

Article

Prohibition against Wearing Ecclesiastical Dress by Secular Clerics as a Punishment for Crimes *contra sextum cum minore*

Adam Jaszcz 

Department of the History of Canon Law, General Norms, the Sacramental Law and the Law of Institutes of the Consecrate, Faculty of Law, Canon Law and Administration, The John Paul II (The Second) Catholic University of Lublin, 20-950 Lublin, Poland; adjaszcz@kul.pl

Abstract: The article examines the canonical legitimacy of imposing the punishment of prohibition of wearing ecclesiastical dress in the case of crimes *contra sextum minore* committed by clergy. They were included by the universal legislator among the most serious crimes reserved for the Dicastery for the Doctrine of the Faith. It should be considered inevitable and necessary to impose expiatory penalties in the case of committing such crimes, and among the penalties that can be applied, the legislator lists the prohibition on wearing ecclesiastical dress. Although this punishment may not seem too burdensome at first glance, it nevertheless has a deep doctrinal justification, as the author shows by invoking canonical arguments. It also draws attention to the legitimacy of this penalty in the light of the principle of giving absolute priority to those who have been harmed. This principle should always be considered when imposing penalties for offences against the dignity of minors.

Keywords: ecclesiastical dress; punishment for crimes *contra sextum cum minore*; prohibition against wearing ecclesiastical dress; sexual abuse in the Church

1. Introduction

On 23 May 2021, Pope Francis, by virtue of the Apostolic Constitution *Pascite Gregem Dei* (Francis 2021), promulgated the reformed Book VI of the 1983 Code of Canon Law¹, announced on 1 June of the same year. The new law entered into force on 8 December 2021. Among the significant changes, it should be noted that the catalogue of expiatory penalties has been extended. They are better systematised and ordered in canon 1336. Among the penalties listed in the code, which may be used by a superior, there is a prohibition against wearing ecclesiastical dress. “He must avail himself of this penalty when it is intended directly to make reparation for the crime committed, without the offender’s correction necessarily affecting its cessation, as is the case with censure” (Bernal 1998, p. 600).

The imposition of a just punishment is only one of the necessary actions to be taken in the face of the drama of sexual abuse in the Church. Such a punishment should contribute to the awareness of the dimension of harm not only to the perpetrator himself, but also to the community, so that the perpetrator, who is still a clergyman, undertakes reparation and penance. Therefore, it is reasonable to ask the question to what extent these objectives can be achieved by imposing on the perpetrator of the crime, *contra sextum cum minore* (against the sixth commandment with a minor) an expiatory penalty consisting of the prohibition against wearing ecclesiastical dress. Ecclesiastical dress distinguishes clergy from laymen, but it is also a special sign of the Church’s presence in the world (Castillon Hoyos and De Santi 2010). What, then, is the penalty of deprivation of ecclesiastical dress for the clergyman himself and for the community of the Church?

In the case of the crimes in question, the Holy See, which has been notified in advance, decides what action is to be taken. The actions required by canon law can be reduced to three main ways of proceeding: presenting directly the most grave cases to the decision of the Supreme Pontiff with regard to dismissal or deposition from the clerical state, a



Citation: Jaszcz, Adam. 2023. Prohibition against Wearing Ecclesiastical Dress by Secular Clerics as a Punishment for Crimes *contra sextum cum minore*. *Religions* 14: 1282. <https://doi.org/10.3390/rel14101282>

Academic Editor: Labeeb Bsoul

Received: 31 August 2023

Revised: 18 September 2023

Accepted: 9 October 2023

Published: 11 October 2023



Copyright: © 2023 by the author. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

judicial process (in a diocese or tribunal of the Dicastery for the Doctrine of the Faith) or an administrative one, recourse to purely disciplinary measures, without initiating a penal process². This article deals with the situation when the offender is punished with expiatory punishment or penalties, which may be valid forever or for a definite or indefinite period³. The research problem concerns the canonical legitimacy of the imposition of the punishment of prohibition against wearing ecclesiastical dress for crimes *contra sextum minore*.

The research problem presented may appear to be the subject of an academic dispute, meriting discussion not so much because of the need to punish the guilty party for paedophilia, which nowadays goes unchallenged, but rather the form of this punishment, to make it possible to achieve the goals appropriate to penal canon law. This discussion has been going on for many years (Arrieta 2012, pp. 57–74; Renken 2014, pp. 53–75; Sánchez-Girón Renedo 2014, pp. 567–602; Schüller 2021, pp. 251–53) and it is possible to draw specific conclusions to place the problem in its proper context. Many of the earlier prescriptions were characterised by a high degree of generality, so their interpretation varied depending on the diocese, country or historical context. The idea that individual bishops and superiors, whose task it was to exercise penal discipline, would better determine when and how to punish in the most appropriate manner came to the fore. Subsequent experience, however, has shown the difficulty that Ordinaries had in applying penal norms, especially when combining the demands of mercy with the principles of justice. Prior to the reform of Book VI, penal norms were specified to provide precise and clear guidance to those who applied them. As a result, the penalty of prohibition of the use of ecclesiastical dress appeared in the canonical order. This punishment, like all others, is intended to protect the community, guarantee the repair of scandal and compensate for the damage caused. The reform also aims to provide those responsible for pastoral care with the necessary means to prevent crime and to intervene in time. Academic discussion on this subject is an indispensable element of introducing and adapting changes in penal canon law in dioceses around the world. This study aims to contribute to such a discussion, so that the penalty of prohibition of the use of ecclesiastical dress existing in the CIC/1983 can be applied in accordance with the principles of justice.

2. Compensation—The Principal Objective of the Expiatory Penalty

Punishment is a juridical reaction of ecclesiastical authority to a transgression of a law that has been recognised as a crime, that is, an act harmful and dangerous for the community of the Church. In 2001, Pope John Paul II published the SST and added appropriate norms to it, in which clerical abuse of minors up to the age of 18 was placed among the most serious crimes against faith and sacraments, the so-called *delicta graviora* (more grave delict)⁴. The punishment for any crime, and, in this case, we are dealing with an act classified by the legislator as the most serious crime, must be burdensome for the perpetrator. This is demonstrated in the can. 1312 § 2, which states that ecclesiastical punishment is the deprivation of the faithful of some good (*privatio alicuius boni*). Is the prohibition of the use of ecclesiastical dress to be regarded as depriving the good of the just punishment expected by the community when it comes to the crime, *contra sextum minore*?

The CIC/1983 indicates in can. 284 that clerics are to wear “ecclesiastical garb” (*habitus ecclesiasticus*), “suitable” (*decentem*) for persons of their state, and moreover according to the norms issued by the conference of bishops and according to legitimate local customs⁵. Thus, the decisive influence on how this dress looks in each region is the particular legislator. The lack of uniform ecclesiastical dress in the Church should be considered a principle with a long doctrinal tradition, confirmed in the work on the post-conciliar reform of the CIC/1983⁶. Can this cause problems in imposing the punishment of banning the use of ecclesiastical dress? This penalty, on the one hand, is established by the universal legislator for the whole Church; on the other, in the various particular Churches, it can mean something completely different. Punishment is inflicted on the offender in a particular Church, and its practical implementation is influenced by the norms issued by the individual Episcopal Conferences. The lack of uniform ecclesiastical dress in the Church does not hinder the

attainment of the purposes set forth in can. 1341: the reparation of scandal, the restoration of justice and the correction of the guilty, since the manner of attaining these ends through punishment is determined for each individual perpetrator. As far as general prevention is concerned, understood as the deterrence of others from committing a crime, this effect can be greater and easier to achieve in those particular Churches in which the ecclesiastical dress distinguishes between clergy and laity in a more concrete way. It therefore seems preferable to inflict this punishment in these particular Churches. If, to quote the *Directory For The Ministry And The Life Of The Priests*, ecclesiastical dress is an “external sign of an interior reality” and even “safeguard for poverty and chastity”⁷, the penal deprivation of dress must also be a sign—for clergy and laity—of transgression of the law, but also of betrayal of duties resulting from belonging to the clerical state.

What does it mean to deprive the ecclesiastical garb to deprive the good that punishes to the perpetrator? In canonical literature, there is a twofold distinction. Wolfgang F. Rothe (2001, pp. 23–50) and Javier Otaduy (2002, pp. 363–65) point out in their comments that the codex formulation, *decens habitus* (suitable garb), indicates the appropriateness and dignity of dress, without yielding to luxury and sophistication. This interpretation focuses on social respect for the clerical state as well as for the clergy themselves. Here, through the dress proper to the cleric, the honorable function which he fulfils in the community, often going beyond purely religious competences is emphasised. In this approach, wearing ecclesiastical garb is associated with prestige, high social position, maybe even social benefits and privileges due to the function performed. An example of the high social position of clergy has traditionally been the United States—a country deeply affected by sexual abuse among clergy. The high position of the clergyman in the USA dates to the colonial period, but the American Revolution, supported by most of the churches, played a special role in this respect. They also made an important contribution to the colonisation of the West, constituting one of the main points of support for the young statehood and contributing to the development of the social structure of settlers on the model of the Eastern states (Elsbree 2013, p. 146).

According to the above-mentioned comments of recognised canonists, it would be useful to impose the penalty of prohibiting the use of ecclesiastical dress in those particular Churches where the clerical state has retained a high social position. Prohibition against wearing ecclesiastical dress would contribute to reparation (atonement) and redemption of one’s criminal past in accordance with the nature of expiatory punishments.

According to Massimo del Pozzo, the ordained minister should be clearly identifiable, which defines the other faithful as addressees of the sign of ecclesiastical dress (Del Pozzo 2018, p. 211). Once again, there is talk of ecclesiastical dress as a sign, but this time, it is not so much about the social position of the priest and the prestige resulting from wearing the garb, but about the message that comes from the faithful: the hierarchical priesthood remains at the service of the common priesthood of all the faithful. Deprivation of ecclesiastical garb is therefore a sign indicating the perpetrator of the crime as a destroyer of the social order who has betrayed his ministry. Expiatory penalties are aimed at restoring (repairing) the order violated by the crime, because the damage should be duly compensated, which is achieved through compensation in the form of a penalty imposed. According to John Paul II, clerical garb “gives evidence within the ecclesiastical community of the public witness which each priest is held to give of his own identity and special belonging to God”. It is “useful to the ends of evangelization and leads to reflection on the reality which we represent in the world and the primacy of the spiritual values which we affirm in the existence of man”. Thanks to the sign of the clerical garb, “it becomes easier for others to arrive at the mystery, of which we are bearers, of Him to whom we belong and whom we want to announce with all our being” (John Paul II 1982).

Taking the Pope’s thought as a starting point, the deprivation of garb is a sign that in the life of a priest, as a result of a crime, there was no public testimony of priestly identity. In the case of the perpetrator, the goals that John Paul II associated with ecclesiastical dress will no longer be achieved but will serve the punishment by restoring social order. In

the case of a cleric who has committed the crime, *contra sextum cum minore*, and has been punished with a ban on wearing ecclesiastical garb, this penalty serves the purposes of evangelisation no less than the sign of ecclesiastical dress in the case of a cleric wearing such garb.

3. Remedying the Order Infringed by the Offence

In the Apostolic Constitution, *Pascite Gregem Dei* reforming canon penal law, Pope Francis pointed out that there is an increasing need in local communities to restore justice and order that have been violated by crime. The canonical order, built on the centuries-old tradition of the Church, is to serve this purpose. In the long and painful process of repairing the order violated by the *delicta graviora* in the whole Church, but also by the concrete crime of the individual perpetrator, the warning formulated by Pope emeritus Benedict XVI must be considered: “The crisis, caused by the many cases of clerical abuse, urges us to regard the Church as something almost unacceptable, which we must now take into our own hands and redesign. But a self-made Church cannot constitute hope”⁸.

By imposing expiatory punishments, we not only break with the scandalous inactivity and passivity that dominated the thinking of Church superiors for decades, but we return to the sources of Christianity. As Pope Benedict XVI stated elsewhere: “Today we have to learn all over again that love for the sinner and love for the person who has been harmed are correctly balanced if I punish the sinner in the form that is possible and appropriate” (Benedict XVI and Seewald 2010, p. 26). It is recognised in the doctrine that expiation in canonical penal law enlivens the canonical order, whose supreme law is the *salus animarum* (Bernal 1998, p. 596; Roca Fernández 2014, p. 423; Cito 2023, pp. 216–17).

As José Bernal noted, the law does not consider evil in all its dimensions, but only in the perspective of social relations. The punishment is to ensure that the perpetrator is restored to the space of social relations. In other words, if he is thrown out of the dynamics of social coexistence as a result of crime, he is reintegrated into the community as a result of punishment. The author calls it the “social reintegration of the subject” and even speaks of “the right of the accused to punishment”. He has an inalienable dignity that crime can overshadow, but it never tolerates it. The imposition of punishment thus confirms the inalienable dignity of the criminal (Bernal 1998, pp. 600–1).

The actions taken by John Paul II, Benedict XVI and Francis, especially the latest amendment to Book VI, allow us to put forward the thesis that it is not possible for the “social reintegration of the subject” to happen without conscientious application of penal and disciplinary provisions. As Pope Francis has stated, “In the past, great damage was done by a failure to appreciate the close relationship existing in the Church between the exercise of charity and recourse—where circumstances and justice so require—to disciplinary sanctions. This manner of thinking—as we have learned from experience—risks leading to tolerating immoral conduct, for which mere exhortations or suggestions are insufficient remedies. This situation often brings with it the danger that over time such conduct may become entrenched, making correction more difficult and in many cases creating scandal and confusion among the faithful. For this reason, it becomes necessary for bishops and superiors to inflict penalties. Negligence on the part of a bishop in resorting to the penal system is a sign that he has failed to carry out his duties honestly and faithfully”⁹.

Can a ban on the use of ecclesiastical dress contribute to the social reintegration of the offender? According to del Pozzo, the use of ecclesiastical should, as a rule, be a source of unity and communion among clergy, created, among other things, by deep bonds of fraternity, cooperation, and co-responsibility (Del Pozzo 2018, p. 224). As already mentioned, deprivation of ecclesiastical garb is also a sign of remaining in ecclesiastical punishment, participation in expiation, taking responsibility for one’s actions; it can also be a sign of unity, communion and co-responsibility for the Church striving for healing and renewal. The punished person is not in a state of enmity with the Church. By the punishment imposed, the Church wants to make the faithful aware of the evil of the crime committed and the extent of the harm caused to the community (De Paolis 2005, pp. 158–59).

As Pope Francis reminds us, respect for and observance of penal discipline is the duty of the entire People of God. It should be understood as fulfilling the postulate of love towards the Church, the Christian community and possible victims, as well as towards those who have committed a crime and who at the same time need the mercy and correction of the Church¹⁰.

The correct application of the canonical penal procedure seems to be an indispensable element in the restoration of justice and contributes to the process of healing. A cleric who accepts the penalty of not wearing ecclesiastical garb should be aware that the person harmed by him has the right to make such a decision and so does the family of that person and the parish or diocesan community. Truth and justice are a prerequisite for the healing process of the wounded person but also of the community¹¹.

In recent decades, much effort has been made in the Church to overcome the anti-judicial mentality that has threatened canonical penal law and has made ecclesiastical superiors passive in the face of the gravest crimes of their subjects. It is now much clearer that the canonical sanction, in addition to the function of reparation, seeks above all the good of the faithful, repairing the social order violated by crime (Sánchez-Girón Renedo 2022, pp. 725–63). It would be a mistake to reduce the repair of the social order to the social reintegration of the criminal who has distanced himself from the community and aspires to fully return to it. The penalty of deprivation of ecclesiastical garb as a sign of unity and co-responsibility for the Church should, in the spirit of communion, express social disapproval of evil, about which John Paul II wrote in a letter to American bishops in the context of canonical sanctions. This and other canonical penalties “give a social expression of disapproval for the evil are fully justified. These help to maintain a clear distinction between good and evil, and contribute to moral behaviour as well as to creating a proper awareness of the gravity of the evil involved” (John Paul II 1993).

4. Priority to Repair the Damage Caused to the Victim of a Crime

The doctrine has consistently emphasised that expiatory penalties are aimed at restoring the social order violated by the crime, because the damage caused in the ecclesiastical order should be duly compensated, which, as has been shown, is achieved through reparation in the form of a penalty imposed (Green 2000, pp. 1529–604). The recent reforms in canonical penal law, especially the amendment of Book VI, urge us to look at the harm that needs to be compensated not only as a scandal, a sociological phenomenon, a grave violation of moral principles, a serious crime within the Church, but as an injury to a specific person—having a face, identity, sensitivity, spirituality, rights in the Church, life history, etc. In the past, such an approach was lacking both in ecclesiastical laws, as well as in the application of the law by superiors.

In 2010, in the *Historical Introduction* to the norms of the *Motu Proprio Sacramentorum sanctitatis tutela*, it was admitted that in the past the Church’s attention was too often focused on the person of the perpetrator in the sense of restoring him to society, ignoring the wronged. It was expected that the bishop would be able to “heal” rather than “punish”. An overly optimistic belief in the benefits of psychological therapies has conditioned many decisions concerning the staff of dioceses and religious institutes, sometimes without due consideration for the possibility of recidivism¹². Recognising the danger of the latter could properly distribute emphasis and care for both the victims and potential victims. The right of the Church to inflict penal sanctions derives from the very structure of the Church and is dictated by the necessity of its supernatural purpose: *salus animarum* (Di Mattia 1990, p. 651). Therefore, it is not only about the *salus animae* (salvation of the soul) of the perpetrator himself, but about the *salus animarum* (salvation of the souls); that is, about the most deeply understood good of the ecclesial community, with the good of the wronged person coming to the fore.

The mention of too frequent concentration on the perpetrator is also evident in canon 1395 CIC/83 before the amendment. The obligation of ecclesiastical celibacy was declared an object of special protection, contrary to the legislation of 1917¹³, in which good morals

(*boni mores*) were recognised as the object of protection in canon 2359 § 2. A step in the right direction was the norms on *delicta graviora*, which returned to the traditional definition of the object of protection, stipulating in Article 6 § of the SST/2010 that these are offences against decency (*delicta contra mores*). This does not exclude the special obligation of clergy under the law on ecclesiastical celibacy. Piotr Skonieczny stated that “It is possible, however, that the divergence of the object of protection in the 1983 Code and the 2010 *Delicta Graviora* Norms stems from the failure to harmonise the Law on the Roman Curia with the Latin Code of 1983. Article 52 of that law expressly provides for *delicta contra mores*, as does Article 6 of the SST/2010” (Skonieczny 2017, p. 138)¹⁴.

Although, from the point of view of the art of law-making, such “harmonization” should take place, in this case, the “lack of consistency” on the part of the legislator turned out to be the right action from today’s perspective.

The foregoing considerations should be regarded as an accurate description of the effect, but not as a reason for, giving greater attention to the offender in the past. The answer to the question as to why the victim of a crime is relegated to the background seems fundamental to understanding the meaning of the reform of Book VI, as a result of which, among other things, a ban on the use of ecclesiastical dress was introduced. The real reason for the reform is to be found in the broader phenomenon of clericalism, which is the subject of severe criticism in the teaching of Pope Francis. According to the Holy Father, clericalism is a denial of the understanding of the Church as the people of God, the reason for perversions in the exercise of power within it and behaviour contrary to the message of the Gospel. In the Pope’s opinion, clericalism is one of the most serious causes of the crisis in the Church, related to paedophile scandals among the clergy (Francis 2015).

It is worth looking at Thomas Schärfl’s criticism of clericalism. The previous understanding of the sacrament of Holy Orders has largely been based on a theology tinged with Jansenism, which is ethical-elitist and mystical in character, negating the “I” of the person receiving ordination in order to be able to act in *Persona Christi*. This approach led to cultivating the awareness of priestly elites and their uniqueness. According to the author, the crisis of office in the Church can only be overcome through a theology of spirituality of ministry that takes the incarnation-sacramental dimension of Christianity more seriously. In this way, the ordained person, in his task of representing Christ and leading the community, is an instrument of salvation, whose effectiveness and credibility are intrinsically linked to his actions. Authenticity is not guaranteed to the recipient by self-denial, but by self-reconciliation by self-acceptance, in which one’s own imperfections and limitations are not repressed or embellished but harnessed to the realisation of one’s vocation in life (Schärfl 2018, pp. 764–66).

Being an instrument of salvation, by vocation and office, is connected with the necessity of a personal approach; that is, placing the other person at the centre. Special obligations—moral and legal—are towards the person who has been harmed. For this to happen, one must first be reconciled with oneself, because—as Schärfl stated—one cannot be an instrument of salvation while falsifying one’s own actions. This is the opposite of all the mechanisms of denial or embellishment that have caused much evil in the Church. It will lead the community to regain credibility lost as a result of scandal.

The awareness of the danger of clericalism, in the drafting of laws and their application by superiors, made it possible to carry out reforms that make it possible to repair the harm inflicted on the victims of crime. Even before the amendment of Book VI, canonists from all over the world noticed inconsistencies in the approach to crimes *contra sextum minore*, proposing *de lege ferendae* (from law to be passed).

P. Skonieczny stated that title V in the new *Book VI* should be changed. He proposed adding the words, *ac (bonos) mores*—along the lines of CIC/17. Thus, the new title V would be, according to Skonieczny, “*De delictis contra speciales obligationes ac (bonos) mores*” (Skonieczny 2017, p. 139). As a result of the amendment, sexual offences against minors have been moved from the chapter, “offences against special obligations” (Cann. 1392–1396) to the chapter, “offences against the human life, dignity and freedom” (Cann. 1397–1398).

In this way, the legislator makes it clear that in the foreground is not a priest breaking his obligations, but a victim of crime. It also affects the perception of the source of evil of such an act—it is not the priest’s violation of the obligation of sexual abstinence, but above all the violation of the dignity of the victim.

Derek P. Farrell, Richard Sipe and Diana R. Garland point to the multidimensionality of the crime of sexual abuse of minors by clergy. It consists of several elements related to the biblical image of man, created by God in his image and likeness. These include human dignity, which is not an added quality but linked to the very fact of existence. The same applies to the capacity for a relationship with another man, in which man’s vocation to love, that is, to the fullness of humanity, is realised. In the biblical vision of humanity, special importance is attached to concern for the welfare of children and other people in need of care (biblical “little ones”). The abuse of another human being, and especially the abuse of a child—regardless of whether the perpetrator is a cleric or not—is a denial of this dignity and this vocation and undermines the very foundation of humanity (Farrell 2009, pp. 39–53; Sipe 2011, pp. 117–30; Garland 2013, pp. 66–96).

What are the consequences when the penalty inflicted for the offence *contra sextum minore* is the prohibition of the use of ecclesiastical dress? This punishment is part of the logic of the absolute priority given to the victim, although at first sight it may seem that it concerns only the perpetrator. It is necessary to recognise this as an indisputable necessity to help the weakest faithful of the Church, especially the wronged, because—as Pope Francis stated, “The heart-wrenching pain of these victims, which cries out to heaven, was long ignored, kept quiet or silenced. But their outcry was more powerful than all the measures meant to silence it or sought even to resolve it by decisions that increased its gravity by falling into complicity”¹⁵.

Therefore, the imposition of a punishment depriving the ecclesiastical garb is fully justified when there is a reasonable presumption that wearing the costume by the perpetrator will become a cause of pain and suffering for the victims, deepen their trauma and cause justified opposition. As already mentioned, ecclesiastical dress has the character of a sign that distinguishes the cleric from the secular environment in which he lives. It emphasises all that is connected with the priestly mission and the special status of the cleric in society. In the pastoral care of children and young people, the relationship with the priest is connected with the feeling that he is “someone apart from” other members of the community, because he represents God on earth and teaches on his behalf what is good and what is bad. Ecclesiastical dress is an external sign of this, and, for minors, whose thinking is often visual, it has a special meaning.

Farrell pointed to the specific effects that sexual abuse by a clergyman caused in the victim, whom the minor most often identified by the ecclesiastical dress. These effects occur additionally, regardless of the concomitant symptoms of post-traumatic stress disorder. These include a contradiction between the theological message received and the actual experience, difficulties in prayer, disturbance of one’s own spiritual identity, inability to use the sacraments, and a change in the approach to the Church. Traumatization often takes place due to contact with the institutional Church (Farrell 2009, pp. 39–53). The prohibition on the use of ecclesiastical dress imposed on the perpetrator may contribute to counteracting traumatization, because the institutional Church sends a clear signal that the punished priest has betrayed his mission and proved unworthy to wear ecclesiastical garb, which in itself is a positive sign transmitting evangelical content.

5. Postulate to the Conference of Bishops—Noticing the Culture-Forming Dimension of Punishment

In can. 136 § 1 CIC/1917, it is indicated that every cleric is obliged to wear a dignified ecclesiastical garb according to legitimate local customs and the ordinances of the local ordinary. CIC/1983 contains an analogous regulation on the subject in canon 284. The fundamental difference lies in the fact that the body empowered to issue particular norms is now the conference of bishops and not the local Ordinary.

What should guide the conference of bishops when issuing norms regarding ecclesiastical dress? The CIC/1983 maintains the principle that has been in force for centuries, that a uniform dress for the whole Church not be introduced. The cut of the cassock known today in many countries comes from the seventeenth century, but there are differences conditioned by local customs. In many countries, according to the local custom, the ecclesiastical dress is also the so-called short outfit, i.e., dark trousers and a jacket and a dark shirt with a Roman collar (Krukowski 2005, pp. 107–8).

In addition to factual customs (*consuetudo facti*)—behaviours commonly accepted in a given community and having the potential to transform into a source of binding norm of conduct—a good legislator should take into account the principles of lawgiving. The incentives for changes in the law are numerous and diverse. It cannot be otherwise, since the reality that is subject to regulation is constantly changing and evolving under the influence of heterogeneous factors. The Conference of Bishops, indicated in canon 284 as the legislator competent for ecclesiastical dress, is to be guided by the principle, *Lex sequitur vitam*, so that the norms created may be rational. The norms of law are constantly evolving as the lives of the addressees, their aspirations, needs and problems change. This changing reality must be regulated. The punishment of crimes *contra sextum minore* is no longer a question of punishment in the canonical sense of the word, but of general prevention, having a broad impact on mentality and culture, so that the punishment imposed, as well as the possible precepts that accompany it, change the thinking of the faithful, both clergy and laity.

The problem of sexual abuse among clergy has become one of the main challenges faced by legislators in the Church. The need to change canon law in the face of deepening problems in the United States and Ireland resulted in the issuance of the norm *De gravioribus delictis* from 2001. Since then, various norms have been issued, at the universal and particular levels, to discipline the clergy and prevent transgressions. A particularly significant event should be considered the amendment of Book VI, as a result of which, among other things, a prohibition against wearing ecclesiastical dress as an expiatory punishment was introduced into the code, which could be imposed in the event of a crime *contra sextum minore*.

Pope Francis published a *Letter to the People of God*, in which he called for prayer and penance for the sins of the people of the Church. The Holy Father wrote that “Looking back to the past, no effort to beg pardon and to seek to repair the harm done will ever be sufficient. Looking ahead to the future, no effort must be spared to create a culture able to prevent such situations from happening, but also to prevent the possibility of their being covered up and perpetuated”¹⁶.

In creating a culture capable of opposing evil and changing mentality, signs and symbols play an important role. An example of the latest activities of symbolic significance, widely discussed and criticised, which shows their potential to influence the mentality of recipients, is the decision of the church authorities in the archdiocese of Paderborn, where next to the graves of two cardinals who were diocesan bishops in the past, a plaque was placed informing about their negligence in dealing with cases of abuse. According to the archdiocesan spokeswoman, visitors to the crypts will be able to learn not only about the mistakes made by the hierarchs, but also to obtain information about their merits¹⁷.

As has already been mentioned many times, both wearing ecclesiastical garb and the deprivation of it should be understood in terms of a sign. The conference of bishops which issue norms on ecclesiastical dress in accordance with canon 284 should consider other signs and symbols that promote a culture of solidarity with the victims. Man, as a spiritual-bodily being, in all the manifestations of his activity by a clergyman—in knowledge and love, in discovering and expressing meaning, and in interpersonal contacts—needs the mediation of what is material, what is sensual; he needs the mediation of signs and symbols. This also applies to the relationships, man—God, man—another man, man—community. Therefore, the conference of bishops, as legislator, should establish rules for the use of a graphic sign expressing solidarity with those who have been harmed. For example, it

could be used as a pin for a cassock or jacket. Such symbols have repeatedly played a culture-forming role, shaping awareness and expressing an important message. One can mention, for example, the graphic sign of the “Solidarity” movement, which in the 80s, next to the Coca-Cola logo, became one of the most recognisable in the world. If the punishment of deprivation of ecclesiastical garb is to aim at the social reintegration of the perpetrator, he should, also through an external symbol, show solidarity with the victims of harm. Creating the possibility of using such a sign for clerics wearing ecclesiastical dress, as well as other believers, would prevent the stigmatisation of the punished clergyman if he was ordered to wear such a sign as part of the punishment served.

6. Conclusions

As a result of expiatory penalties, the punished offender has the opportunity to compensate for his act. The crime, *contra sextum cum minore* is considered one of the most serious in the Church, which was confirmed by the universal legislator, counting these acts as *delicta graviora*. The expiatory penalty prohibition against wearing ecclesiastical dress was introduced into the CIC/1983 as a result of the latest amendment and may be imposed on perpetrators of such crimes as a means of redress. This prohibition deprives the perpetrator of the prestige resulting from wearing ecclesiastical dress and is also a sign of identifying the perpetrator as a destroyer of the social order, who has betrayed his ministry. These are essential elements of the expiation proper to this punishment.

It should be considered prudent for this penalty to be imposed as one of the penalties, together with the more burdensome sanctions, so that the degree of inconvenience imposed on the offender meets the requirement of a just and proportionate punishment. This is required by the restoration of justice in the ecclesial community, the social reintegration of the perpetrator, reparation to the members of the community, with absolute priority given to the person harmed. The prohibition of the use of ecclesiastical dress is part of the above objectives, and, in addition to the perpetrator himself, it can have a positive effect on the victim of crime: help to restore lost peace of mind, in therapy, in forgiveness and reconciliation with the institution of the Church, and, perhaps, even with the perpetrator himself.

In the creation of norms concerning the wearing of ecclesiastical garb, to which conferences of bishops are entitled according to can. 284, it is useful to establish rules for the use of a graphic sign expressing solidarity with those harmed in the form of a pin to a cassock or jacket. The order to wear such a sign, so that the deprivation of ecclesiastical dress would acquire an even deeper expiatory meaning, could be an element of the punishment served. In addition to the expiation of the offender, attention should be paid to the potential of such juridical solutions in a culture-forming and mentally changing sense, so that the whole community feels responsible for the protection of minors in the Church.

Funding: This research received no external funding.

Institutional Review Board Statement: Not applicable.

Informed Consent Statement: Not applicable.

Data Availability Statement: Data sharing not applicable.

Conflicts of Interest: The author declares no conflict of interest.

Notes

¹ Codex Iuris Canonici auctoritate Ioannis Pauli PP. Promulgatus (25 January 1983) [Code of Canon Law by the authority of John Paul II Promulgated], AAS 75 (1983), pars II: 1–317 (hereinafter: “CIC/1983”).

² John Paul II. 2001. Litterae apostolicae motu proprio datae quibus Normae de gravioribus delictis Congregationi pro Doctrina Fidei reservatis promulgatur, Sacramentorum Sanctitatis Tutela [The Apostolic Letter given on its own motion by which the Norms concerning graver offenses reserved to the Congregation for the Doctrine of the Faith are promulgated, the Protection of the Sanctity of the Sacraments] (30 April 2001), AAS 93: 737–39 (hereinafter: “SST”); Congregation for the Doctrine of the Faith, Epistula a Congregatione pro Doctrina Fidei missa ad totius Catholicae Ecclesiae Episcopos aliosque Ordinarios et Hierachos interesse habentes: de delictis gravioribus eidem Congregationi pro Doctrina Fidei resevatis [A Letter sent by the Congregation

for the Doctrine of the Faith to the Bishops of the whole Catholic Church, and other Ordinary and Hierarchs having to attend: concerning more grave delicts reserved to the same Congregation for the Doctrine of the Faith] (18 May 2001), AAS 93: 785–88.

3 “With a mandate from the Congregation for the Doctrine of the Faith, perpetual expiatory penalties can be imposed” (Art. 19 § 2 SST/2021). The amended norms of the SST: Congregation for the Doctrine of the Faith. 2021. Rescript ex Audientia subrogating SST/2010 [Rescript from the Audience replacing the SST/2010] (11 October 2021), *Communicationes* 53: 427–36. SST/2021 entered into force on 8 December 2021. The English translation: <https://menofmelchizedek.org/sacramentorm-sanctitatis-tutela-2021-revision> (accessed on 29 August 2023).

4 SST/2021, Art. 4.

5 Canon 284 is recalled and clarified in the *Directory on the Ministry and Life of Priests*, issued by the Congregation for the Clergy. It indicated that if the ecclesiastical garb is not a cassock; the dress worn is to be distinguished from the dress used by the laity. The cleric should also be recognized by the community by the clothing he wears, which is a clear sign of his identity as a person performing public ministry. The way of thinking, speaking, evaluating the affairs of the world, shaping relationships with people, as well as the dress of the priest, must express the prophetic power that he draws from his sacramental belonging—from his profound identity. The ecclesiastical dress is meant to remind the priest himself that he is always and at all times a priest, ordained to serve, teach, guide and sanctify souls, above all through the celebration of the sacraments and the preaching of the word of God. The Holy See points out that, except in special situations, not wearing ecclesiastical dress can be a sign of a weak sense of one’s own identity as a pastor totally dedicated to serving in the Church. Congregation for the Clergy. 2013. *Directory for the ministry and the life of the priests*. Rome: Libreria Editrice Vaticana, No. 61.

6 At the first session of the *Coetus studiorum de sacra hierarchia* [Research Assembly on the Sacred Hierarchy] (24–28 October 1966), the consultors expressed their intention to maintain the existing legal order concerning ecclesiastical dress: “De habitu ecclesiastico, iuxta omnes, retinenda est norma, qua obligantur clerici ad deferendum habitum ecclesiasticum, secundum iuris specificis praescripta”. *Communicationes* 16 (1984): 179.

7 Congregation for the Clergy, *Directory*, No. 61.

8 Benedict XVI. 2019. The Church and the scandal of sexual abuse (10 April 2019), <https://www.catholicnewsagency.com/news/41013/full-text-of-benedict-xvi-essay-the-church-and-the-scandal-of-sexual-abuse>, accessed on 30 August 2023.

9 PGD.

10 See note 9 above.

11 Congregation for the Doctrine of the Faith. 2011. Lettera circolare per aiutare le Conferenze Episcopali nel preparare Linee guida per il trattamento dei casi di abuso sessuale nei confronti di minori da parte di chierici [Circular Letter to Bishops’ Conferences on guidelines for cases of sexual abuse of minors by clergy] (3 May 2011), AAS 103: 406–12.

12 Congregation for the Doctrine of the Faith. 2010. The norms of the Motu Proprio *Sacramentorum sanctitatis tutela* (21 May 2010): Historical introduction”. *Communicationes* 42: 349–53.

13 Codex Iuris Canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate Promulgatus [Code of Canon Law compiled by order of Pope Pius X and promulgated by the authority of Pope Benedict XV]. (27 May 1917), AAS 9 (1917), pars II, 1–593 (hereinafter: “CIC/1917”).

14 The English translation is ours.

15 Francis. 2018. Letter of His Holiness to the People of God (20 August 2018), <https://press.vatican.va/content/salastampa/it/bollettino/pubblico/2018/08/20/0578/01246.html>, accessed on 31 August 2023.

16 Francis, Letter of His Holiness to the People of God.

17 The text placed at the graves of the hierarchs reads, “From today’s perspective, the archbishops buried here made serious mistakes in dealing with sexual abuse during their time in office. All too often they put the protection and reputation of the institution and the perpetrators above the suffering of the victims” (Coppen 2023).

References

- Arrieta, Juan Ignacio. 2012. Il progetto di revisione del libro VI del Codice di Diritto Canonico [The revision project of Book VI of the Code of Canon Law]. *Archiv für katholisches Kirchenrecht* 181: 57–74. [CrossRef]
- Benedict XVI, Pope, and Peter Seewald. 2010. *Light of the World: The Pope, the Church, and the Signs of the Times*. San Francisco: Ignatius Press.
- Bernal, José. 1998. Sentido y régimen jurídico de las penas expiatorias [Meaning and legal regime of expiatory penalties]. *Ius Canonicum* 38: 595–615. [CrossRef]
- Castillon Hoyos, Dario, and Michele De Santi. 2010. *L’abito Ecclesiastico. Sua Valenza e Storia [The Ecclesiastical Dress. Its Value and History]*. Camerata Picena: Editrice Shalom.
- Cito, Davide. 2023. La nueva disposición de las penas expiatorias [The new provision of expiatory penalties]. *Anuario de Derecho Canónico* 12: 201–33.
- Coppen, Luke. 2023. German Cardinals’ Tomb Sign on Abuse Records Stirs Debate. Available online: <https://www.pillaratholic.com/p/german-cardinals-tomb-sign-on-abuse> (accessed on 31 August 2023).

- De Paolis, Velasio. 2005. Penal sanctions, penal remedies and penances in canon law. In *The Penal Process and the Protection of Rights in Canon Law. Proceedings of a Conference Held at the Pontifical University of the Holy Cross Rome, March 25–26, 2004*. Edited by Patricia M. Dugan. Montréal: Wilson & Lafleur, pp. 145–82.
- Del Pozzo, Massimo. 2018. Il valore e il significato dell’abito clericale: Problematiche giuridiche [The value and meaning of ecclesiastical dress: Legal issues]. *Ius Ecclesiae* 30: 201–33.
- Di Mattia, Giuseppe. 1990. Il diritto penale canonico a misura d’uomo [Penal Canon Law on a human scale]. *Revista Española de Derecho Canónico* 47: 639–61.
- Elsbree, Oliver Wendell. 2013. *The Rise of the Missionary Spirit in America, 1790–1815*. Eugene: Wipf and Stock Publishers.
- Farrell, Derek P. 2009. Sexual abuse perpetrated by Roman Catholic priest and religious. *Mental Health, Religion & Culture* 12: 39–53.
- Francis. 2015. Presentazione degli auguri natalizi della Curia Romana. Discorso del Santo Padre: La Curia Romana e il Corpo di Cristo [Presentation of the Christmas Greetings to the Roman Curia. Address of His Holiness: The Roman Curia and the Body of Christ] (22 December 2014). Available online: https://www.vatican.va/content/francesco/it/speeches/2014/december/documents/papa-francesco_20141222_curia-romana.html (accessed on 30 August 2023).
- Francis. 2021. Apostolic Constitution Pascite gregem Dei (23 May 2021). Available online: https://www.vatican.va/content/francesco/en/apost_constitutions/documents/papa-francesco_costituzione-ap_20210523_pascite-gregem-dei.html (accessed on 27 August 2023).
- Garland, Diana R. 2013. Clergy Sexual Misconduct: Don’t Call it an Affair. *Family and Community Ministries* 26: 66–96.
- Green, Thomas J. 2000. Book VI. Sanctions in the Church cc.1311–1399. In *New Commentary on the Code of Canon Law*. Edited by John P. Beal, James A. Coriden and Thomas J. Green. New York: Paulist Press, pp. 1529–604.
- John Paul II. 1982. Lettera al Cardinale Vicario Ugo Poletti [Letter of Pope John Paul II to Cardinal Vicar Ugo Poletti] (8 September 1982). Available online: https://www.vatican.va/content/john-paul-ii/it/letters/1982/documents/hf_jp-ii_let_19820908_poletti.html (accessed on 30 August 2023).
- John Paul II. 1993. Letter to the Bishops of the United States of America (11 June 1993). Available online: https://www.vatican.va/content/john-paul-ii/en/letters/1993/documents/hf_jp-ii_let_19930611_vescovi-usa.html (accessed on 30 August 2023).
- Krukowski, Józef. 2005. Świąci szafarze, czyli duchowni [Sacred Ministers or Clerics]. In *Komentarz do Kodeksu Prawa Kanonicznego, t. II/1: Księga II. Lud Boży. Część I. Wierni chrześcijanie. Część II. Ustrój hierarchiczny Kościoła*. Edited by Józef Krukowski. Poznań: Pallottinum, pp. 54–117.
- Otaduy, Javier. 2002. Comentario c. 284 [Commentary on c 284]. In *Comentario Exegético al Código de Derecho Canónico*. Edited by Angel Marzoa, Jorge Miras and Rafael Rodríguez-Ocaña. Pamplona: Eunsa, pp. 363–65.
- Renken, John A. 2014. Penal Law in the Church Tomorrow: Foundations for the Revision of Book VI. *Studies in Church Law* 10: 53–75.
- Roca Fernández, María José. 2014. La discrecionalidad del ordinario y del juez en el proceso penal y en la imposición de la pena [The discretion of the ordinary and the judge in the penal process and in the imposition of the sentence]. In *El Código de Derecho Canónico de 1983: Balance y Perspectivas a los 30 años de su Promulgación*. Edited by José Luis Sánchez-Girón Renedo and Carmen Peña García. Madrid: Universidad Pontificia Comillas, pp. 417–26.
- Rothe, Wolfgang F. 2001. De obligatione deferendi habitum ecclesiasticum. Die kirchlichen Bekleidungs Vorschriften für Kleriker nach c. 284 [De obligatione deferendi habitum ecclesiasticum. The norms concerning the ecclesiastical dress of the clergy according to canon 284]. *Archiv für katholisches Kirchenrecht* 170: 23–50. [CrossRef]
- Sánchez-Girón Renedo, José Luis. 2014. El proyecto de reforma del derecho penal canónico [The project to reform penal canon law]. *Ius Canonicum* 54: 567–602. [CrossRef]
- Sánchez-Girón Renedo, José Luis. 2022. Las penas canónicas en el nuevo Libro VI del Código de Derecho Canónico [Canonical penalties in the new Book VI of the Code of Canon Law]. *Ius Canonicum* 62: 725–63. [CrossRef]
- Schärtl, Thomas. 2018. Amerikanischer Albtraum: Die perfide Interpretation des Missbrauchs [The American Nightmare: Perfidious Interpretation of Harassment]. *Stimmen der Zeit* 236: 753–68.
- Schüller, Thomas. 2021. Das ‘neue’ Strafrecht—Eine Reform in kleinen Schritten [‘New’ penal law—Reform in small steps]. *Klerusblatt* 101: 251–53.
- Sipe, Richard. 2011. Scandal versus Culture: Mother Church and the Rape of Her Children. In *Sexual Abuse in the Catholic Church. A Decade of Crisis, 2002–2012*. Edited by Thomas G. Plante and Kathleen L. McChesney. Santa Barbara: Praeger, pp. 117–30.
- Skonieczny, Piotr. 2017. Przestępstwo cięższe przeciwko szóstemu przykazaniu Dekalogu z małoletnim—uwagi *de lege lata* i *de lege ferenda* [The more grave delict against the Sixth Commandment of the Decalogue with a minor: Some observations *de lege lata* and *de lege ferenda*]. *Prawo Kanoniczne* 60: 135–75. [CrossRef]

Disclaimer/Publisher’s Note: The statements, opinions and data contained in all publications are solely those of the individual author(s) and contributor(s) and not of MDPI and/or the editor(s). MDPI and/or the editor(s) disclaim responsibility for any injury to people or property resulting from any ideas, methods, instructions or products referred to in the content.