation related to the investigation to the supreme Moderator (or to the relative Bishop in the case of Institutes or Societies of diocesan right), since they are the persons with whom the CDF will ordinarily communicate thereafter. For his part, the supreme Moderator will send to the CDF his own *votum*, as above in no. 69.

71. Whenever the Ordinary who carried out the preliminary investigation is not the Ordinary of the place where the alleged delict was committed, he is to communicate to the latter the results of the investigation.

72. The acts are to be sent in a single copy; it is helpful if they are authenticated by a notary who is a member of the curia, unless a specific notary had been appointed for the preliminary investigation.

73. Canons 1719 CIC and 1470 CCEO state that the original of all the acts is to be kept in the secret archive of the curia.

74. Again, according to art. 16 SST, once the acts of the preliminary investigation have been sent to the CDF, the Ordinary or Hierarch is to await communications or instructions in this regard from the CDF.

75. Clearly, if other elements related to the preliminary investigation or new accusations should emerge in the meantime, these are to be forwarded to the CDF as quickly as possible, in order to be added to what is already in its possession. If it appears useful to reopen the preliminary investigation on the basis of those elements, the CDF is to be informed immediately.

IV. What can the CDF do at this point?

76. Upon receipt of the acts of the preliminary investigation, ordinarily the CDF immediately sends an acknowledgment to the Ordinary, Hierarch, Supreme Moderator (in the case of religious, also to the Congregation for Institutes of Consecrated Life and for Societies of Apostolic Life; if the cleric is from an Eastern Church, to the Congregation for Oriental Churches; and to the Congregation for the Evangelization of Peoples if the cleric belongs to a territory subject to that Dicastery), communicating – unless it had previously done so – the protocol number corresponding to the case. Reference must be made to this number in all further communication with the CDF.

77. After attentively examining the acts, the CDF can then choose to act in a variety of ways: it can archive the case; request a more thorough preliminary investigation; impose non-penal disciplinary measures, ordinarily by a penal precept; impose penal remedies or penances, or warnings or rebukes; initiate a penal process; or identify other means of pastoral response. The decision, once made, is then communicated to the Ordinary with suitable instructions for its execution.

a/ What are non-penal disciplinary measures?

78. Non-penal disciplinary measures are singular administrative acts (that is, acts of the Ordinary or Hierarch, or of the CDF) by which the accused is ordered to do or to refrain from doing something. In these cases, limits are ordinarily imposed on the exercise of the ministry, of greater or lesser extent in view of the case, and also at times the obligation of residing in a certain place. It must be emphasized that these are not penalties, but acts of governance meant to ensure and protect the common good and ecclesial discipline, and to avoid scandal on the part of the faithful.

b/ What is a penal precept?

79. The ordinary form with which these measures are imposed is the penal precept mentioned in canon 1319 § 1 CIC and 1406 § 1 CCEO. Canon 1406 § 2 CCEO states that a warning containing the threat of penalty is equivalent to a penal precept.

80. The formalities required for a precept are those previously mentioned (canons 49ff. CIC and 1510ff. CCEO). Nonetheless, since it involves a penal precept, the text must clearly indicate the penalty being threatened if the recipient of the precept were to violate the measures imposed on him.

81. It should be kept in mind that, according to canon 1319 § 1 CIC, a penal precept cannot impose perpetual expiatory penalties; furthermore, the penalty must be clearly defined. Other exclusions of penalties are foreseen by canon 1406 § 1 CCEO for Eastern rite faithful.

82. Such an administrative act admits recourse within the terms of law.

c/ What are penal remedies, penances and public rebukes?

83. For the definition of penal remedies, penances and public rebukes, canons 1339 and 1340 § 1 CIC and canon 1427 CCEO should be consulted.[6]

V. What decisions are possible in a penal process?

84. The decision that concludes the penal process, whether judicial or extrajudicial, can be of three types:

• *conviction ("constat")*, if with moral certainty the guilt of the accused is established with regard to the delict ascribed to him. In this case, the decision must indicate specifically the type of canonical sanction imposed or declared.

• *acquittal ("constat de non")*, if with moral certainty the innocence of the accused is established, inasmuch as no offence was committed, the accused did not commit the offence, the offence is not deemed a delict by the law or was committed by a person who is not imputable.

• *dismissal ("non constat")*, whenever it has not been possible to attain moral certainty with regard to the guilt of the accused, due to lack of evidence or to insufficient or conflicting evidence that the offence was in fact committed, that the accused committed the offence, or that the delict was committed by a person who is not imputable.

It is possible to provide for the public good or for the welfare of the person accused through appropriate warnings, penal remedies and other means of pastoral solicitude (cf. canon 1348 CIC).

The decision (issued by sentence or by decree) must refer to one of these three types, so that it is clear whether *"constat"*, *"constat de non"* or *"non constat"*.

VI. What penal procedures are possible?

85. By law, three penal procedures are possible: a judicial penal process; an extrajudicial penal process; or the procedure introduced by article 21 § 2, 2° SST.

86. The procedure provided for in article 21 § 2, 2° SST[7] is reserved for the most grave cases, concludes with a direct decision of the Supreme Pontiff and requires that, even though the commission of the delict is manifestly evident, the accused be guaranteed the right of self-defence.

87. For the judicial penal process, the relative provisions of the law should be consulted, either in the respective Codes or in articles 8-15, 18-19, 21 § 1, 22-31 SST.

88. The judicial penal process does not require a double conforming sentence; consequently, a decision rendered by a sentence in an eventual second instance becomes *res iudicata* (cf. art. 28 SST). Such a definitive sentence can be challenged only by a *restitutio in integrum*, provided elements are produced that make its injustice clear (cf. canons 1645 CIC, 1326 CCEO), or by a complaint of nullity (cf. canons 1619ff. CIC, 1302ff. CCEO). The Tribunal established for this kind of process is always collegiate and is composed of a minimum of three judges. Those who enjoy the right of appeal against a sentence of

first instance include not only the accused party who considers himself unjustly aggrieved by the sentence, but also the Promoter of Justice of the CDF (cf. art. 26 § 2 SST).

89. According to articles 16 and 17 SST, a judicial penal process can be carried out within the CDF or can be entrusted to a lower tribunal. With regard to the decision rendered, a specific letter of execution is sent to all interested parties.

90. Also in the course of a penal process, whether judicial or extrajudicial, the precautionary measures referred to in nos. 58-65 can be imposed on the accused.

a/ What is the extrajudicial penal process?

91. The extrajudicial penal process, sometimes called an *administrative process*, is a type of penal process that abbreviates the formalities called for in the judicial process, for the sake of expediting the course of justice without eliminating the procedural guarantees demanded by a fair trial (cf. canons 221 CIC and 24 CCEO).

92. In the case of delicts reserved to the CDF, article 21 § 2, 1° SST, derogating from canons 1720 CIC and 1486 CCEO, states that the CDF alone, in individual cases, *ex officio* or when requested by the Ordinary or Hierarch, may decide to proceed in this way.

93. Like the judicial process, the extrajudicial process can be carried out within the CDF or entrusted to a lower instance, or to the Ordinary or Hierarch of the accused, or to third parties charged with this task by the CDF, possibly at the request of the Ordinary or Hierarch. With regard to the decision rendered, a specific letter of execution is sent to all interested parties.

94. The extrajudicial penal process is carried out with slightly different formalities according to the two Codes. If questions arise concerning which Code is applicable (for example, in the case of clerics of the Latin rite who work in Eastern Churches or clerics of an Eastern rite who are active in Latin rite circumscriptions), it will be necessary to clarify with the CDF which Code is to be followed, and then to adhere strictly to the CDF's decision.

b/ How is an extrajudicial penal process carried out according to the CIC?

95. When an Ordinary is charged by the CDF with carrying out an extrajudicial penal process, he must first decide whether to preside over the process personally or to name a delegate. He must also appoint two assessors who will assist him or his delegate in the evaluative phase. In choosing them, it would be advisable to consider the criteria set forth in canons 1424 and 1448 § 1 CIC. It is also necessary to appoint a notary, according to the criteria given in no. 41. The appointment of a promoter of justice is not foreseen.

96. The aforementioned appointments are made by decree. These officials are required to take an oath to fulfil faithfully the task with which they have been entrusted and to observe secrecy. The administration of the oath must be recorded in the acts.

97. Subsequently, the Ordinary (or his delegate) must initiate the process by a decree summoning the accused. This decree must contain: the clear indication of who is being summoned; the place and time at which he must appear; the purpose for which he is being summoned, that is, to take note of the accusation (which the text of the decree is to set forth briefly) and of the corresponding proofs (which the decree need not list), and to exercise his right of self-defence.

98. Although not explicitly provided for by law in an extrajudicial process, nonetheless, since a penal matter is involved, it is most fitting that the accused, in accordance with the prescriptions of canons 1723 and 1481 §§ 1-2 CIC, be assisted by a procurator and/or advocate, either of his own choice or, otherwise, appointed *ex officio*. The Ordinary (or his delegate) must be informed of the appointment of the advocate by means of a suitable and authentic procuratorial mandate in accordance with canon 1484 § 1 CIC, prior to the session in which the accusations and proofs are made known, in order to verify that the requirements of canon 1483 CIC have been met.[8]

99. If the accused refuses or fails to appear, the Ordinary (or his delegate) may consider whether or not to issue a second summons.

100. If accused refuses or fails to appear at the first or second summons, he is to be warned that the process will go forward despite his absence. This notification can be given at the time of the first summons. If the accused has failed or refused to appear, this should be noted in the acts and the process is to continue *ad ulteriora*.

101. On the day and time of the session in which the accusations and proofs are made known, the file containing the acts of the preliminary investigation is shown to the accused and to his advocate, if the latter is present. The obligation to respect the secret of office should be made known.

102. Particular attention should be given to the fact that, if the case involves the sacrament of Penance, respect must be shown for article 24 SST, which states that the name of the alleged victim is not to be revealed to the accused unless the accuser has expressly consented otherwise.

103. It is not obligatory that the assessors take part in the notification session.

104. Notification of the accusations and proofs takes place in order to give the accused the possibility of self-defence (cf. canon 1720, 1° CIC).

105. "Accusation" refers to the delict that the alleged victim or other person claims to have occurred, as this has emerged from the preliminary investigation. Setting forth the accusation means informing the accused of the delict attributed to him and any attendant details (for example, the place where it occurred, the number and eventual names of the alleged victims, the circumstances).

106. "Proofs" are all those materials collected during the preliminary investigation and any other materials acquired: first, the record of the accusations made by the alleged victims; then pertinent documents (e.g., medical records; correspondence, even by electronic means; photographs; proofs of purchase; bank records); statements made by eventual witnesses; and finally any expert opinions (medical, including psychiatric; psychological; graphological) that the person who conducted the investigation may have deemed appropriate to accept or have carried out. Any rules of confidentiality imposed by civil law should be observed.

107. All the above are referred to as "proofs" because, despite having been collected in the phase prior to the process, from the moment the extrajudicial process is opened, they automatically become a body of evidence.

108. At any stage of the process, it is legitimate for the Ordinary or his delegate to ask for the collection of further proofs, should it be considered appropriate on the basis of the results of the preliminary investigation. This can also occur at the request of the accused during the defence phase. The results will naturally be presented to the accused during that phase. The accused is to be presented with what was collected at the defence's request, and a new session for presenting accusations and proofs is to be held, should new elements of accusation or proofs have emerged; otherwise, the material collected can be considered simply as further evidence for the defence.

109. The argument for the defence can be presented in two ways: a/ it can be accepted in session with a specific statement signed by all present (in particular by: the Ordinary or his delegate; the accused and his advocate, if any; the notary); or b/ through the setting of a reasonable time limit within which the defence can be presented in writing to the Ordinary or his delegate.

110. It should be carefully noted that, according to canon 1728 § 2 CIC, the accused is not bound to confess (admit) the delict, nor can he be required to take an oath to tell the truth.

111. The argument for the defence can clearly make use of all legitimate means, as for example the request to hear its own witnesses or to present documents and expert opinions.

112. For the admission of these proofs (and, in particular, the gathering of statements of eventual witnesses), the discretionary criteria permitted to the judge by universal law on contentious trials are

applicable.[9]

113. Whenever the concrete case requires it, the Ordinary or his delegate is to assess the credibility of those taking part in the process.[10] According to article 24 § 2 SST, however, he is obliged to do so with regard to the credibility of the accuser should the sacrament of Penance be involved.

114. Since this is a penal process, the accuser is not obliged to take part in the process. The accuser has in fact exercised his right by contributing to the formation of the accusation and the gathering of proofs. From that moment, the accusation is carried forward by the Ordinary or his delegate.

c/ How is an extrajudicial penal process concluded according to the CIC?

115. The Ordinary or his delegate invites the two assessors to provide, within a certain reasonable time limit, their evaluation of the proofs and the arguments of the defence, in accordance with canon 1720, 2º CIC. In the decree, he can also invite them to a joint session to carry out this evaluation. The purpose of this session is evidently to facilitate analysis, discussion and debate. For such a session, which is optional but recommended, no particular juridical formalities are foreseen.

116. The entire file of the process is provided beforehand to the assessors, granting them a suitable time for study and personal evaluation. It is helpful to remind them of their obligation to observe the secret of office.

117. Although not required by law, it is helpful if the opinion of the assessors is set down in writing so as to facilitate the drafting of the subsequent final decree by the person charged to do so.

118. Similarly, if the evaluation of proofs and defence arguments takes place during a joint session, it is advisable that a series of notes on the interventions and the discussion be taken, also in the form of minutes signed by the participants. These written notes fall under the secret of office and are not to be made public.

119. Should the delict be established with certainty, the Ordinary or his delegate (cf. canon 1720, 3º CIC) must issue a decree concluding the process and imposing the penalty, penal remedy or penance that he considers most suitable for the reparation of scandal, the reestablishment of justice and the amendment of the guilty party.

120. The Ordinary should always keep in mind that, if he intends to impose a perpetual expiatory penalty, according to article 21 § 2, 1º SST he must have a prior mandate from the CDF. This is a derogation, limited to these cases, from the prohibition of inflicting a perpetual penalty by decree, laid down in canon 1342 § 2 CIC.

121. The list of perpetual penalties is solely that found in canon 1336 § 1 CIC,[11] along with the caveats contained in canons 1337 and 1338 CIC.[12]

122. Since it involves an extrajudicial process, it should be remembered that a penal decree is not a sentence, which is issued only at the conclusion of a judicial process, even if – like a sentence – it imposes a penalty.

123. The decree in question is a personal act of the Ordinary or of his delegate, and therefore should not be signed by the assessors, but is to be authenticated by the notary.

124. In addition to the general formalities applicable in the case of every decree (cf. canons 48-56 CIC), the penal decree must cite in summary fashion the principal elements of the accusation and the development of the process, but above all it must set forth at least briefly the reasons for the decision, both in law (listing, that is, the canons on which the decision was based – for example, those that define the delict, those that define possible mitigating, exempting or aggravating circumstances – and, however concisely, the juridical logic that led to the decision to apply them) and in fact.

125. The statement of reasons in fact is clearly the more difficult, since the author of the decree must set forth the reasons which, by comparing the matter of the accusation and the statements of the defence

(which he must summarize in his exposition), led him to certainty concerning the commission or non-commission of the delict, or the absence of sufficient moral certainty.

126. Since not everyone possesses a detailed knowledge of canon law and its formal language, a penal decree should primarily be concerned with explaining the reasoning behind the decision, rather than being concerned about precise and detailed terminology. Where appropriate, competent persons may be called upon for assistance in this regard.

127. The notification of the entire decree (therefore not simply the dispositive part) is to take place by the legitimate means prescribed (cf. canons 54-56 CIC[13]) and in proper form.

128. In all cases, an authenticated copy of the acts of the process (unless these had been previously forwarded) and of the notification of the decree must be sent to the CDF.

129. If the CDF decides to call to itself the extrajudicial penal process, all the formalities called for in nos. 91ff. will clearly be its responsibility, without prejudice to its right to request, if necessary, the cooperation of lower instances.

d/ How is an extrajudicial penal process carried out according to the CCEO?

130. As was stated in no. 94, the extrajudicial penal process as described in the CCEO is carried out with certain distinctive characteristics proper to that law. For the purpose of greater ease of explanation and to avoid repetitions, only those distinctive characteristics will be indicated: consequently, the following adjustments must be introduced to the praxis outlined above and shared with the CIC.

131. Above all, it must be remembered that the prescription of canon 1486 CCEO must be strictly followed, under pain of invalidity of the penal decree.

132. In the extrajudicial penal process according to the CCEO, there is no mention of assessors, but the presence of the promoter of justice is obligatory.

133. The session for the notification of the accusation and proofs must take place with the obligatory presence of the promoter of justice and the notary.

134. According to canon 1486 § 1, 2º CCEO, the session of notification and consequently the presentation of the defence is to take place solely with oral arguments. Nevertheless, this does not exclude, for such arguments, the defence being presented in written form.

135. Particular attention should be given to the question whether, on the basis of the gravity of the delict, the penalties listed in canon 1426 § 1 CCEO are indeed adequate for achieving the provisions of canon 1401 CCEO. In deciding the penalty to be imposed, canons 1429[14] and 1430[15] CCEO should be observed.

136. The Hierarch or his delegate should always remember that, according to article 21 § 2, 1º SST, the prohibitions of canon 1402 § 2 CCEO are abrogated. Therefore he is able to impose a perpetual expiatory penalty by decree, having obtained the prior mandate of the CDF required by the same article 21 § 2, 1º SST.

137. For the drawing up of the penal decree, the same criteria indicated in nos. 119-126 apply.

138. Notification of the decree will then take place in the terms of canon 1520 CCEO and in proper form.

139. For those things not mentioned here, reference should be made to what has been stated regarding the extrajudicial process according to the CIC, including the possibility that the process will take place in the CDF.

e/ Does the penal decree fall under the secret of office?

140. As previously mentioned (cf. no. 47), the procedural acts and the decision fall under the secret of office. All taking part in the process, in any capacity, should be constantly reminded of this.

141. The decree is to be made known in its entirety to the accused. The notification must be made to his procurator, if he has one.

VII. What can happen once a penal procedure ends?

142. According to the type of procedure employed, there are different possibilities available for those who were parties in the process.

143. If it was the procedure mentioned in article 21 § 2, 2º SST, inasmuch as it concerns an act of the Roman Pontiff, no appeal or recourse is admitted (cf. canons 333 § 3 CIC and 45 § 3 CCEO).

144. If it was a penal judicial process, the possibility of a legal challenge exists, namely, a complaint of nullity, *restitutio in integrum*, or appeal.

145. According to article 20, 1º SST, the only tribunal of second instance for appeals is that of the CDF.

146. To present an appeal, the prescriptions of law are to be followed, noting carefully that article 28, 2º SST modified the time limits for the presentation of an appeal, imposing a peremptory time limit of one month, to be calculated according to what is laid down in canons 202 § 1 CIC and 1545 § 1 CCEO.

147. If it was an extrajudicial penal process, recourse can be made against the decree that concluded it, within the terms provided by law, namely, by canons 1734ff. CIC and 1487 CCEO (cf. Section VIII).

148. According to canons 1353 CIC and 1319 and 1487 § 2 CCEO, appeals and recourses have a suspensive effect on the penalty.

149. Since the penalty is suspended and things return to a phase analogous to that prior to the process, precautionary measures remain in force with the same caveats and procedures mentioned in nos. 58-65.

VIII. What should be done in case of recourse against a penal decree?

150. The law provides different procedures, according to the two Codes.

a/ What does the CIC provide for in case of recourse against a penal decree?

151. According to canon 1734 CIC, whoever intends to present a recourse against a penal decree must first seek its revocation or emendation from the author (the Ordinary or his delegate) within the peremptory time limit of ten useful days from the legitimate notification of the decree.

152. According to canon 1735, the author, within thirty days after receiving the petition, can respond by emending his own decree (but before proceeding in this case, it is best to consult the CDF immediately), or by rejecting the petition. He also has the faculty of not responding at all.

153. Against an emended decree, the rejection of the petition, or the silence of its author, the one making recourse can apply to the CDF directly or through the author of the decree (cf. canon 1737 § 1 CIC) or through a procurator, within the peremptory time limit of fifteen useful days provided for by canon 1737 § 2 CIC.[16]

154. If hierarchical recourse is presented to the author of the decree, he must immediately transmit it to the CDF (cf. canon 1737 § 1 CIC). Thereafter (and also in the case that the recourse was presented directly to the CDF), the author of the decree need only await possible instructions or requests from the CDF, which in any case will inform him about the result of the examination of the recourse.

b/ What does the CCEO provide for in case of recourse against a penal decree?

155. The CCEO provides a simpler procedure than that of the CIC. In fact, canon 1487 § 1 CCEO provides only that recourse be sent to the CDF within ten useful days from the decree's notification.

156. The author of the decree in this case need only await instructions or requests from the CDF, which in any case will inform him about the result of the examination of the recourse. However, if the author is

the Ordinary, he must take note of the suspensive effects of the appeal, mentioned in no. 148 above.

IX. Is there anything that should always be kept in mind?

157. From the time of the *notitia de delicto*, the accused has the right to present a petition to be dispensed from all the obligations connected with the clerical state, including celibacy, and, concurrently, from any religious vows. The Ordinary or Hierarch must clearly inform him of this right. Should the cleric decide to make use of this possibility, he must write a suitable petition, addressed to the Holy Father, introducing himself and briefly indicating the reasons for which he is seeking the dispensation. The petition must be clearly dated and signed by the petitioner. It is to be transmitted to the CDF, together with the *votum* of the Ordinary or Hierarch. In turn, the CDF will forward it and – if the Holy Father accepts the petition – will transmit the rescript of dispensation to the Ordinary or Hierarch, asking him to provide for legitimate notification to the petitioner.

158. For all singular administrative acts decreed or approved by the CDF, the possibility of recourse is provided by article 27 SST.[17] To be admitted, the recourse must clearly specify what is being sought (*petitum*) and contain the reasons in law (*in iure*) and in fact (*in facto*) on which it is based. The one making recourse must always make use of an advocate, provided with a specific mandate.

159. If an Episcopal Conference, in response to the request made by the CDF in 2011, has already provided its own written guidelines for dealing with cases of the sexual abuse of minors, this text should also be taken into account.

160. It sometimes happens that the *notitia de delicto* concerns a cleric who is already deceased. In this case, no type of penal procedure can be initiated.

161. If a reported cleric dies during the preliminary investigation, it will not be possible to open a subsequent penal procedure. In any case, it is recommended that the Ordinary or Hierarch inform the CDF all the same.

162. If an accused cleric dies during the penal process, this fact should be communicated to the CDF.

163. If, in the phase of the preliminary investigation, an accused cleric has lost his canonical status as a result of a dispensation or a penalty imposed in another proceeding, the Ordinary or Hierarch should assess whether it is suitable to carry on the preliminary investigation, for the sake of pastoral charity and the demands of justice with regard to the alleged victims. If the loss of canonical status occurs once a penal process has already begun, the process can in any case be brought to its conclusion, if for no other reason than to determine responsibility in the possible delict and to impose potential penalties. In fact, it should be remembered that, in the determination of a more serious delict (*delictum gravius*), what matters is that the accused was a cleric at the time of the alleged delict, not at the time of the proceeding.

164. Taking into account the 6 December 2019 Instruction on the confidentiality of legal proceedings, the competent ecclesiastical authority (Ordinary or Hierarch) should inform the alleged victim and the accused, should they request it, in suitable ways about the individual phases of the proceeding, taking care not to reveal information covered by the pontifical secret or the secret of office, the divulging of which could cause harm to third parties.

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This *Vademecum* does not claim to replace the training of practitioners of canon law, especially with regard to penal and procedural matters. Only a profound knowledge of the law and its aims can render due service to truth and justice, which are especially to be sought in matters of *graviora delicta* by reason of the deep wounds they inflict upon ecclesial communion.

- **TABULAR SUMMARY FOR CASES OF *DELICTA RESERVATA***

[1] Art. 7 SST - § 1. A criminal action for delicts reserved to the Congregation for the Doctrine of the Faith is extinguished by prescription after twenty years, with due regard to the right of the Congregation for the Doctrine of the Faith to derogate from prescription in individual cases. § 2. Prescription runs according to the norm of canon 1362 § 2 of the Code of Canon Law and canon 1152 § 3 of the Code of Canons of the Eastern Churches. However in the delict mentioned in art. 6 § 1 no. 1, prescription begins to run from the day on which a minor completes his eighteenth year of age.

[2] Art. 24 SST - §1. In cases concerning the delicts mentioned in art. 4 § 1, the Tribunal cannot indicate the name of the accuser to either the accused or his patron unless the accuser has expressly consented. § 2. This same Tribunal must consider the particular importance of the question concerning the credibility of the accuser. § 3. Nevertheless, it must always be observed that any danger of violating the sacramental seal is altogether avoided.

[3] Art. 8 SST - § 2. This Supreme Tribunal also judges other delicts of which a defendant is accused by the Promotor of Justice, by reason of connection of person and complicity.

[4] Canon 1428 CIC – § 1. The judge or the president of a collegiate tribunal can designate an auditor, selected either from the judges of the tribunal or from persons the bishop approves for this function, to instruct the case. § 2. The bishop can approve for the function of auditor clerics or lay persons outstanding for their good character, prudence and doctrine. Canon 1093 CCEO – § 1. A judge or the president of a collegiate tribunal can designate an auditor to instruct the case. The auditor is selected either from among the judges of the tribunal or from among the Christian faithful admitted to this office by the eparchial bishop. § 2. The eparchial bishop can approve for the office of auditor members of the Christian faithful outstanding for their good character, prudence and doctrine.

[5] Canon 1722 CIC – To prevent scandals, to protect the freedom of witnesses, and to guard the course of justice, the ordinary, after having heard to promotor of justice… can exclude the accused from the sacred ministry or from some office and ecclesiastical function, can impose or forbid residence in some place or territory, or can even prohibit public participation in the Most Holy Eucharist… Canon 1473 CCEO – To prevent scandals, to protect the freedom of witnesses, and to guard the course of justice, the hierarch, after having heard the promotor of justice and cited the accused, at any stage and grade of the penal trial can exclude the accused from the exercise of sacred orders, an office, a ministry, or another function, can impose or forbid residence in some place or territory, or even can prohibit public reception of the Divine Eucharist…

[6] Canon 1339 CIC – § 1: An ordinary, personally or through another, can warn a person who is in the proximate occasion of committing a delict or upon whom after investigation, grave suspicion of having committed a delict has fallen. § 2. He can also rebuke a person whose behaviour causes scandal or a grave disturbance of order, in a manner accommodated to the special conditions of the person and the deed. § 3. The warning or rebuke must always be established at least by some document which is to be kept in the secret archive of the curia. Canon 1340 § 1 CIC: A penance, which can be imposed in the external forum, is the performance of some work of religion, piety, or charity. Canon 1427 CCEO – § 1: Without prejudice to particular law, a public rebuke is to occur before a notary or two witnesses or by letter, but in such a way that the reception and tenor of the letter are established by some document. § 2. Care must be taken that the public rebuke itself does not result in a greater disgrace of the offender than is appropriate.

[7] Article 21 § 2, 2° SST: The Congregation for the Doctrine of the Faith may: … 2° present the most grave cases to the decision of the Roman Pontiff with regard to dismissal from the clerical state or deposition, together with dispensation from the law of celibacy, when it is manifestly evident that the delict was committed and after having given the guilty party the possibility of defending himself.

[8] Can. 1483 CIC – The procurator and advocate must have attained the age of majority and be of good reputation; moreover, the advocate must be a Catholic unless the diocesan bishop permits otherwise, a doctor in canon law or otherwise truly expert, and approved by the same bishop.

[9] By analogy with canon 1527 CIC – § 1. Proofs of any kind which seem useful for adjudicating the case and are licit can be brought forward.

[10] By analogy with canon 1572 CIC – In evaluating testimony, the judge, after having requested testimonial letters if necessary, is to consider the following: 1) what the condition or reputation of the person is; 2) whether the testimony derives from personal knowledge, especially from what has been seen or heard personally, or whether from opinion, rumor, or hearsay; 3) whether the witness is reliable and firmly consistent or inconsistent, uncertain, or vacillating; 4) whether the witness has co-witnesses to the testimony or is supported or not by other elements of proof.

[11] Canon 1336 CIC – § 1. In addition to other penalties which the law may have established, the following are expiatory penalties which can affect an offender either perpetually, for a prescribed time, or for an indeterminate time: 1) a prohibition or an order concerning residence in a certain place or territory; 2) privation of a power, office, function, right, privilege, faculty, favor, title, or insignia, even merely honorary; 3) a prohibition against exercising those things listed under n. 2, or a prohibition against exercising them in a certain place or outside a certain place; these prohibitions are never under pain of nullity; 4) a penal transfer to another office; 5) dismissal from the clerical state.

[12] Canon 1337 CIC – § 1. A prohibition against residing in a certain place or territory can affect both clerics and religious; however, the order to reside in a certain place or territory can affect secular clerics and, within the limits of the constitutions, religious. § 2. To impose an order to reside in a certain place or territory requires the consent of the ordinary of that place unless it is a question of a house designated for clerics doing penance or being rehabilitated even from outside the diocese.

Canon 1338 CIC – § 1. The privations and prohibitions listed in can. 1336, § 1, nn. 2 and 3, never affect powers, offices, functions, rights, privileges, favors, titles, or insignia which are not subject to the power of the superior who establishes the penalty. § 2. Privation of the power of orders is not possible but only a prohibition against exercising it or some of its acts; likewise, privation of academic degrees is not possible. § 3. The norm given in can. 1335 for censures must be observed for the prohibitions listed in can. 1336, § 1, n. 3.

[13] Canon 54 CIC – § 1. A singular decree whose application is entrusted to an executor takes effect from the moment of execution; otherwise, from the moment it is made known to the person by the authority of the one who issued it. § 2. To be enforced, a singular decree must be made known by a legitimate document according to the norm of law. Canon 55 CIC – Without prejudice to the prescripts of canons 37 and 51, when a very grave reason prevents the handing over of the written text of a decree, the decree is considered to have been made known if it is read to the person to whom it is destined in the presence of a notary or two witnesses. After a written record of what has occurred has been prepared, all those present must sign it. Canon 56 CIC – A decree is considered to have been made known if the one for whom it is destined has been properly summoned to receive or hear the decree but, without a just cause, did not appear or refused to sign.

[14] Canon 1429 CCEO – § 1. The prohibition against living in a certain place or territory can affect only clerics and religious or members of a society of common life in the manner of religious; an injunction to live in a certain place or territory affects only clerics enrolled in an eparchy, without prejudice to institutes of consecrated life. § 2. For the imposition of the injunction to live in a certain place or territory, the consent of the hierarch of that place is required, unless it is a case either of a house of an institute of consecrated life of papal or patriarchal right, in which case the consent of the competent superior is required, or of a house designated for the correction and reformation of clerics of several eparchies.

[15] Canon 1430 CCEO – § 1. Penal deprivations can affect only those powers, offices, ministries, functions, rights, privileges, faculties, benefits, titles, insignia, which are subject to the power of the authority that establishes the penalty, or of the hierarch who initiated the penal trial or imposed it by decree; the same applies to penal transfer to another office. § 2. Deprivation of the power of sacred orders is not possible, but only a prohibition against exercising all or some acts of orders, in accordance with common law; nor is deprivation of academic degrees possible.

[16] Canon 1737 § 2 CIC – Recourse must be proposed within the peremptory time limit of fifteen useful days, which… run according to the norm of can. 1735.

[17] Article 27 SST – Recourse may be had against singular administrative acts which have been decreed or approved by the Congregation for the Doctrine of the Faith in cases of reserved delicts. Such recourse must be presented within the preemptory period of sixty canonical days to the Ordinary Session of the Congregation (the *Feria* IV) which will judge on the merits of the case and the lawfulness of the Decree. Any further recourse as mentioned in art. 123 of the Apostolic Constitution *Pastor Bonus* is excluded.
