

## LETTER TO ALL THE MAJOR SUPERIORS AND DELEGATES OF THE ORDER

Dear Brothers, peace to you, who animate with love and commitment our Order in the whole world.

On June 4, 2016, the Holy Father promulgated *As a loving mother*, an apostolic letter issued *motu proprio*.

In just five articles, Pope Francis establishes a procedure for the possible removal of bishops, eparchs, and religious major superiors in cases in which they are guilty of negligence in the exercise of their office.

This is not something totally new. "Canon Law already provides for the possibility of removal from ecclesiastical office 'for grave reasons' (cf. can. 193 § 1 CIC; can. 975 § 1 CCEO)." Our *proper law* also provides for the removal of a minister, guardian, or delegate (cf. OGC 8/6). The Pope, nevertheless, reaffirms **the general principle** and emphasizes a **specific attention** which gives a particular character to the title of the document, *As a loving mother*.

Both are contained in article 1.

**General principle:** "The diocesan Bishop or Eparch, or one who even holds a temporary title and is responsible for a Particular Church, or other community of faithful that is its legal equivalent ... can be legitimately removed from this office if he has through negligence committed or through omission facilitated acts that have caused grave harm to others, either to physical persons or to the community as a whole. The harm may be physical, moral, spiritual or through the use of patrimony." (Art 1 § 1).

Section 2 specifies that he must have **failed "in a very grave manner the diligence** that his pastoral office demands of him."

**Particular attention:** Section 3 reduces the intensity of the fault demanded as a cause for removal. While in general this is about a **very grave fault**, in the case of negligence regarding sexual abuse of minors or vulnerable adults, "... **it is enough that the lack of diligence be grave.**"

For both cases the bishop or his equivalent does not have to be guilty of ‘grave moral fault.’ Put simply, for a cause to be established for removal, it is enough that the bishop or other superior has not given proper weight to a *notitia criminis saltem verisimilis*—a ‘notice of a crime that is at least credible’—that that he was distracted or negligent, or that it was ‘forgotten.’

Art. 1 § 4 expressly clarifies that we are also speaking of the “Major Superiors of Religious Institutes and Societies of Apostolic Life of Pontifical Right.”

Dear Brothers, the experience of my service and of our Curia regarding this very delicate matter has put us in touch, at times, with provincials and custodes who are zealous, loving, and efficient. At other times, unfortunately, we have had to deal with delays, omissions, and negligence. The Holy Father calls all of us once again to be ‘signs’ of the Church that is a loving mother. And this love is to be shown above all to anyone who is a victim, without this being about covering any possible guilt.

In my letter of June 25, 2010 I wrote to you:

“Every case involving the abuse of a minor must be promptly brought to the attention of the General Minister, who in turn must inform the CDF in cases where clerics are involved. Consequently, each Major Superior will have to ensure that a preliminary investigation is carried out, under the same conditions as those established by the CDF.”

The custos (either provincial or general) and the provincial minister must:

1. Inform the general minister as soon as possible;
2. Begin the preliminary investigation according to can. 1717;
3. Maintain the confidentiality of the proceedings. The matter is *sub secreto pontificio*. It is not to be discussed in the council;
4. On a case by case basis, as is possible and opportune, maintain a relationship with the family of the victim in a spirit of prudent support.

Dear Brothers, the *vacatio legis*, that is the time in between the promulgation of a law and its coming into effect, is usually proportionate to the importance of what the law in question treats, in order to give to specialists and to those to whom the law pertains the time to know the law in order to apply it well. In the case of this *motu proprio* there arises the thought that the three months of time before September 5, when the letter comes into

effect, have not been given so much for the intellectual knowledge of the law, as much as—perhaps—**to remedy situations of negligence that already exist**. If this be the case, the Church, *as a loving mother* towards her sons the bishops and major superiors, gives a useful time for uncovering—God forbid—any situations that are hidden or unknown.

Dear Brothers, in these coming days I will have some time in Frascati to meet, together with the Council and the Curia, those among you who were elected in the past year. I will reaffirm and develop these juridical issues, as will the Office of the General Procurator. I wanted, however, to write promptly to all of you, in order to call everyone's attention to the norms that the Pope has given us.

Love and justice are never separate. May God help us all be a *signum* of Jesus the Good Shepherd, that we might be for the least among us the face of the *Loving Mother* who is the Church.

Br. Clayton J. Fernandes  
General Secretary OFM Cap.

Br. Mauro Jöhri  
General Minister OFM Cap.