

Summary of the Modifications to the *Normae de gravioribus delictis*

On April 30, 2001, Pope John Paul II issued an Apostolic Letter, given *motu proprio*, by which he promulgated norms concerning the more grave delicts (*Normae de gravioribus delictis*) reserved to the Congregation for the Doctrine of the Faith (CDF). The Apostolic Letter is entitled *Sacramentorum sanctitatis tutela* (the protection of the sanctity of the sacraments). A more grave delict is an ecclesiastical crime of an especially grave nature that offends against faith or morals. The Congregation for the Doctrine of the Faith has sole jurisdiction over these delicts. The Norms issued in 2001 detail what the reserved delicts are and how they are to be processed. The Norms are divided into two sections: the substantive law on the various reserved delicts (i.e., what delicts are included in the category), and the procedural law used to process cases.

Shortly after the issuance of the Norms, Pope John Paul II granted the CDF additional faculties for the processing of *graviora delicto* cases. These included, for instance, the possibility of derogating (or dispensing) from the period of prescription for trying older cases. Additionally, in the years since the approval of the Norms the jurisprudence of the CDF has developed regarding the more grave delicts. By way of example, the CDF has permitted the application of certain precautionary measures during a preliminary investigation into the possible commission of a delict (such as temporary withdrawal from ministry) on those clerics accused of the sexual abuse of minors. Finally, in recent years additional acts offensive to the sanctity of the sacraments have been committed that now require inclusion in the list of more grave delicts. The attempted ordination of women and the recording of the celebration of the Sacrament of Penance are two examples.

All of the circumstances mentioned above has led to the conclusion that it would be beneficial to update the *Normae de gravioribus delictis* to include the faculties, jurisprudence and contemporary offenses in the law. To the extent the Norms do this, there is nothing entirely new in them. The novelty of the modifications is more in the change in status of the various elements: they are now part of the universal law.

There are two basic sets of modifications. The first consists of the appropriation into the Norms of faculties that were granted by the Pope John Paul II to the Congregation for the Doctrine of the Faith and certain elements of the jurisprudence of the CDF as it has developed since the approval of the Apostolic Letter in 2001. The second set of modifications addresses the substantive law of the Norms; that is, it modifies the law regarding some of the existing more grave delicts or it raises additional delicts to the level of a more grave offense.

With regard to the first set of modifications, they include:

- The right of the Congregation for the Doctrine of the Faith, with a prior mandate from the Roman Pontiff, to judge cardinal, patriarchs, legates of the Apostolic See (nuncios), bishops, and other physical persons mentioned in the law whose causes are usually reserved to the Roman Pontiff. (Article 1, §2)

The extension of the period of prescription for all *graviora delicta* to twenty years. For all delicts except sins against the Sixth Commandment by clerics with minors, the period of prescription runs from the time of the commission of the delict or, if the offence was habitual or enduring, from the day the offensive action ceased. For sins against the Sixth Commandment with minors, the period runs from the time the minor reaches the age of majority (18). Moreover, the CDF retains the right to derogate from prescription on an individual basis for offenses that extend beyond the period of prescription. (Article 7)

- The faculty of CDF to dispense officials who will serve on tribunals from the requirement of being a priest or of having a doctorate in canon law. This allows for lay persons to sit on tribunals that will adjudicate *graviora delicta* cases. (Article 15)

The faculty to sanate merely procedural acts of lower tribunals, including those connected with the preliminary investigation. This would not include the sanation of acts that strike at the right of defense (Article 18). The sanation of an act remedies a procedural error of a lower tribunal so that the case can proceed to a just resolution.

The right of the CDF to dispense from use of the formal judicial process (a formal criminal trial held in front of judges) in favor of use of the extrajudicial process (an abbreviated hearing of the case by the bishop). The CDF grants this on a case by case basis depending on the circumstances. (Article 21)

The right of CDF to present directly to the Holy Father the request for dismissal from the clerical state (or deposition for Eastern Catholic clerics) with dispensation from the obligations of celibacy. This is done without prejudice to the right of defense and in the gravest of cases where the commission of the delict is manifest. (Article 21)

The right to have the Ordinary Session of the CDF (Feria IV) hear recourses lodged against prior administrative decisions taken by CDF in *graviora delicta* matters. (Article 27)

The second set of modifications address other matters, such as the inclusion of certain ecclesiastical delicts as more grave offenses (*graviora delicta*) and the modification of the former text regarding delicts that were already counted among the more grave crimes. Here, too, the practice of the CDF may already have been to agree to treat these matters. The modifications now make that explicit in the law. These modifications include:

- The introduction of delicts against the faith as more grave delicts. These include the delicts of heresy, apostasy and schism. This modification recognizes the right of the Ordinary to proceed by the judicial or extrajudicial process in first instance. The right to appeal or take recourse to the CDF remains.
- Under delicts against the Eucharist, the delicts of attempted and simulated celebration of the Eucharist have been textually reordered as two distinct numbers rather than one. The substance of the delicts remains the same. (Article 3, §1)

The text concerning the sacrilegious consecration of one matter without the other in a Eucharistic celebration or even of both outside of the Eucharistic celebration has been reworded to read, "The consecration for a sacrilegious purpose of one or both matters in the Eucharistic celebration or outside of the Eucharistic celebration." (Article 3, §2)

With regard to offenses against the Sacrament of Penance, the offence mentioned in c.1378, §2, 2, is now raised to the level of a more grave delict. This concerns a person who, although unable to give valid sacramental absolution, still attempts to do so or hears a sacramental confession; the offence of c. 1379 is likewise raised to a more grave delict with regard to the Sacrament of Penance. Thus, a person commits the offence who, even though able to grant valid absolution, simulates the administration of the sacrament. (Article 4, §1)

- The indirect violation of the seal of confession (instead of only the direct violation) is now included as a more grave delict. (Article 4, § 1, 5)
- Also counted as a more grave delict is the recording by any technical means of things said by the confessor or penitent in sacramental confession, whether true or false, or the malicious divulging of the same through means of social communication. (Article 4, §2)

The attempted ordination of a woman has been raised to the level of a more grave delict as was already provided for in a decree of the CDF of December 19, 2007. The person who attempts to ordain a woman and the woman who attempts to be ordained are subject to a *latae sententiae* excommunication (or major excommunication for those of the Eastern Catholic churches) reserved to the Holy See. If a cleric offends by attempting to ordain a woman, he is also subject to dismissal or deposition from the clerical state. (Article 5)

With regard to the delict of a sin against the Sixth Commandment by a cleric with a minor, those who habitually have an imperfect use of reason are included as equivalent to minors for the purpose of the commission of the delict. (Article 6, §1, 1)

- The acquisition, retention or transfer by a cleric for indecent purposes of pornographic images of minors below the age of fourteen is now listed as a more grave delict punishable by dismissal from the clerical state should the case so warrant. (Article 6, §1, 2) Prior to this, the jurisprudence of the CDF already admitted such cases for resolution.

Clarification is made concerning the role of CDF in the preliminary investigation. If a case is referred directly to the CDF without a preliminary investigation first having been conducted, the CDF *can* but does not *have to* carry this out. (Article 17)

The ability of a bishop to apply the precautionary measure of can. 1722 during the preliminary investigation is now included explicitly in the law. This had already been the general practice. (Article 19) It would include requiring such things as temporary

withdrawal from public ministry and the requirement to live in a certain place during the investigation of certain allegations of offensive behavior.