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Asymmetry in Confession as a Cause of Sexual and Spiritual Violence—Dogma Historical Resources for Making Changes to Confession in Terms of Clerical and Sacramental Theology

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Abstract: The dynamic and asymmetry of a pastoral situation is intensified by the Catholic theological rules to the extent that the confession may only be heard by an ordained man. It is particularly the priest's sole right to pronounce absolution that compounds spiritual dependency in terms of the personal relationship with God that the sin fundamentally impairs. I shall take dogmatic decisions and attrition—to indicate potential for change that could make the confessional, which is still an important place for some women, a possibly less dangerous place. These changes would be: Precisely, because the pastoral system, in its asymmetrical relationship in confession, is a place for passive, suffered and active vulnerability, it is essential for the priest to be aware of his own weaknesses and vulnerability. The liturgy could be used to change the concentration on the one form of confession and with it the focus on the priest. Making dogmatic changes to confession should aim to compensate for the asymmetry and vulnerability of the situation as such, thus focusing on protecting the person, rather than on the sacrament.



Citation: Werner, Gunda. 2022. Asymmetry in Confession as a Cause of Sexual and Spiritual Violence—Dogma Historical Resources for Making Changes to Confession in Terms of Clerical and Sacramental Theology. *Religions* 13: 307. <https://doi.org/10.3390/rel13040307>

Academic Editors: Ute Leimgruber and Doris Reisinger

Received: 16 March 2022
Accepted: 29 March 2022
Published: 31 March 2022

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Keywords: sexual abuse; confession; sacrament; gender; embodiment; parrhesia; vulnerability; Catholic Church

1. Introduction

In the papal bull of indiction *Misericordia vultus* for the Holy Year 2015 under the motto of mercy, Pope Francis reminded his priests once again that the confessional should not be a torture chamber (Cf. Francis 2013, 2015; Hahn and Werner 2020). Here, the Pope probably meant that priests should not turn the confessional into a merciless courtroom situation but apply themselves with all due moderation to their double role of being a judge and a physician (Cf. *Codex Iuris Canonici (CIC) 1983*, c.978 §1; Oehmen-Vieregge 2020). However, the exhortation fails to make any mention of the serious offense of *sollicitatio* (cf. Hallermann 2021b), which is all the more astounding in view of how the confessional has once again come into focus as a place of initiation and violence following the exposure of sexual violence and sexual abuse of children and young people by the clergy (Cf. John Jay College 2002, 2011). Furthermore, such sexual abuse is not a new phenomenon, as shown by the fact that sexual solicitation mainly of women during confession (precisely *sollicitatio*) was addressed not just by making it obligatory to use the confessional as a place of confession (cf. Anuth and Odenthal 2014, pp. 232–33, 238) but also by promulgating self-jurisdiction regarding this offence of *sollicitatio* (Cf. Paul 2001; Hallermann 2021a; Pfannkuche 2012; Reisinger and Röhl 2021, pp. 196–215; Prosperi 2001). However, spiritual abuse as an act of solicitation per se has only recently been investigated in greater depth, revealing the complexity of abuse in the religious context (Cf., e.g., Fischer 2019; Wagner 2019; Haslbeck et al. 2020).

Why does the confession situation lead to sexual and/or also spiritual abuse, as well as of adult women? The dynamic and asymmetry of a pastoral or counselling situation is intensified by the Catholic theological rules for the sacrament to the extent that the confession may only be heard by an ordained man. Furthermore, only the ordained man is

allowed to pronounce the absolution formula for sins. Therefore, both the fundamental asymmetry of pastoral situations and the role of the clergy, as understood by Catholic clerical and sacramental theology, can turn the confessional into a place of violence, as examined on an increasingly interdisciplinary basis in recent years (Cf. Faggioli and O'Reilly-Gindhart 2021). When it comes to the 'systematic causes of abuse', a key role is played particularly by how the priesthood is understood. There is less of a focus on the confessional as a vulnerable or precarious place for the penitent, resulting precisely from the dogmatic decisions on the sacrament, as well as the clerical understanding of the priest as a physician and judge in the role of 'father confessor'. The image of the priest includes a gradient of openness between the penitent and priest, as already indicated by Michel Foucault when he ascertained that the priest does not have to display the personal openness that is expected from the penitent (Cf. Werner 2021b, pp. 40–60). This asymmetry is reinforced in dogmatic terms because the penitent's subjective contribution, in other words, confession, contrition and atonement, constitutes the sacramental character together with absolution from the priest. It is particularly the priest's sole right to pronounce absolution that compounds spiritual dependency in terms of the personal relationship with God that the sin fundamentally impairs (Cf. Werner 2016, pp. 210–17).

In the following, I would like *first* to present the sacrament of penance in its dogmatic and legal structure (1), in order to examine its asymmetrical basic structure from the point of view of power analysis in a *second step* (2). *Third*, I shall take momentous dogmatic decisions in the past to indicate potential for change that could make the confessional, which is still an important place for some women, a possibly less dangerous place (3).

2. The Basis of Confession in Terms of Sacramental Theology

The "MHG" study (named after the cities of Mannheim, Heidelberg and Göttingen as the institute addresses of the participating scientists) presented in Germany in 2018 on the sexual abuse of minors by the clergy also revealed systemic deficits in the Catholic Church. This study explicitly named the confessional as one of the places where sexual abuse was either initiated or even carried out (Cf. Drefsing et al. 2018, p. 13). This situation described with reference to minors is equally a reality for adult women, as shown impressively by reports and studies published in recent years, referring to both sexual and spiritual abuse (Cf. John Jay College 2002, Table 4.4.4, p. 81; Doyle 2003).

What is confession? In the sacrament of confession, the penitents are expected to name their sinful transgressions in serious contrition and to vow that they will change the situation. At the Council of Trent (1545–1563), the decree on penance (in Can. 4 DH 1704) further confirmed that the necessary elements of confession for the penitent consist of the subjective acts of contrition, confession and satisfaction. They were qualified as '*quasi-materia*' (DH 812–814) with recourse to the Fourth Lateran Council (1215). The act of absolution is specified at the Council of Trent in Canons 9 and 10 (DH 1709–1710), where absolution is understood as a judicial act of the priest in the 'forma' of the sacrament of confession necessary for the priest's role as a physician and judge. The setting for confession thus changes between two contradictory—or to some extent conflicting—prerequisites to be found in the role of the priest (Cf. Oehmen-Vieregge 2020). This double role as a judge and physician has a long history in the development of the sacrament of confession and merges today in an interpretation of the priest in (*Codex Iuris Canonici* (CIC) 1983), Can 978 Section 2 (cf. Meckel and Müller 2021; Demel and Pfleger 2017), who is supposed to fulfil both tasks. Sin is also called the illness of the soul and is interpreted as a legal violation of the righteousness of God. For the priest to fulfill these roles, the penitents are obliged to recognize their sinful deeds/thoughts, to examine their consciences unsparingly and thus to reveal their inner selves. Confession reconciles the penitent with God and with the Church, as, depending on the severity of their sin, sinners also exclude themselves from the church community. At this point, it becomes clear that the sacrament has another dimension that reinforces its asymmetry, and that belongs to the community of believers (Cf. Werner 2016, pp. 332–46). Only a priest endowed with the authority for the sacrament of reconciliation

is allowed to pronounce absolution (cf. [Anuth and Odenthal 2014](#), p. 226, F.6), as an indication and implementation of what the priest says: that God forgives sins. Confession is, therefore, a situation with the penitents, on the one hand, revealing their innermost feelings, thoughts and deeds, and with the priest, on the other hand, in the role of physician and judge, listening, reacting, imposing the right “spiritual medicine” and punishment and stating the forgiveness of sins in the name of God. The Second Vatican Council took up the findings of Bartomeu Maria Xiberta, which had been forgotten: in confession, reconciliation with God and with the Church takes place—however, the debate on how to understand this continues. This double reconciliation is important because it recalls that in the sacrament of reconciliation, an external visibility of belonging is made possible, linking the *forum internum* and *externum* ([Xiberta 1922](#); [Werner 2016](#), pp. 287–346).

The only regular place for confession is a confessional in a church or chapel, and the only form is private confession or private absolution after a penitential celebration (Cf. [Anuth and Odenthal 2014](#); [Werner 2016](#), pp. 264–87). The liturgical reform after the Second Vatican Council (1962–1965) thus also follows the dogmatic stipulations of the Fourth Lateran Council (1215) and the Council of Trent (1545–1563), as well as their concretion in the code of canon law in ([Codex Iuris Canonici \(CIC\) 1983](#))¹ (Cf. [Anuth and Odenthal 2014](#), pp. 227–28). This renewed stipulation has created structures that uphold the primary objective, namely, to protect the sacrament, but without looking at the protection of the penitent (Cf. for a critical viewpoint [Reisinger and Röhl 2021](#), pp. 211–15). However, the focus should have been on protecting the person based the long history of sexual solicitation in the context of confession. The next section looks at why such violence can take place during confession.

3. Asymmetry in Confession—The Problem with Catholic Narratives

Although asymmetry cannot be avoided in pastoral and counselling situations (cf. [Seibert 2022](#); [Behrensen 2022](#), p. 173), three Catholic narratives make confession particularly perilous for emotional and spiritual manipulation and abuse. Asking for help inevitably causes a vulnerable openness in the desire for consolation, acknowledgement and healing (Cf. [Karl 2021](#)). Mary Clark Moschella names the following three narratives that create and sustain the conditions making sexual and spiritual abuse possible: patriarchy, clericalism and body negativity (Cf. [Moschella 2022](#), p. 509). Moschella finds it necessary to deconstruct these narratives before a new biblical theology based on solidarity can be devised. Moschella understands patriarchy as a multifaceted abuse of power that prepares the stage for sexual abuse: “Patriarchy is the combination of sexism plus power, power that is social, material and/or spiritual in nature” ([Moschella 2022](#), p. 511). The fundamental beliefs of the patriarchy include not only the binary division of the world into man/woman and other external factors, but also encompass intellect, spirit, feelings, etc. (cf. [Werner 2021a, 2021b](#), pp. 180–214), and harbor the racist view that people of color are worth less (Cf. [Schüssler-Fiorenza 2001](#)). The inequality produced in the patriarchy is unilaterally beneficial to men and reinforces hierarchical structures. Furthermore, in this inequality, patriarchy has a long societal history that puts more confidence in men than women. These are the reasons that the patriarchy is so successful. Maria Katharina Moser elucidates this power-shaping capacity in hegemonial masculinity, in which men “[have power; GW] over the bodies of those who are subordinated to them. In patriarchal structures, these are boys, girls and women” ([Moser 2010](#), p. 94).² Patriarchy, therefore, means having complex power over subordinates and enhancing masculinity. The focus on sexuality illuminates a further interpretation of this masculinity, which has long been deconstructed by feminist research—Moser continues—as concentrating on sexuality fails to reflect critically on the image of male sexuality as being driven by physical urges or having an extremely strong sexual drive (Cf. [Moser 2010](#), p. 94). Further complex analysis would be necessary for an adequate assessment of the underlying abuse of power, particularly when patriarchy encounters clericalism.

The second narrative for Moschella is clericalism. When the patriarchy encounters clericalism, the effects are reinforced by the arguments brought forth by clericalism that is justified by the God-given, sacred nature of the office. “Clericalism can be broadly defined as the tendency to locate ecclesial power and authority exclusively or primarily in the province of the ordained clergy. [. . .] In the Catholic Church clericalism functions to support the injustice of an all-male clergy, because the power to modify church laws concerning ordination resides in the hands of a body solely comprised of ordained men” (Moschella 2022, pp. 512–13).³ Moschella analyses three different models for dealing with pastoral power in clericalism: (a) power over; (b) power within; (c) power with (Cf. Moschella 2022, p. 512). It is, in particular, the “power over” model in pastoral power that is predestined for sexual violence and spiritual abuse. “It stands to reason that extreme power inequalities (often tinged in patriarchal assumptions) must be challenged, in order to reduce what Catholics might call ‘occasion for sin’” (Moschella 2022, p. 514). The second model of “power within” is understood as a kind of encouragement to shape everyday pastoral life in the existing hierarchy and is easiest to understand as transparent and clear when non-clergy members are included. However, it is especially the third model of “power with” that is susceptible to sexual violence and spiritual abuse, as “‘power with’, often characterized by friendliness and intimacy, can also create conditions for abuse” (Moschella 2022, p. 514). According to Moschella, it is often a taboo to refer to the priest’s power as such, and she recommends breaking this taboo to deal responsibly and transparently with power (Cf. Birekmeyer 2021)⁴.

Moschella views the third narrative as the negative interpretation of the body, or “[. . .] body negativity” (Moschella 2022, p. 514). This unholy notion is related to the patriarchy: “when the flesh is viewed as separate from and less holy than the spirit or intellect, the goodness and grace of our creaturely status is rejected” (Moschella 2022, p. 514). As time went on, the body and all corporeality were increasingly associated with sin, leading to the development of a narrative focusing on purity and holiness while degrading the body. It is thus possible to put aside one’s own sexuality with its desire and needs as being less holy, separating it from one’s own self-awareness because it does not fit in at all with the spiritual ideal of a priest’s existence. “When sexuality is denied, disowned or split off from a pastor’s awareness, there is a greater risk for that pastor to engage in abuse” (Moschella 2022, p. 515).

These three narratives, which Moschella calls “death-dealing narratives” (Moschella 2022, p. 517), are still deeply ingrained in the nature of the Church. Hierarchical clericalism, in particular, generates an imbalance in the power relations in the Church, where the floodgates for sexual abuse are opened wide in the context of “long traditions of silence and shame around human bodies and sexuality” (Moschella 2022, p. 517). Particularly because the whole body, the embodied person, is present in every interaction, there is a need to remove the taboos regarding corporeality and physical, personal and sexual needs. This is all the more necessary in view of the fact that the specific setting of confession is involved with revealing actions, feelings and needs in order to clarify the drives and urges involved in contrition and the idea of atonement. Sexual violence and spiritual abuse are associated with a confusion of the roles in which “the priest administering the sacrament is in an initial position of trust and maintains his status as spiritual ‘father’ and ‘mentor’ in a whole range of different activities [. . .]” (Cornwell 2014, p. 277).⁵ With regard to children from precarious backgrounds, Alexander Fischer describes this situation as follows: “The combination of an asymmetrical power configuration [. . .], religious context, emotional vulnerability, a promise, and, for those affected by violence, often a new kind of sexuality forms the basis for a toxic atmosphere” (Fischer 2022, p. 192). This combination applies to women insofar as the described narratives put them in a fundamentally vulnerable starting position during confession, so that they can be and often were and are exposed to these power mechanisms. Hildegard Mathies summarized this in her comments at a conference on the spiritual/sexual abuse of women in Siegburg (Germany) in 2019: “Priests who become perpetrators often exploit their role as pastor and confidant. Women in need, in unstable mental or physical condition and women searching for understanding, nearness

and acceptance can become victims” (Mathies 2019, p. 31; cf. Figuera and Tombs 2022). This situation seems to occur particularly when a woman in such a state of emotional and/or existential vulnerability encounters a priest who has no clarified or formed feelings or knowledge of his needs: this opens the floodgates for transgressive conduct. During an emotionally intensive interaction, the body and the bodies can become “sources of confusion”, as Moschella so accurately puts it, “when we experience desires in pastoral situations . . . ” (Moschella 2022, p. 515). One aspect of the asymmetry indicated by Michel Foucault (cf. Foucault 2012a, 2012b; Werner 2021b, pp. 40–60) is that during confession, the priest does not have to open up about himself; he does not have to be truthful to the extent that is expected from the penitent. The asymmetry is further reinforced by the priest acting as a kind of neutral ground, a person with no apparent problems, and the opposite of the penitent. If this figure then shows emotional attention and affection, a desire to take the conversation to a deeper level and the prospect of an emotional or existential change in the emotional situation of the penitent, this can then pose a threat of manipulation and transgression that binds the woman to the priest (Cf. Fischer 2022)⁶. This analysis makes it clearer that confession has become a key element in sexual and spiritual abuse in a way in which it “[. . .] upholds the principle of guilty sin that can only be exonerated by a priest (possibly even the same one responsible for the sexualized abuse) but that adheres persistently to the penitent and also acts an instrument of obedience [. . .]” (Fischer 2022, p. 211).

In recent weeks, following the publication of studies on sexual abuse in France and also in Australia, demands have become loud for a change in the sexual ethics (cf., e.g., Moschella 2022, pp. 517–18) and in the training of priests (cf. Dreßing et al. 2018), together with queries about the seal of confession, in order to put an end to possible cover-ups.⁷ I would like to take a look at the dogma history to focus on two other possible changes in terms of clerical and sacramental theology, as despite all danger, confession is still an important place for some people.

4. Dogma History: Protecting the Sanctity of the Sacrament

The regular form of the sacrament of confession as it is known today is not something that is self-evident in historical terms but is the result of major changes. Dogmatic changes have different causes. However, a persisting exegesis can be ascertained with regard to the sacrament of confession: protecting the sacrament and the sanctity of the Church (cf. Paul 2001)⁸. Three changes provide proof of this (Cf. Anuth and Odenthal 2014, pp. 230–32;⁹ Gisevius and Sommer-Krick 2020).

The first change occurred in the early Church, at a point in time when communal confession was still customary and the pastoral role consisted primarily of the art of living (cf. Foucault 2012a, 2012b; Werner 2021a, pp. 40–60; Werner 2020)—as Foucault established in his studies on *parrhesia* and on governmentality. In late antiquity—according to Foucault—the image of the male/female pastor underwent a fundamental change. The notion of the ancient world, in which the soul is guided by *parrhesiastes* who tell the truth about themselves and thus encourage the penitents to tell their own truth, was relinquished during late antiquity and replaced by a new practice oriented towards a different notion of roles and truth. The pastoral role, now attributed to the clerical monopoly (now primarily males), expects the ‘flock’, i.e., those receiving pastoral care, to tell their life experiences. The pastors themselves do not have to do this anymore. As pastors, they are priests of God, and as such, they are role models. It is only due to this development that from this point onwards, the effect of a sacrament no longer primarily depends on the morals of the priest, nor on his level of education but only on the intention to act in the interest of the Church, as well as on the right matter. Therefore, the effect of sacraments in the Catholic perception emerges *ex opere operato*¹⁰, which means that God’s promise will be fulfilled in the sacrament even if the minister involved is morally dubious or—something that was often the case in earlier centuries—not sufficiently educated to state the formula correctly or has turned away from the faith (Cf. Mathias Wirth and Schroer 2022, p. 9)¹¹.

Second, in the early 13th century, communal confession was changed into mandatory auricular confession. Although auricular confession was already common in the Celtic Church, it took some time and several controversies to change this form into a binding liturgical form (Cf. [Dallen 1986, 2020](#)). During a period of great upheaval and faith revivals when believers of both genders interpreted the Bible for themselves with great self-confidence, leading to critical Christian communities (cf. [Hahn 1982](#)), private confession offered the possibility of being informed about the penitent's orthodoxy at least before Easter¹² (Cf. [Prosperi 2001](#)). The dogmatic prerequisite for this decision was a more unequivocal notion of the sacraments for a better understanding of why confession should be a sacrament at all. The narratives and testimonies of the forgiveness of sins in the Bible make it quite clear that it is God alone who forgives sins. This is stated strikingly in the story in the Gospel of Mark chapter 2, verses 1 to 12 (Cf. [Werner 2016](#), pp. 287–93). The way Jesus forgives sins here becomes the starting point for the accusations of acting on behalf of God and blaspheming (Cf. [Werner 2016](#), pp. 287–93). Therefore, if God is the only one who can forgive sins, and God already sees and forgives the contrite heart, clarification was required to explain the need for the forgiveness of sins in a sacrament. In the old Church, confession was not just a public, communal act, but also the second 'life raft' after baptism ([Werner 2016](#), pp. 224, F. 1240, 228; DH 1542). Now, it is extended to venial sins that are to be confessed once a year before Easter in auricular confession. In stipulating confession, the Lateran Council, therefore, makes several things possible: from now on, confession is only auricular, it is extended to venial sins, for which Easter is recommended, or immediately for mortal sins; confession is one of the seven sacraments and, therefore, also consists of the two necessary parts: matter and form (Cf. [Werner 2016](#), pp. 215, F. 1182. 216, 229–31). Auricular confession permits dual control: for the priest with regard to the faith and morals of the penitent, and for the penitent with the need to move from the sin of commission to willful sin and, therefore, to self-reflection and self-improvement.

Third, the question as to how exactly to understand matter and form leads to a theological controversy. Contrition as an essential 'matter' of confession becomes the lynchpin of scholastic debate. Which contrition is necessary for the sacrament? There is a difference between perfect and imperfect contrition. The former needs no forgiveness in the sacrament, as God forgives the contrite heart, while the latter has to be converted effectively into perfect contrition in the sacrament. This demanded a change in form, i.e., absolution: an intercessory (deprecatory) absolution formula is not sufficient to bring about such a change in contrition, so that the dogma prescribes the indicative formula only (Cf. [Werner 2016](#), pp. 234–63; [2017](#)).

These decisions have been confirmed time and again over the centuries, right through to the present day: private confession remains compulsory, with the subjective acts necessary for obtaining the sacrament via the absolution of the priest assigned to this purpose. However, several elements have been lost with sacramental performance: the communal form, which not only elucidated that personal failings also affect the congregation/community, but also effectively indicated the many forms of the forgiveness of sin; the liturgical form of the laying on of hands as a symbol of healing, which was practically no longer possible in the confessional that was prescribed from the mid-17th century onwards; contrition as one's own place of forgiveness outside the sacrament; and joint intercession for the forgiveness of God.

However, the dogmatic decisions were proposed to condone these losses in order to protect the sanctity of the sacrament. This sanctity also had to be protected from the sinfulness of its members, as illustrated particularly by the moralization of the subject in the 19th century in the veritable explosion of confession activity through to the mid-20th century (Cf. [Werner 2016](#), pp. 193–95, 335–49; [Werner 2020](#)). Even after the demand made at the Second Vatican Council to reform the sacrament of penance (SC 72), private confession is still upheld as the regular form¹³, at the confessional in a church or chapel as the regular place of confession for both genders (cf. [Anuth and Odenthal 2014](#), p. 232)¹⁴, which is also on account of the fear of sexual transgression (Cf. [Anuth and Odenthal 2014](#), p. 236, F. 66).

However, the legal regulations still view the protection of the person as an “incidental aspect” (Hallermann 2021a, p. 2).¹⁵ The way the practice of confession was abandoned by the faithful during the 1970s could be read as an act of *sensus fidelium*, indicating that something is profoundly wrong with the practice of confession.

5. Proposal for Making Changes to Confession—Final Thoughts

The decisions of dogma history have brought about essential changes in the sacrament of penance. This has led to the persisting asymmetry and threat in the vulnerable situation of the confession (cf. Karl 2021, p. 171)¹⁶, making it possible to uphold the three narratives, namely, patriarchy, clericalism and body negativity, in turn encouraging sexual and spiritual violence and abuse. The Church has had an eye on the threat of sexual abuse in confession for centuries, but always from the point of view of preserving the sanctity of the sacrament. The confessional was supposed to ensure this as a safe place, but it could not keep the promise that it had been built for, which was to prevent massive spiritual and sexual abuse—also of women—in the context of confession. The following changes make sense from a dogmatic point of view if the Church wishes to counteract this threat while holding on to this sacrament:

First, there is a need to change the image of the priest, harking back to the tradition of the early Church. This would mean that the priest and his life would be truthful to the extent that the priest lives according to what he says, also revealing his own feelings and experience that support the situation. However, this would not be a purely spiritual statement, but rather one that concerns life as such. As a consequence, this would mean revealing one’s own feelings, life situation and failings to an extent that is appropriate in the context of professional situations. Foucault recalls the tradition of *parrhesia*. Katharina Karl emphasizes this act of revealing, in the context of vulnerability, with a picture of scars or wounds (Cf. Karl 2021, p. 176). Precisely, because the pastoral system, in its asymmetrical relationship with confession, is a place for passive, suffered and active vulnerability, it is essential for the priest to be aware of his own weaknesses and vulnerability (Cf. Karl 2021, p. 171)¹⁷. It is, therefore, a case of learning new roles “in the sense of dealing reflectively with one’s own role and hierarchy-conscious, highly delicate situations in a fundamentally asymmetrical relationship” (Karl 2021, p. 178). Knowing and showing weaknesses would be an appropriate aspect of pastoral action that prevents violence.¹⁸

Second, thought should be given again to the form of the sacrament of penance. On the one hand, the forgiveness of God is possible in many ways, for example, in acts of charity, in reading the scriptures and in attending worship. Private confession would thus take its place alongside the others as a form of church penance, thus preventing an excessive focus on this form. On the other hand, a more versatile understanding of the sacrament and its elements could be possible. If contrition is the place for the forgiveness of God, then God acts in and with the contrite person. This would allow the predicative formula to be brought back into the liturgy alongside the indicative absolution formula. Dialogue could show which prayer for the forgiveness of sins would be appropriate in the specific situation. Above all, the liturgy could be used to change the concentration on this one form and with it the focus on the priest. Liturgical history already offers possible forms. Although this would result in fundamental legal changes, in this case, recent history already shows that this is conceivable (see above).

Making dogmatic changes to confession should aim to compensate for the asymmetry and vulnerability of the situation as such, to the extent possible in such a setting, thus focusing on protecting the person, rather than on the sacrament. This is all the more applicable when there are different vulnerable factors involved (cf. O’Bannion 2012, p. 110)¹⁹: “If we want safe and genuinely loving Christian communities, instead of breeding grounds for sexual abuse, the soul-wounding narratives of patriarchy, clericalism and body negativity must be challenged” (Moschella 2022, pp. 517–18).

Funding: This research received no external funding.

Institutional Review Board Statement: Not applicable.

Informed Consent Statement: Not applicable.

Data Availability Statement: Not applicable.

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

Notes

- ¹ Prescribing the confessional as the place for confession goes back to the statement made by Pope John Paul II. CIC/1917 also included the special rule that men may also be heard outside the confessional (c. 910 CIC/1917), but this was not included in CIC/1983.
- ² Maria Katharina Moser already elucidated in 2010 how patriarchy acts in its “power of control” that is then (also) expressed in the medium of sexuality towards subordinates. She draws attention in particular to the fact that sexual violence against men usually ceases from an age of mid-20 upwards, because they are then deemed to be peers as men among men, but this does not apply to women (Moser 2010, pp. 95–96).
- ³ It is not only the MHG study that sees clericalism as one of the greatest problems in the context of abuse: Pope Francis also calls this a perversion.
- ⁴ Refers to the findings of (John Jay College 2002), that confession no longer took place just in the confessional but also in different places, so that for adolescents in particular, the borders between administering a sacrament and other “social” activities become increasingly blurred (Cf. Birekmeyer 2021, p. 25). The fact that the priests perpetuate their role as “father confessor” during sexual abuse is particularly important.
- ⁵ (Cornwell 2014, p. 277), cited after (Birekmeyer 2021, p. 25).
- ⁶ Impressive analyses of these mechanisms can be found in the many publications of the last five years (Cf. Faggioli and O’Reilly-Gindhart 2021).
- ⁷ Cf. <https://www.ciase.fr> (accessed on 6 February 2022); <https://www.katholisch.de/artikel/32063-zeitung-papst-verteidigt-beichtgeheimnis-als-unverrueckbar> (accessed on 6 February 2022).
- ⁸ The first sentence of the apostolic letter begins with the words: “The Safeguarding of the Sanctity of the Sacraments, especially the Most Holy Eucharist and Penance, and the keeping of the faithful, called to communion with the Lord, in their observance of the sixth commandment of the Decalogue, demand that the Church itself, in her pastoral solicitude, intervene to avert dangers of violation, so as to provide for the salvation of souls “which must always be the supreme law in the Church” (CIC, can 1752)”.
- ⁹ They draw attention to the fact that the confessional goes back to the setting for confession as a conversation and is post-Tridentine in both denominations (F. 27). The originally separated conversation venue only developed into widespread use of the confessional during the 16th/17th century. “The concern that already existed before the Council of Trent to separate the confessor and penitent in physical terms to avoid sexual transgression or corresponding suspicions was only implemented by the Catholics with the mandatory confessional lattice panel” (231). Today’s confessional dates back to Karl Borromäus (Instructiones fabricae et suppellectilis ecclesasticae dated 1577), who prescribed it for all churches (see 231). It became mandatory in France and Germany and in the mission areas.
- ¹⁰ The effect of the sacrament as *ex opere operatum* is stipulated at the Council of Trent (DH 1608) and *named ex opere operantis* in the narrow context of the reception and response to human mercy. The aim of this differentiation introduced by Peter of Poitiers (dec. 1205) was the effect of the grace of God in the sacrament, even if the priest possibly had a heretical or deficient faith or difficult moral conduct.
- ¹¹ They illustrate the influence of this concept for establishing separate worlds, which in turn is a major contributing cause for sexual abuse.
- ¹² At the Fourth Lateran Council 1215, annual confession at Easter was recommended, with direct confession in the case of a mortal sin (DH 812).
- ¹³ The Ordo Poenitentiae of 1973 stipulates private confession as the regular form, while private confession and private absolution are also conceivable in a shared liturgy of the Word; general absolution is only permitted in exceptional circumstances (plane crash or similar disasters). (German Liturgical Institute, Die Feier der Buße. Nach dem neuen Rituale Romanum. Study issue, Trier among others (Pastoralliturgische Reihe in Verbindung mit der Zeitschrift “Gottesdienst” 2008).
- ¹⁴ Here c. 964 §1/CIC 1983 does not include the prescription from cc. 909 et seq./CIC 1917 according to which women must be heard in the confessional, while men can also be heard outside the confessional.
- ¹⁵ To protect the sacrament of confession, on 1 June 1741, Pope Benedict XIV issued the apostolic constitution *Sacramentum Poenitentiae* to regulate sexual solicitation during confession. The Holy Office promulgated the *Instruction Crimen Sollicitationis*, which was reissued by Pope John XXIII on 16 March 1963 and continues along the same line. Once again it deals with the crime of *sollicitatio* or *crimen pessimum*, i.e., homosexual acts. On 30 April 2001, Pope John Paul II promulgated new norms under SST/2010 against grave delicts against the faith that are prosecuted by the Congregation for the Doctrine of the Faith. Currently

valid are the norms revised by Pope Benedict XVI (SST/2010 dated 21 May 2010), together with the *Motu Proprio Vos estis lux mundi* promulgated by Pope Francis. This wants to “protect persons reporting crimes by clerics against the sixth commandment, while at the same time preventing cardinals, patriarchs, nuncios, bishops and their legal peers or senior leaders of institutes of consecrated life, societies of apostolic life and monasteries *sui iuris* from preventing or hindering the prosecution or punishment of such offences” (Hallermann 2021a, p. 2).

- ¹⁶ Karl makes it clear that pastoral confession is explicitly a place where vulnerability is experienced.
- ¹⁷ Distinguishing between ‘vulnerance’ (the power to hurt) and vulnerability, see also the article by Ute Leimgruber here.
- ¹⁸ Rightly joins others in indicating that unacknowledged wounds can lead to violence (Cf. Karl 2021).
- ¹⁹ His study places the practice of confession in an intersectional analysis. One of his insights is that the power of priests in the confessional is geared more to social status than to gender. Particularly with regard to sexual violence in the confessional, he states clearly: “Sexual solicitation in the confessional, for instance, was a crime usually committed against those with limited means of retaliation” (O’Bannion 2012, p. 110).

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