



Pope Francis Sets New Procedures

BRENDAN DALY outlines Pope Francis's new compulsory procedures for dealing with complaints of sexual abuse.

Pope Francis published a *motu proprio* titled "You Are the Light of the World" (*Vos Estis Lux Mundi*) on 10 May. A *motu proprio* is a legislative document popes use which means "at my own initiative". "You Are the Light of the World" outlines the procedures to deal with complaints of sexual abuse or failures of bishops and religious leaders to deal properly with complaints in both canon and civil law. Bishops must observe civil reporting laws in each country.

The document deals only with procedures. The penalties for sexual abuse will be given in the forthcoming revised penal law from canons 1311-1399. As pope, Benedict published a draft revision. The text is expected to be finalised and published soon.

Sexual abuse is defined as "crimes against the sixth commandment of the Decalogue consisting of: forcing someone, by violence or threat or through abuse of authority, to perform or submit to sexual acts."

This is a broad interpretation of what "force" means. By including "abuse of authority" in this description, the cases of people such as Cardinal McCarrick (USA) are encompassed. The description also includes lecturers and students, seminary staff and seminarians or young religious.

Abuse includes actions with people under age 18 years and also vulnerable persons. Vulnerable persons are defined 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". A person being counselled, foreign students and new immigrants would come into this category.

Clergy using child pornography has been a canonical crime for many years. According to Pope Francis: "child pornography means: any representation of a minor, regardless of the means used, involved in explicit

sexual activities, whether real or simulated, and any representation of sexual organs of minors for primarily sexual purposes." Again this is a broad description. In jurisprudence a clear distinction is made between, say, accidentally seeing pornography on the Internet (not a crime), and downloading or copying it in any way, in which case a crime has been committed in canon law.

New Zealand has had procedures for dealing with complaints for over 20 years. However, many episcopal conferences do not have such procedures—they have been given one year to have people and procedures in place for dealing with complaints.

A major advance in the *motu proprio* is the requirement that priests, deacons and religious must report sexual abuse when they know it has happened or they believe that it is happening. The reports would usually go to the bishop or the religious superior. If a report involves a bishop or religious superior abusing or failing to act on abuse complaints, the report goes to the metropolitan (in New Zealand, Cardinal Dew), or the papal nuncio or directly to the Holy See. Persons making complaints are protected in canon law, and canon

law holds any discriminatory action against them as a criminal act.

There has been a general law in the 1983 Code of Canon Law that makes a crime of someone in authority failing to act, thereby allowing harm to other victims:

“A person who abuses ecclesiastical power or an office, is to be punished according to the gravity of the act or the omission, not excluding by deprivation of the office, unless a penalty for that abuse is already established by law or precept” Canon 1389 §1.

“A person who, through culpable negligence, unlawfully and with harm to another, performs or omits an act of ecclesiastical power or ministry or office, is to be punished with a just penalty” Canon 1389 §2.

“You Are the Light of the World” removes any doubt that this canon includes failing to take effective action against abusive clergy or religious.

Care of Victims

Throughout his pontificate, Pope Francis has been most concerned about the spiritual care of victims. A victim met him once at the Vatican and gave him a picture of Michelangelo's *Pieta* in St Peter's Basilica — Mary holding the dead body of Jesus. The man told Francis that Jesus had his mother but he had nobody to care for him. This experience led the Pope to name the canonical procedures for the removal of bishops as “Like a Loving Mother”.

“You Are the Light of the World” article 5 deals with the care of victims. Francis emphasises that care of victims is much more than a financial pay-out. It includes listening, support, spiritual and therapeutic assistance. Victims must also be informed of the outcome of investigations.

Complaints Against Bishops and Religious Leaders

The cases of Cardinals Barbarin (France), McCarrick (USA) and Pell (Australia) among others have generated a lot of publicity. Following this publicity and questions raised about dealing with accusations against bishops, Francis devoted a

significant part of his *motu proprio* to procedures for dealing with complaints about bishops and other religious leaders.

Penal law is directed primarily at clerics and religious. There are still some major issues around dealing with complaints against leaders of lay associations of the faithful such as the *Sodalitium Christianae Vitae* founded by Figari. There are very few members of these lay movements in New Zealand.

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Vatican Departments Dealing with Abuse Cases

There is sometimes confusion about which Vatican congregation deals with a particular case. Only complaints against clerics are dealt with by the Congregation for the Doctrine of the Faith. Dismissal of Religious brothers and sisters comes under the Congregation for Religious and Secular Institutes. If a priest fathers a child the case is dealt with by the Congregation for the Evangelisation of Peoples.

Complaints Procedures in New Zealand

Complaints about sexual abuse by bishops or their failure to act are made to the Metropolitan bishop of the country. New Zealand has a National Office of Professional Standards financed by the Bishops' Conference as required by the *motu proprio*.

When handling complaints, the Metropolitan must inform the Congregation for the Doctrine of the Faith. And each month the Metropolitan must inform the Congregation about the progress

of the investigation. The whole investigation is to be completed within three months. At present this three-month timeline applies to investigations into bishops only — no timeline has yet been set for the investigation of complaints against priests and religious.

The Bishops' Conference must also draw up a list of qualified people to undertake abuse investigations. The Metropolitan remains free if necessary to use other people in a particular case. When the investigation is complete, the Metropolitan writes a *votum* (an authoritative opinion) that expresses his opinion about the case. The *votum* and all the evidence in the case is sent to the Congregation for the Doctrine of the Faith at the Vatican, which decides how the case will be dealt with.

In the case of Cardinal McCarrick, it was an administrative process for dismissal from the clerical state — dismissed for solicitation in the confessional. Archbishop Apuron of Guam was found guilty of sexual abuse in a canonical penal trial. Archbishop Robert Finn of Kansas City was forced to resign for not observing civil laws on reporting abuse.

Revision of Penal Law


This law for the universal Church is a significant step forward. There have been criticisms that it is not strong enough. I think the forthcoming revision of penal law will be crucial and hopefully we will receive this very soon. It promises to contain penalties and address issues such as prescriptions (the statute of limitations), which cause difficulties today. It is hoped other legal measures will be taken, including making sexual abuse a permanent impediment (irregularity) to ordination and the exercise of ministry. 

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Brendan Daly lectures in canon law at Good Shepherd College. He has a doctorate in canon law and is Judicial Vicar the Tribunal for New Zealand.