



Presentation

of Synodal Forum III

“Women in ministries and offices in the Church”

for the First Reading

at the Fourth Synodal Assembly (8-10 September 2022)

for the implementation text

“Measures against abuse of women in the Church”

[Result of the ballot in the Forum: 22 Yes]

Introduction

It has been known for years that large numbers of adults, and adult women in particular, are victims of spiritual or sexual abuse in the Catholic Church; at the same time, the legal regulations are insufficient (see Reasoning below). Sexual and spiritual abuse often go hand in hand in the church context. When clerics or non-ordained pastoral workers commit abuse - from grooming strategies to concrete acts -, this happens predominantly in the context of pastoral care, especially as part of sacramental pastoral care or spiritual guidance. The German bishops also outspokenly take this into consideration in their letter entitled “*In der Seelsorge schlägt das Herz der Kirche*”¹. The German MHG Study² on sexual abuse of minors notes that a situation of pastoral care means that the offender has “maximum authority and power”, at the same time as “minimal external control”³. “Three-quarters of all persons affected had a church or pastoral relationship with the accused persons”⁴, according to the MHG Study. This observation is confirmed if we cast our gaze further, and look at first-person documents and

¹ Secretariat of the German Bishops’ Conference (publisher), *In der Seelsorge schlägt das Herz der Kirche*. (The Church’s besting heart in pastoral care) Statement by the German bishops on pastoral care (*Die deutschen Bischöfe* 110), Bonn 2022, here: 43-50.

² MHG Study (Study entitled “Sexual abuse of minors committed by Catholic priests, deacons and male religious in the sphere of the German Bishops’ Conference”), published by Harald Dreßing et al., Mannheim; Heidelberg; Gießen 2018.

³ MHG Study, 265.

⁴ MHG Study, 7.

testimonies given by adult victims of abuse. Pastoral care contexts are overwhelmingly the places where priests can involve adults in the dynamics of abuse. The vast majority of cases report adult women and male priests as offenders, but there have also been reports of female offenders and male victims. Pastoral care is a place where offenders and victims meet, where relationships of trust are built up and violated. Other dependent relationships such as employment or care relationships, for example in orders, are however also contexts in which abuse is frequently observed, especially in relation to women. There are different asymmetrical relationships between persons working in the Church or in pastoral care, and adults receiving pastoral care, and these entail a potential for abuse and can have effects at different levels (e.g. spiritual, structural, psychological, etc.). Given these facts, it should be noted with regard to the Catholic Church in Germany that although some efficient and far-reaching measures have already been implemented to prevent and deal with abuse against children and juveniles, adults and particularly adult women are still not placed in the focus when debating on and dealing with abuse. For the sake of the victims, and in the interest of pastoral care that “respects human beings in their dignity and freedom”⁵, clear regulations are needed, as are structural prevention, reliable ways of detecting crimes, an effective protection concept, and a code of conduct that formulates mandatory quality standards for church employees and pastoral workers.

The complex problems, which are elaborated in greater detail in the Reasoning, require that action be taken at multiple levels in order to consistently detect and prevent all forms of abuse, both spiritualised as well as sexual/sexualised violence, against adult women and men.

Some of the points mentioned first call for a clarification of responsibilities for the development and implementation of the proposed measures (some of these concern church employment relationships, whilst others relate to pastoral contacts, and others still to voluntary commitment).

Motions

The Synodal Assembly is requested to resolve as follows:

1. Legal codes and pastoral standards on preventing and dealing with sexual assault in pastoral care which among other things make it clear that any sexual act on the part of pastoral workers with the persons under their guidance is to be treated as sexual abuse or as PSM (professional sexual misconduct). Since the pastoral care relationship is fundamentally one where there is an unmistakable imbalance of power, it is always the pastoral worker who is deemed to be responsible for crossing the boundary.
2. Protection concepts and effective codes of conduct that also formulate unambiguous, verifiable quality standards in pastoral care with regard to adult individuals: This is also called for in the German bishops’ paper on pastoral care (p. 49). These codes should help clarify the roles of pastoral workers, defining what they may and may not do given the situational asymmetries of power, as well as providing clear criteria for professionalism in pastoral

⁵ Secretariat of the German Bishops’ Conference, *In der Seelsorge* (In pastoral care), 50.

care. The code of conduct should identify different forms of power abuse - not only sexual abuse, but also spiritual abuse.

3. Legal certainty for potential victims and pastoral carers alike by establishing uniform rules of procedure in cases of sexual abuse of adults in pastoral care relationships, or in other dependent relationships (e.g. church employees) as well as clear, comprehensible record-keeping, including a note in offenders' personnel files.

This presupposes: "Sexual contact in a pastoral care relationship exercised professionally, or with an episcopal mandate, can never be described as consensual, and can never be tolerated"⁶. Pastoral care contexts are to be regarded as a professional counselling, treatment or care relationship in parallel to section 174c of the Criminal Code in which any sexual act is punishable.

4. The arrangement of financial measures, including support for the victims, financing of (psycho)therapeutic measures, or legal advice.
5. Expansion and consolidation of the German Bishops' Conference's contact point for adult women. Professional advisors are to work there as part of their employment in the Church, or for a normal market fee. They should be qualified in the various aspects of sexual abuse, sexual/sexualised violence, and spiritual abuse. In addition to the persons who work nationwide through the contact point, a network of qualified counsellors is to be established who are appointed as contacts in (arch)dioceses and at other levels of the Church (orders, associations, etc.). In addition, a network of qualified, independent advisors is needed.
6. All the investigation commissions of the (arch)dioceses should include handling cases of abuse of adults in their mandate, and their members should include experts for these cases. The responsibilities (which are often unclear in complex cases) need to be clearly defined: persons holding responsibility, such as superiors of religious orders and/or bishops from whose dioceses the persons involved come and/or on whose territory the offences have taken place. A mediating body is needed when several persons in positions of responsibility fail to reach an agreement. The investigation commissions can take on this task and make a final, binding decision.
7. The German (arch)dioceses have already established prevention and training programmes on abuse against children and juveniles, some of which are very good. The development of a mandatory training programme on the prevention of sexual abuse committed against adults - similar to the mandatory training on prevention with regard to abuse of children and juveniles - should be implemented on a mandatory basis in all regions⁷. All church employees should also be sensitised to the abuse of adults. On the one hand, a supplementary programme is needed for church employees who have already attended prevention training according to the previous guidelines, as well as also a new programme that covers the en-

⁶ Secretariat of the German Bishops' Conference, *In der Seelsorge*, 48.

⁷ Secretariat of the German Bishops' Conference, *In der Seelsorge*, 50.

tire spectrum. The Code of Conduct of the Diocese of Chur for Dealing with Power offers suggestions in this regard⁸.

8. Training for commissioners on abuse (“Contact persons for suspected cases of sexual abuse of minors, as well as adults in need of protection or assistance by employees in church service”), and other suitable persons as advisors for adult victims of sexual and/or spiritual abuse, as well as advisors and trainers for teams of church employees (full-time and voluntary) who would like to address the issue and where appropriate agree on regulations at local level.
9. Information, awareness training, and training with regard amongst other things to an appropriate relationship of closeness and distance in pastoral care, self-care of church employees, and dealing with professional power and/or dependent relationships, will be implemented as a compulsory part of training, and as free further training for those who are already employed, as well as further training for full-time pastoral workers, which will highlight the different faces of abuse of power towards children, juveniles and adults and its consequences - above all also the topic of “spiritual abuse”. Teams receive support in developing their own code of conduct. Minimum standards for this are stipulated.
10. Research studies should be commissioned to investigate the issues of abuse of power in church employment relationships and abuse in pastoral care relationships.

Reasoning

1. Adults as victims of abuse in existing legal provisions

If one takes a look at the legal provisions that are already in force, the following can be stated: Protection concepts and prevention measures for sexual abuse in the Church worldwide refer to children, juveniles and adults in need of protection or assistance, as does for instance the *Framework Regulation on prevention*⁹, or the German Bishops’ Conference’s *Code* for addressing sexual abuse of minors and adults who are vulnerable or in need of assistance by clergy and other employees in the service of the Church¹⁰. The Vatican’s currently applicable guidelines also explicitly mention “vulnerable persons”, regardless of their age, as potential victims of sexual abuse and within the scope of the relevant norms¹¹. This makes two things clear: a) according to the regulations, adults can become victims of sexual abuse in the Church, and they can also claim this to be the case with reference to criminal codes and codes of canon law, b) a specific vulnerability (“need for protection and assistance”) is to be the

⁸ https://www.zhkath.ch/kirche-aktuell/kirche-im-kan-ton/2022_verhaltenskodex_macht_bistum_chur.pdf?fbclid=IwAR1ZONmaSgNCeQSLsrXhOM4_fvkZ4sbznBQPASON4iqd28Yuy6lThuRjzJc.

⁹ The German Bishops’ Conference, *Framework Regulation on prevention of sexualised violence against minors and adult charges within the domain of the German Bishops’ Conference*, adopted by the Standing Council on 18 November 2019.

¹⁰ The German Bishops’ Conference, *Code for addressing sexual abuse of minors and adults who are vulnerable or in need of assistance by clergy and other employees in the service of the Church*, adopted by the Standing Council on 18 November 2019.

¹¹ See Pope Francis, *Motu Proprio “Vos Estis Lux Mundi”* of 7 May 2019, here: Art. 1 §1 a; § 2 b.

determining category under which adults are perceived as victims of abuse, and explicitly receive protection.

No. 3 of the German *Code* for addressing sexual abuse reads as follows: “Adults who are vulnerable or in need of assistance within the meaning of the present Code shall be deemed to be persons subject to protection within the meaning of section 225 subsection (1) of the German Criminal Code (StGB)¹² (...) This shall also include persons who are subject to a special relationship of power and/or dependence. Said relationship can also exist or come into being in a pastoral context.” This means that the *2019 Order* refers *expressis verbis* solely to adults in need of protection and assistance¹³, but expands the stipulated definition of the Criminal Code. It subsumes here groups of individuals who are not considered to be vulnerable within the meaning of the Criminal Code, but who are “subject to” a “special relationship of power and/or dependence”, more specifically in pastoral contexts. According to this definition, particular pastoral care relationships render adults “in need of protection or assistance” who do not per se fall within the definition of need of protection and assistance, as such relationships give rise to relationships of power and/or dependence. Looking at the definition in No. 3, it is however unclear when a “special relationship of power and/or dependence” exists in a pastoral care context¹⁴. This problem is also recognised in the letter of the German Bishops on pastoral care. Measures which are unambiguous, binding and legally secure must be taken “to protect against abuse in pastoral care”¹⁵.

2. Problems in practice

The following practical problems can be identified on the basis of the regulations currently in force:

- Adults are frequently not at all recognised as (potential) victims of abuse by the responsible bodies of the dioceses, and are not included in concepts for preventing or dealing with abuse. Adult women who turn to the advice centres of the dioceses are still being told that they are not responsible for them because they were over 18 at the time when the offence was committed. The legal wording “in need of protection and assistance” is often not even examined.
- In the event that a report made by a person who was an adult at the time of the offence is nevertheless investigated, there are no standardised, institutionalised processing proce-

¹² Section 225 subsection (1) of the German Criminal Code: “Whosoever (...) a person under eighteen years of age or a person who is defenceless due to frailty or illness and who 1. is in his or her care or custody, 2. belongs to his or her household, 3. has been placed under his control by the person obliged to provide care, or 4. is subordinated to him or her within a relationship of service or employment (...)”.

¹³ In the same way, the Framework Regulation on prevention: “It shall relate to all forms of conduct and access (...) with a sexual connection vis-à-vis children, juveniles and adults who are vulnerable or in need of protection and assistance.” (1.3).

¹⁴ The 2019 Code does not articulate a) what it understands by a “special relationship of power and/or dependence”; b) it does not define when a person is subject to such a relationship, as this would give rise to a need for protection and assistance that would enable a person to invoke the Code in the first place; c) because it is worded as an option, it does not clarify when and which criteria give rise to a “special relationship of power and/or dependence” in a pastoral context.

¹⁵ Secretariat of the German Bishops’ Conference, *In der Seelsorge*, 44.

dures that are equally applicable in all places. This leads to a situation in which it depends on the respective person processing the report as to whether an adult person receives assistance or not. The procedure followed in the German (arch)dioceses has been inconsistent up to now.

- In the event that the application of the 2019 Code is examined in certain cases that are presented, there is no consistent interpretation and application of the “special relationship of power and/or dependence” clause. The lack of a definition of this wording, especially with regard to the “special relationship of power and/or dependence”, also leads to difficulties in the practice of many commissioners on abuse in the (arch)dioceses.
- What is more, adults who did not unambiguously fall under the “need of protection and assistance”, in line with the strict definition contained in the regulations, at the time of the offence also become victims of spiritual and sexual abuse in the Church. They are not currently covered by the regulations, or at most are covered when they are interpreted broadly (e.g. in the case of employment relationships, in orders, etc.). The existing regulations are inadequate in this regard, or they are interpreted inconsistently or to the advantage of the offender/institution. The frequently-observed phenomenon of retrospective victimisation must moreover be taken into account, which means that persons not only have to struggle *ex post facto* with serious psychological, social and economic consequences as a result of the offence itself, but also as a result of the way in which they are treated by the institutions, including the refusal to acknowledge them as victims of abuse.