

ON THE *CRIMEN PESSIMUM* AND THE JURISDICTION OF THE HOLY OFFICE RELATIVE TO IT

ON THE *CRIMEN PESSIMUM* AND CAN. 2358, 2389 ¹

The Holy Scriptures mention that that most holy man, Joseph, son of the Patriarch Jacob, when “he was yet sixteen years of age...accused his brothers before his father of *crimen pessimum* [the worst crime]”.² On what this crime specifically consisted, the holy author kept concealed in silence. For Moses did not wish to name something horrible, shameful, and infamous;³ and the theologians and Biblical scholars interpret these words of Genesis in different ways.⁴ Therefore, we do not know with certainty the particular and specific moral iniquity of this crime. But it is not the place here to investigate this; rather, our intention is only to explicate in some way the *crimen pessimum*, not in its pure moral sense, but in its juridical sense, specifically the crime that is contained in can. 2358 and 2359 and whose jurisdiction it pertains to with regard to the Holy Office.

I. WHAT THE *CRIMEN PESSIMUM* IS

I. Not all crimes of *immorality* enumerated in the aforementioned canons - incest, adultery, fornication, etc., for example - are under the jurisdiction of the Supreme Tribunal, but a perverse crime committed or attempted by a *cleric* with a person of *either sex*. Moreover, this sin is recognized by the Holy Office under the name of “*crimen pessimum*” and is defined by this Holy Tribunal as follows: “Under the name of *crimen pessimum* it is herein understood as any gravely sinful obscene outward action, committed or attempted by any *cleric* with a person of his own sex.”

¹ Can. 2358. Clerics constituted in lower orders who are guilty of any crime against the Sixth Commandment should be punished in accordance with the gravity of the crime and demotion from clerical state, if the circumstances of the crime urge it, beyond the penalties dealt with in can. 2357, if there is a place for it.

Can. 2359. § 1. Clerics in sacred orders or secular or religious monasteries, if admonishment has been fruitlessly disregarded, are compelled to withdraw from illicit intimate association and repair scandal by suspension from divine rights, privation of the enjoyment of office, benefit, and rank, with the prescript of can. 2176.

² Gen. 37, 2.

³ Abulensis, in A. Lapide, Comment. In Script. I, Ed. Vives, Paris (1868), p. 357.

⁴ By the name "Crimen pessimum" in Gen. 37, 2, some understand fraternal hatred, as Nic. de Lyra, Comment. in h. 1. ed. Lugd. (1545), r. 101 v.; others prefer "murmuring against one's father" inasmuch as he preferred the younger, Joseph, as in A. Lapide, 1. c; but more commonly either as "the sin of bestiality" following Glossa Interlineari and St. Thomas Aquinas 2-2 q. 154, a. 12 ad 4; or the crime of the sodomitic wickedness following Ruperto, Abbate Tuitiensi, De Trinitate et oper. eius in Gen. libr. VIII, cap. 19; ML 167, 505; Hummelauer Cursus S. Script., Comment in Gen., Paris (1895), p. 256.

Notes

Many elements, which all [*sc.* authors, Canonists] unanimously hand down [to us], must be considered in the definition of this crime:

a) The *subiectum* [*subject*] is any CLERIC, whether simply tonsured or of the lower ranks or constituted in sacred office.

b) The *complex* [other party], or the person with whom the crime is committed, is a man, a male [but see (d) 2 below].

c) The *obiectum* [object, i.e., actionable occurrence] is "any obscene external act *gravely* sinful" and "committed or attempted in any way by a CLERIC."

Hence it is quite clear that *crimen pessimum* cannot be restricted to a *completed* act of sodomy, as a certain Canonist of highest repute has thought and written. In response to can. 2359, § 2: *bestiality, sodomy* and then can. 2228, where we read: "It is not incurred under penalty, law, or statute, unless the crime has been *completed in its own way* according to the specifics of the words of the law," that author stated that with *crimen pessimum* it cannot occur according to the law in force except through "completed sodomy" and completed bestiality. The words offered by the Holy Office itself openly contradict this interpretation.

d) *In the practice* of the Holy Office, this definition is interpreted *broadly*. Hence 1) *as far as the actionable act* [the *obiectum*] "it includes even uncompleted acts, such as kisses, embraces, touching, glances, etc., which are done *ex libidine* [based on lechery]": 2) *as far as motive*, "libidinous intention or '*dolus* [wickedness, perversion]' is presumed in open display, with an external action exposed."⁵ But this, it seems, should be understood as follows. As far as impudent actions, although in themselves indifferent (otherwise they would never be allowed), some are called libidinous *de se* [stemming from themselves, but not intrinsically so; as opposed to *in se*, in themselves, by their very nature], namely those that by their nature tend to incite lust: for example, touching, staring at private parts [etc.]; others, not *in themselves libidinous*, but often used to excite toward sexual pleasure, as it easily arises from them: for example, embraces, kisses placed even on chaste areas [etc.] Therefore a CLERIC performing such acts without any mitigating cause, if he is denounced for *crimen pessimum*, is obligated to prove himself to have been free *from libidinous intent*. It must be pronounced otherwise if he has made them from just cause.

Now indeed, this just cause a) as far as performing acts that are *de se* libidinous is necessity, as in the case of doctors who treat someone for sickness; b) as far as kisses, embraces, touching hands, [just cause] is thought to be present when, taking into account the norms of regional custom, men bound by the bond of sociability, good friendship, or of kinship, offer embraces or kisses to each other, especially if it is done in public, with offense to neither person, and also by persons who are honorable; likewise when we exhibit kindnesses, kisses, etc. from our most human affinity with children (namely those under ten years of age) in front of their parents or other honorable persons, as a kind of indulgence.

⁵ Iorio, Lopez U., Ferreres, Regatillo, II. cc.

And so when according to the sound judgment of a prudent man and devout conscience an externally rendered act reveals *no well-founded suspicion* of libidinous desire, thereupon discussion of a committed “crime” is impossible to be put in motion. And this position holds whether the act rendered concerns an adult or minor; and this is so even though the definition of *crimen pessimum* ought to be understood *late* [broadly].

e) *Committed or attempted*, because it is not required that the crime be consummated by either party; for the attempt on the part of the CLERIC is sufficient without the complicity of the solicited person.

2. Moreover, to this crime must be added “any gravely sinful obscene outward action, committed or attempted by any CLERIC with *minors of any sex* or with *brute animals*.” “And this crime is also under the competency of the Tribunal of the Holy Office.”⁶

Carefully consider that a minor is considered a male under fourteen, a female under twelve full years (can. 88, § 2). It is not necessary to determine the rest of this crime, since these things are easily apparent to anyone on consideration based on the language [of the law].

3. Some do not actually include under the *crimen pessimum* any “obscene action (also external, gravely sinful) committed or attempted by any cleric with minors of any sex”... and “bestiality,” and they equate these, but [only] as far as their penal effects⁷, although authors⁸ generally include even these obscene acts themselves under a *single* “*crimen pessimum*” *absolutely* and without limitation to penal effects alone. Clarification of this subject is a matter of practice and of no small importance, as is apparent from 1, d). But let us look to AUTHENTIC light, that we may walk in its clarity.

II. OTHER THINGS TO BE CONSIDERED IN THE *CRIMEN PESSIMUM*

A) JURISDICTION CONCERNING THE *CRIMEN PESSIMUM*

Jurisdiction concerning this crime is *reserved to the Holy Office*, inasmuch as it should always have recognition over it, since:

a) if denunciation of *crimen pessimum* is made before the diocesan tribunal, this is clearly competent to judge this matter, and is able to move the process and resolve it; but is obligated to inform the Holy Congregation of the Holy Office about it.

b) if a CLERIC guilty of this crime is denounced *first and directly to the Holy Office*, it establishes the case and makes its decision about it in its own way;

c) if, finally, accusation is placed before the Holy Congregation of the Council or the Holy Congregation of the Religious Orders, which oversee discipline of the secular

⁶ Regatillo, Aertnys-Damen, II. cc. et alii.

⁷ B.T., I. c.

⁸ Aertnys-Damen, Theol. Mor. (13) I. 626: "Moreover regarding the name of "worst crime," it is understood according to the following definition of this Holy Office: 'Any obscene external act that is gravely sinful, committed or attempted by any Cleric with a person of the same sex; and likewise any obscene external act that is gravely sinful committed or attempted in any way by a Cleric with an underage individual of either sex or with brute animals.'" Iorio Lopez, U. II. cc., et alii, have the same.

and religious clergy respectively, this will be sent by them to the Holy Office; for no other Holy Congregation or Roman Tribunal beyond this Supreme Tribunal is competent in moving these proceedings.

d) The same must be said when recourse is interposed from the diocesan tribunal to the Holy See. It is for this reason that we have kept maintaining that jurisdiction over *crimen pessimum* is reserved to the Holy Office.

B) JURISDICTION OF THE HOLY OFFICE ENUMERATED WITH RESPECT TO THE LAWS IN CAN. 2559

Based on the definitions of *crimen pessimum* it is clearly apparent that the jurisdiction of the Holy Office should not be extended toward all crimes against the Sixth Commandment contained in the cited canon, which are punished by the severest penalties; in fact, not every obscene crime committed by a CLERIC “with those younger than sixteen years”: e.g., fornication with a girl of thirteen years, falls under the orbit of jurisdiction about which we are now speaking, of the Supreme Tribunal; for such crimes, except for those committed by CLERICS *with an adult or prepubescent male, with a prepubescent female, and with brute animals*, do not come under the name of *crimen pessimum*.⁹ Therefore the diocesan tribunal, when a case is resolved concerning any other enumerated obscene crime, does not have to inform the Holy Office about it.

C) METHOD OF CONDUCTING A CASE OF *CRIMEN PESSIMUM*

The procedure to be applied in this case is the same, after making the necessary changes based on the nature of the case, as the procedure applied in *crimen sollicitatio* [the crime of solicitation] in confession. Therefore

- 1) when a denunciation or recourse has been placed before the Holy See, “The Holy Office proceeds in moving these cases in the way as in a crime of

⁹ See the specific crimes enumerated in the cited canons:

(a) In Can. 2358, which concerns CLERICS constituted in the lesser functions, no crime is specifically delineated; it has only established that a CLERIC is to be punished in accordance to the severity of the wrongdoing.

(b) In Can. 2359, which regards CLERICS in sacris [in the sacred offices], whether religion or secular, the following shameful crimes should be mentioned, which are able to be applied to our matter as follows:

(c) In section 1: adulterous intercourse; in section 2: adultery, defilement, pandering, incest with a cousin or in-law of the first grade (and fornication with a pubescent female, i.e., one of twelve years of age, can. 88 § 2). These crimes are not under the jurisdiction of the Holy Office, as has been explained above.

(d) In the same § 2 are also contained: Sodomy, bestiality, [and] crime against the Sixth Commandment with minors below sixteen years of age. In this last crime, the jurisdiction of the Holy Office is drawn to include males and underage females. Hence the jurisdiction of the Holy Tribunal relative to the crimes enumerated in can. 2358 and 2359 is restricted, as noted in the text, to "any obscene act that is gravely sinful committed or attempted in any way by a CLERIC with a pubescent or prepubescent male or with a prepubescent female or with brute animals."

solicitation, i.e., with the judicial form and with the highest severity appropriate to this process.” The same form of process must be preserved by the diocesan tribunal, if a case is laid before it. Cf. authors cited in note (1).

- 2) *the unique distinction* is in this: That in the crime of *solicitation* in confession, the confessor must advise a solicited penitent, *based on the positive law of the Church*, of the obligation of denouncing a guilty party within a month to the local Ordinary or the Sacred Congregation of the Holy Office¹⁰; while in the *crimen pessimum*, unless this is connected with the crime of *solicitation* in confession, such an obligation of denouncing the guilty party *based on positive law* is not imposed.¹¹ And so no excommunication can be incurred for the omission of denouncing a person guilty of *crimen pessimum* in a case where someone is bound to it by reason of *natural law*.

C) OBLIGATION OF DENOUNCING A PERSON GUILTY OF *CRIMEN PESSIMUM*

The denunciation of a CLERIC guilty of this crime

- a) *can be done* by any faithful, who certainly recognizes the crime and guilty person,
“for the reparation of scandal and evil”.¹²
- b) *ought to be done*, since *natural law* itself obligates it, whenever the danger of the corruption of innocents exists, or the clerical status should be stained with greater dishonor, or a weakening of faith or religion or other public ill threatens;¹³ if the dangers of relapse are not protected against; if no correction of the guilty party is anticipated.
- c) THE METHOD OF MAKING DENUNCIATION can be similar to that which is used in a case of solicitation in confession, namely: if denunciation is made to the local Ordinary, it should be made orally, if it is possible; or else by a letter from the denouncer signed and deposited in a double envelope. The closing section should be inscribed as follows:
To His Most Eminent and Reverend Bishop: concerning a secret of the Holy Office. – If denunciation is made to the Holy Office, it is inscribed in the inner envelope: [The following is written in Italian in the original] To His Most Eminent and Reverend Cardinal Secretary of the Holy Congregation of Saint Uffizio; and on the outer envelope the same inscription is repeated, with the addendum: Palazzo del Santo Uffizio, Via del S. Uffizio, Roma.

ATTENTION

¹⁰ Can. 904 and 2368 § 2.

¹¹ Regatillo, Lopez, U., Iorio, Ferreres, II. CC. et alii.

¹² Can. 1935 § 1.

¹³ Can. 1935 § 2.

Confessors and priests, before they impose the obligation of denouncing or decide or permit a denunciation to be made, must be morally certain it is fitting based on the commission or attempt of the *crimen pessimum* and keeping other circumstances in mind, as right prudence persuades and the approved authors communicate.

D) PUNISHMENTS¹⁴

WHEN DENUNCIATION IS PUT FORWARD

1. *To the Holy Office:*

The Holy Tribunal itself, according to its own established custom, and maintaining the practice particular to itself, decides the punishments which it deems just against the guilty party.

2. *To the diocesan tribunal:*

a) *MINOR CLERICS* can be punished according to the gravity of the wrongdoing:

1) By the punishments contained in can. 2357;

2) by dismissal from ecclesiastic status (can. 2358);¹⁵

b) *CLERICS CONSTITUTED IN THE SACRAMENTS*, whether seculars or religious, are able to be:

1') suspended;

2') declared "infamous";

3') deprived of any office, benefit, rank, responsibility, if they have any;

4') and, in more serious cases, deposed (can. 2359 § 2).

Additionally, the diocesan tribunal is obligated to inform the Holy Office concerning this crime.

These things are understandable without much hesitation, at least for acts that have been consummated.

Uncompleted acts or immodest licentiousness¹⁶ can be punished by:

a') punishments (judgements) fitting to the seriousness of the case;

b') non-exempt privation of office or benefit, especially if [the clerics] manage care of souls (can. 2359 § 3). Other penalties that are enumerated in the preceding § 2 will be able to be added, particularly suspension from hearing confessions, in fact from any care of souls, which quite often is the only remedy sufficient to impede repetition of the crime.

¹⁴ As far as the imposition of penalties in external forum, it does not matter, as noted, that the guilty party, penitent of his deed, has obtained absolution for his crime in the sacramental forum.

¹⁵ Cf. Normas S. Congr. De Semin. and Stud. Univ. pro Directoribus spiritus in Seminariis (Prot. n. 419-43, III, n. 5) where we read the following [trans. from Spanish]: "He must be excluded in any time, without delays or concession of ulterior proofs, whatever he has committed, even if it was only a single sin with a person of another sex, or else with a companion, after his entry into the Seminary." Traducción del Colegio Español e Roman. N.B. that these Norms, although they are, at least currently, merely suggested, nevertheless show a more severe mindset of the Church in this matter with candidates to the clerical state and can illustrate or problem. Cf. likewise what is ordered for the alumni of Seminary in Prov. Eccl. Mediolanensi, where the order enforces nearly the same things: Norma para el Director Espiritual del Seminario, etc. n. 1, apartados 3 y 4. Milan, 1 Abril 1936, publicadas por el Exemo y Hvmo. Sr. D. Manuel Moll, A.A. de Lerida(hoy obispo de Tortosa), en Lerida, 8 de Diciembre de 1939.

¹⁶ Cf. Eichmann, Das Strafrecht des Codex I.C. p. 194; Regatillo, Inst. I.C. II, 1105, 3.

III. WHY THESE THREE CRIMES ARE RESERVED

If you are looking for the motive behind the convention of this reservation, perhaps you will find it in the special gravity of these crimes and in their punishment before civil courts.

1) *Regarding bestiality:*

This unspeakable crime, in which proper form [according to nature] is not maintained, is the most serious of all sins of license, and contrary to nature.¹⁷ Other shameful sins are called human sins; bestiality implies "a vice not human," as if the person tainted by such a disgraceful act seems not only to obliterate all shame but also human nature itself. Therefore the Angelic One [Aquinas] instructs:¹⁸ "Bestiality differs from malice, which opposes human *virtue* through *some excess related to the same category* [of sin], that is, other carnal sins are included in the malice of license based on opposition to *chastity*, but bestiality *supersedes it*.

Consider now the ecclesiastic state *consecrated through chastity*¹⁹ blackened by so execrable a dishonor from so abominable and abject an excess of license, and you will see the special seriousness contained in this crime!

Add to that the formidable scandal if a CLERIC, by chance accused of this crime before a civil Court, should undergo sentence of ignominious punishment.²⁰

2) *Regarding Sodomy:*

Sodomy, after bestiality, is more serious than the other sins of license. It also stands in opposition to nature, inasmuch as it is a sexual advance [*accessus*: see "access" in A Concise Law Dictionary of Words, Phrases, and Maxims by Stimson and Voorhees], especially in the case under discussion, into improper sex.²¹ Concerning sodomites, the Holy Scripture says that "they are *the worst men* and people who sin too greatly before the Lord";²² and Paul²³ portrays this unspeakable crime as an ignominy of human passions. It is no surprise, then, that this kind of abomination has been proscribed by the most serious punishments in both the Old Testament²⁴ and in Christian nations²⁵.

¹⁷ S. Thomas, 2-2 q. 154 a. 12 ad 4.

¹⁸ Ibid. 8. 11 ad 2.

¹⁹ Can. 132 § 1.

²⁰ Cf. Surbled, *La moralidad en sus relaciones con la medicina y la higiene*, c. 12. *La bestialidad*, Barcelona (1937), p. 193-195.

²¹ Gen. 19, 4-11.

²² Ibid. 13, 13 coll. 19, 4-11.

²³ Rom. 1. 26-27.

²⁴ Lev. 18-22 coll. 20-13.

²⁵ Conc. Toletatum XVI (693) stated the punishment of demotion for clerics. [For] the civil laws of Christian nations [see]:

a) English [law], which, as Blackstone says, defining sodomy as "That horrible sin not to be named among Christians," used to punish it through capital punishment:

b) French, which used to sentence the sodomite to be burned alive;

c) Spanish, which used to 1. send [the sodomite] to the stake; 2. punish [him] by confiscation of all property; 3. judge [him] by applying a special procedure for the crimes of heresy and *lese majeste*.

But modern opinion among civilized men is no gentler with respect to sodomites. In fact, whether they are called pederasts or homosexuals or in some other way, they are thought amongst all civil nations as the most shameful men, corruptors of public morality, without shame, without honor, without dignity, abused by the most vile and abject name. On the contrary, CLERICS ought to be a shining example among men through outstanding sanctity, lofty dignity and special reverence before themselves.

Consider again the ecclesiastic state, *thrown down from the citadel of its lofty dignity and exposed to social vilification* by the force of this unspeakable crime of sodomy, and you will likewise see the special seriousness within it!

Add that in this crime there always arises on the part of a CLERIC both culpable complicity and a scandal given, at the least, to the other party. What should be said if a *Cleric*, if his cloak of secrecy has been violated, is publicly revealed as a sodomite and punished with penalties by a civil court?

N.B. What is able to be stated in the following third part, “*As far as a carnal relation of a CLERIC with an underage girl,*” holds a place relative to the sin with an underage boy, or one under twelve, since in civil penal laws, the carnal act with either underage individual is prohibited and punished in the same way. And perhaps for this reason in the second part of the definition of *crimen pessimum* it is said: “Any obscene act gravely sinful...committed or attempted with *an underage person of either sex.*”

3. *Regarding a carnal relation of a CLERIC with an underage girl.*

Although such a sinful relation is not contrary to nature, *nevertheless a special gravity* is understood in it. There is a weakness of reason in so tender an age; a not fully evolved capacity to discern a gravity and threshold that is not only moral but also physiological and social; therefore, a congenital defect, as it were, of firmness and will, and other conditions belonging to such an age establish a girl under twelve in *a plane of psychic and physical inferiority* for resisting the suggestion of a complicit person. For this reason, civil laws consider copulation with an underage person in itself as an act of *qualified licentiousness*, namely: as *violation and rape* against a woman, even if the girl of under twelve consents to a carnal act of her own will, without violence, without intimidation or guile. Therefore the *complicit person* even in a case of free and voluntary acceptance on the part of the girl is punished by penalties given to *a rapist*.

It is enough, lest I expound at length, to quote the words of our most recent Penal Codex:

Art. 429 [Trans. From the Spanish]: “Violation of a woman will be punished by penalty of lesser confinement.

Violation is committed by acting with a woman in any of the following cases:

1. When force or intimidation is used.
2. When the woman is found deprived of reason or sense for any cause.

(pragmat. Regum Catholicorum, 22 augusti 1497, Metinnae a Campo lata): cf. Encicl. Espasa, v. Sodomia p. 1409-10. As far as the punishment of sodomites in modern times, cf. Antonelli: *Medicina Pastoralis* II, 297; Cod. Poenal. Chileusem, art. 365, and the Codices cited in note (26).

3. When *fewer than twelve years of age are completed, even if none of the other circumstances expressed in the previous numbers coincide*".²⁶

Now, if *civil Laws*, in this shameful sexual advance of any man, even when the underage girl herself consents, *recognize and punish the crime of violation*, why wonder that the Church finds special seriousness in such a *crime* with respect to a CLERIC perpetrating it?

Moreover, one who is guilty of this crime, and therefore even a CLERIC if it should be so, is able to be brought before a court not only by the girl, even if she has consented willingly, but also by her ascendants [older linear relatives: parents, grandparents], brothers, etc.²⁷ Moreover, civil judges in nearly all nations, whether because among some privilege is abrogated outside of agreement or established custom²⁸, or because among others it is unknown, they drag a CLERIC who has fornicated with a girl under twelve to their courts and sentence him as *a rapist of a woman* and possible also as her *corruptor*. Consider, then, the infamy that will arise for the ecclesiastic state and the scandal for the faithful following upon this verdict and you will have a special motive indeed for caution with respect to this sin.

4. *Regarding touching, kissing, embracing, etc.*

Correctly, the practice of the Holy Office recognizes the definition of "*crimen pessimum*" *broadly* through extension to touching, embracing, etc., which are done out of *lust*. For the aforementioned acts and other shameless actions, once pursued and put in motion:

a) "are mortal sins".²⁹

b) devolve upon *the category of shameful crime* to which they tend,³⁰ namely, in our case, to *crimen pessimum*, just as shameful touching conducted out of *depraved passion* with an in-law or relative devolves toward adultery or incest.

IV. WHAT IF RELIGIOUS SUPERIORS MUST ACT AGAINST SOME MEMBER OF A RELIGIOUS HOUSE GUILTY OF THE *CRIMEN PESSIMUM*?

²⁶ Boletin Oficial del Estado, ano X, n. 13, p 459. -- Here the article agrees to the letter with art. 431 of the preceding C. Poenal., published Oct. 27, 1932. -- The CC. Poenales establish the same thing: 1) Lus., a. 391; 2) Arg. et Parap.. a. 119; Bol., a. 419 et alii Republic. hispano-america.

They extend the age of girls: a) Gall., a. 331 under 13 years; b) Ital., a. 519, under 14; c) Belg., a. 372 under 16, and China (since 1935), "although ethnic," a. 221, below 14.

The crime of libidinous rape of an underage girl is note with the same censure in CC Poenal. Cf. v.g. a. Hisp., a. 440; b;) Lus. a. 295; c') Ital. a. 524; d') Arg. et Parag., a. 131, etc.

NB. Nearly all the Codices in the cited acts establish the same punishment against those who execute shameful deeds against male boys of the aforementioned age.

²⁷ Código Penal espanol. art. 443: To proceed against those guilty of violation...the denunciation of the aggrieved party, her elder, brother, legal representative...Fiscal Minister...any Tutelar Tribunal of Minors...will suffice..." Other Penal Codices mentioned contain similar disposition.

²⁸ E.g. in Belgium, France, Germany, etc. Cf. Vermeersch, Epit Iuris Canon. I; 209; III, 540.

²⁹ S. Thomas, 2-2 1. 154 a. 4.

³⁰ Merkelbach, Theol. Mor. II, 1005.

a) They are certainly not able to proceed *in judicial form*, whether such a process tends toward dismissal of the matter,³¹ or toward due punishment of it. For in canon 501, § 2, it is stated: It is strictly prohibited for any [religious {Yanguas' brackets}] Superiors from interjecting themselves into cases that pertain to the Holy Office." This canon at least should be understood as concerning *judicial cases strictly speaking* and about *instituting* proceedings.

b) Nevertheless, religious Superiors are able to do what is necessary by an *administrative course* in order to:

- 1) to remove scandal
- 2) to relieve the immediate source of the problem
- 3) to take precautions against repetition of the crime
- 4) and, unless the Holy Office has stated otherwise, to proceed toward punishment of the matter.

But concerning the jurisdiction of the religious Superiors in this matter, some doubt remains; however, we must wait for how the Holy See will define it in the course of time.

V. WHAT HAPPENS IN THE EVENT A CLERIC IS ACCUSED OF THE *CRIMEN PESSIMUM* BEFORE THE LOCAL ORDINARY

The answer is apparent from what has been said. For the local Ordinaries in this case, with any who wholeheartedly confesses:

a) ARE COMPETENT, with no reservation of the Holy Office impeding, to institute proceedings against such a delinquent, and punish him according to the severity of the crime;

b) AND IF THEY INSTITUTE PROCEEDINGS, *they must maintain the procedure applied in the crime of solicitation*, making the changes necessary based on the nature of the case; since indeed these norms are observed by the Holy Office in the instigation of a case against a CLERIC who is charged with *crimen pessimum*. In view of this, moreover, the local Ordinaries, now that they have received the aforementioned norms from the Holy Office, must apply them in instituting proceedings, as is apparent from the express prescript of can. 1555, § 1.: "Lesser tribunals, in cases which pertain to the tribunal of the Holy Office, must follow the *norms handed down by it*."

Nor is it prevented by the fact that this practice of the Holy Office has not been promulgated in the AAS [*Acta Apostolicae Sedis*, Acts of the Apostolic See], since indeed this is not necessary

a') FOR THE LOCAL ORDINARIES; for the Holy Office communicates its practice enough with them through its dissemination of norms for the instituting of proceedings and by bidding them to observe them, whether they are special norms for this case, or are *general ones against the crime of solicitation*, with only the addition of notes or appendices according to specific changes made by necessity,

b') NOR FOR CLERICS, since the Holy Office, in promulgating its practice has been able to provide transcripts in other diverse media as much as through publication in

³¹ Cf. Can. 654 sq.

AAS (can.9), such as, in fact, it has transcribed through dissemination (since 1937)³² to the Roman Masters of Moral Theology a small "INSTRUCTION" OR "PRO MEMORIA" with the concept of "*crimen pessimum*" and its reservation made to the Holy Office and the form of procedure to be applied against delinquents, in addition to the fact that notice of these things is spread among the clerics. The fact is that from that time until now it has been sufficiently executed through diverse media, especially

- 1) THROUGH MANUALS of Moral Theology and Canon Law, which are used as texts in schools by the Masters and have discussion of this wicked crime;
- 2) THROUGH LECTURES of the Masters of Moral Theology conducted *about the "crimen pessimum"* in Ecclesiastic Universities, Seminaries, and in other schools, exhaustive knowledge of which is no doubt communicated with other clerics;
- 3) THROUGH WRITINGS ABOUT THIS matter published in journals;
- 4) THROUGH REPORTS OF THIS TRANSGRESSION made in assemblies of priests held on occasion both of exercises and other cause, with the result that *notice of "crimen pessimum"* and its *formal process* should be considered universally disseminated among clerics today.³³

VI. SUMMARY

Other practical questions strike one's mind; but we do not now enter into a discussion of them: for these exceed the limits of our labor. It is therefore enough for us to have touched upon the following with regard to the *crimen pessimum*:

1. its definition, as handed down by the Holy Office;
2. subject and end or confederate;
3. object and its extension;
4. jurisdiction;
5. means of investigating its cause;
6. obligation of denouncing a guilty party and the achievable and prudent means of pursuing it;
7. the punishments by which crimes of such a matter are able to be punished;
8. the special seriousness which can be found in the three crimes
9. any power of the religious Superiors over this matter;

³² Cf. Regatillo, l.c., who indicates the same year, yet hesitantly.

³³ See the example of dissemination relative to Spain. It too concerns the act of *crimen pessimum*; a) in *Theologia Morali*, P. Ferreres, II, 699 NB 2, Barcinone (1940), p. 394, the text applied for use in by far the larger number of Seminaries both in Spain and Latin America. The same is true of the Inst. I.C. P. Regatillo, although not applied with the same volume.

b) IN LECTURES OF MORAL THEOLOGY: each year in the University of Salamanca; at least every other year in nearly all other Seminaries.

c) IN THE JOURNAL *Resurrexit* 5 (1945) 18. Priests from the regular clergy who subscribe to this surpass 10,900 in number. Cf Ibid. Oct. 1944, p. 3, coll. Memoria dec. 1944. We omit divulging other forms of lesser importance.

d) IN THE MEETING OF diocesan councils OF PRIESTS A.C. in 1943, held in There were priests present at this meeting from nearly all the Spanish Diocese., and more priests from other diocese. We omit, as of lesser importance, the innumerable other meetings of priests in which discussion of *crimen pessimum* was held. Therefore awareness of the "*crimen pessimum*" and its form of legal procedure among the Spanish clergy can be considered universally disseminated.

10. a case that possibly occurs of an accusation of a cleric before the local Ordinary.

VII. PRACTICAL CONCLUSION

From this, you may gather that it is sufficiently clear how these crimes are considered abominable and unspeakable by our most pious and beneficent Mother Church; by using all the power the Holy Office has reserved it to itself, by determining at once the way of proceeding in their punishment, and finally by the great zeal of all CLERICS, earnestly imploring divine aid, and supported by the maternal guardianship of the Blessed Virgin Mary, we must pray to prevent them from perpetrating these acts, or pray that they are already long since sedulously avoiding whatever shameful road lies open to these them.