

# How to save the seal of the confessional

by Hans Zollner

The recent report into sexual abuse in the Church in France provoked the question that had been raised after the publication of similar reports in Australia, Ireland, the United States and elsewhere: should it be mandatory for a priest who hears about sexual abuse committed against a minor in confession to report it to the secular authorities?

While the Catholic Church does not expect its laws to be set above state laws, the attempts to remove the confessional seal raise fundamental questions about freedom of religion and conscience. Neither is there any compelling evidence showing that abuse would be prevented by removing the seal.

As Archbishop Éric de Moulins-Beaufort, the president of the French Bishops' Conference, said after the release of the French report: "It is necessary to reconcile the nature of confession with the need to protect children." This is not easy when the discussion is so emotionally charged and when there is much misunderstanding of the nature of confession in the Catholic Church.

Can. 983 §1 of the Code of Canon Law gives as straightforward a definition of the "seal of the confessional" as one can get: "The sacramental seal is inviolable; therefore it is absolutely forbidden for a confessor to betray in any way a penitent in words or in any manner and for any reason." A priest cannot break the seal to save his own life, to protect his good name, to save the life of another, or to aid the course of justice. Priests who violate the seal of confession are automatically excommunicated.

The absolute secrecy of the confessional explains why people feel free to say things in confession they wouldn't say anywhere else. Some see its insistence on the inviolability of the seal as confirmation that the Church doesn't put the safety and wellbeing of their children first. It is sometimes assumed that perpetrators of sexual abuse are able to reveal the abuse in confession, receive absolution, and then continue to abuse without facing any consequences.

It's true that some victims of abuse have been groomed or abused, or both, in the context of the sacrament of confession – a serious delict (crime) in Canon Law. It's true, too, that over the centuries priests have been tortured and martyred because they refused the demands of brutal regimes to reveal the secrets of the confession. The argument over the seal is heavily emotionally charged on both sides, all the more so as it concerns very sensitive issues such as shame, privacy, and personal responsibility.

Perhaps it would help if we made some distinctions and clarifications. First, those who talk about abuse in confession could be perpetrators, or victims of abuse, or people who know about abuse committed by others; and in each of these three cases, the abuse could have happened years, or decades ago, or be still continuing. There are some deeply rooted ideas about confession that simply aren't true. With the exception of prison chaplains, priests are highly unlikely to ever hear a confession from a perpetrator of sexual abuse of children. Just one priest has told me that he had heard the confession of a perpetrator – and that was on just one occasion.

There seems to be an idea that Catholics go to confession often. In fact, even in cities, nowadays it's often hard to find a place where a Catholic can have his or her confession heard. And many don't realise that the priest usually doesn't know the person in the confessional, and cannot force them to reveal his or her identity. It is precisely because their anonymity is guaranteed that people go to confession. If you took that away, very few people would continue to go – and surely no perpetrator at risk of arrest. In the event of a penitent coming for confession to a person who knows him or her, by chance or by choice, it would be even more likely that they would either not confess their abuse at all, or would disguise their crime behind purposely veiled expressions.

Those who want to abolish the seal of the confessional in the case of the abuse of children or other serious crime argue it should be mandatory for a priest who has knowledge of abuse to report it, just as it should be for doctors or psychotherapists or other professionals. Current laws on mandatory reporting of abuse vary greatly from country to country and even within the states of one country, often leaving some space for discretion over in what circumstances and to whom the person learning of abuse should report to. A victim of clerical sexual abuse as an adult made the sometimes neglected point to me that many victims feel guilty, and find it extremely difficult to speak for the first time about the unspeakable. She worries that if you cannot be absolutely sure that what you say in confession will remain confidential, one of the few safe places where starting to talk about an experience of abuse is possible may be lost.

The absolution – the forgiveness of sins – is bound up with the fulfilment of the conditions of a valid confession: sincere contrition, clear confession, adequate satisfaction. The absolution cannot be given if doubts exist about any of these. In other words, in the case of someone confessing to abuse, unless they show signs of sincere repentance and a willingness to make up the harm done, the confessor must withhold absolution. Nevertheless, according to the Church's teaching, the seal cannot be broken when a priest learns of abuse or other serious crime in confession, even if these conditions are not met and they are unable to give absolution. That is why, for example, a rector isn't allowed to hear the confession of a seminarian, so he can speak freely in discussions about whether the candidate should be put forward for ordination without being compromised by the obligations of the seal.

While according to canon law absolution cannot be bound to a condition such as reporting the crime to the police, the confessor must do everything in his power to convince a perpetrator to take responsibility for what he or she has done. This includes trying to meet him outside the confessional, where the priest can invite the perpetrator to talk again about the crime committed and urge him to hand himself over to justice. Similarly, if a victim comes to confession the confessor can offer to meet outside the confessional space or point out the support and further guidance available from therapists and lawyers.

If the Church is not able to better explain why it does not protect abusers or other serious criminals from justice – and why the seal can help safeguard children and vulnerable adults – state legislators may come to target the inviolability of the seal of confession. If the Church did more to help confessors be empathetic listeners as well as skilled interpreters of the Church's moral teaching it would make it clearer that the sacrament of reconciliation can be an instrument in the fight against abuse, and lead to a better understanding of the sacrament of reconciliation and more trust in confessors.

I suggest that the Holy See consider issuing a new instruction for confessors. This would re-iterate obligations to respect the laws for reporting abuse outside of the confessional and it would also reaffirm the seal. It would emphasise the personal responsibility of the confessor. This includes the requirement to call on a perpetrator to stop the abuse, to report themselves to the statutory authorities, and to seek therapeutic help. It would reaffirm that absolution for the sin of abuse cannot be given unless not only has sincere contrition been shown but the willingness to make up for the harm done has been demonstrated. The instruction would also make clear that in the case of a victim speaking about being abused, the confessor must listen with empathy and respect. The priest could then offer to meet the person alleging abuse outside the confessional space and encourage him or her to contact therapists and lawyers. Adequate accompaniment must be provided, given that many victims who speak about abuse for the first time feel uneasy about talking again about what had happened, particularly if it might open the area of legal proceedings.

The same instruction should define three things. First, who confessors can call on for the clarification and guidance that they need so that they are able to refer victims and other persons in need to specialist help. Secondly, what procedures shall be followed by a confessor when a person – perpetrator or victim – agrees to meet outside confession. And thirdly, what training in the initial and ongoing formation confessors need, as well as the support and accompaniment confessors will have so that they can deal with moral and legal principles that are sometimes not easy to reconcile.

The context to the debate on the seal is the relationship between the state and the Catholic Church and other religious institutions in a secular, liberal state. Because of the scourge of clerical sexual abuse and the belief in Europe and north America that the Churches have failed to properly address the issue, there is a growing sense that the State must intervene. This has created a Church-State tension that requires careful navigation between respect for the law-enforcement powers of the state and respect for religious freedom. A healthy secularity recognises that a temptation exists for states to “over-reach” when it comes to religious communities, while a healthy Church knows how to render to Caesar what is Caesar’s.

The seal of confession creates a sacred space in which a penitent is completely free to put before God whatever is on their conscience, and – when they show contrition – find forgiveness, reconciliation and healing. That the seal has in the past been a pretext for abuse and other crimes should not lead to what is a channel of grace being discarded. But there are complex questions around it which need to be addressed with sensitivity and reasoned argument and in the context of a mutually trusting Church-State relationship. It may be time for the Church to issue clearer instructions around the exercise of the sacrament of reconciliation, so that it is better understood by penitents, confessors and those outside the Church as a place of safety, of healing and of justice.

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