

**E-CONFESSION AND E-ABSOLUTION IN THE CATHOLIC CHURCH?  
THE PROBLEM OF VALIDITY AND THE ISSUE OF SACRAMENTAL  
SEAL**

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**Abstract**

*Many have wondered whether or not it is impossible to confess one's sins and obtain sacramental absolution through the electronic media. A teenager after a session of online spiritual direction, asked his Spiritual Director, "can't we have online confessions?". This digital native could not fathom why as Catholics one still draws a caesura between the physical and the digital, a gap which seems to have been closed by the exigencies of COVID-19 which transformed the digital as the new homeland. This study seeks to examine the issues of validity and confessional seal with regard to the possibility of online confessions and absolution. The study utilizes the methodology of canonico-theological and hermeneutic analyses of the relevant canons and liturgical regulations regarding the celebration of the sacrament of reconciliation. It focuses on the nature and challenges of the so-called 'digital presence', and on whether the presence is enough to fulfil the canonical and liturgical obligations required for a valid celebration of the sacrament. The enquiry capitulates with the submission that it is unlikely that the Catholic Church would allow celebration of the sacrament of reconciliation through electronic means since the sacrament fundamentally requires both joint physical presence and live interpersonal action and conversation between the penitent and priest-confessor. It seems that the conditions for a full, natural, human dialogue must exist.*

**Keywords:** E-Confession, E-Absolution, Sacrament of Penance, Catholic Church, Validity, Confessional Seal

**1. Introduction**

For a very long time, it has been taken for granted that the time-honoured teaching and practice of the Catholic Church on auricular confession is ever unchallenged.

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## ***ORAEGBUNAM: E-Confession and E-Absolution in the Catholic Church? The Problem of Validity and the Issue of Sacramental Seal***

For a sinner, especially one in the state of mortal sin, to get absolved from one's iniquity against God and reinstated in the community of God's people, one must confess directly and physically to a priest, provided that other conditions are present. Today, due to the resurgence of the new media, online in nature, by which all aspects of human life have been affected, positively or negatively, some Christians including some Catholic priests are looking for other ways to allow people to get relieved from their spiritual burden. Some think that sacramental confessions can be made virtually via the Phone, Zoom Calls, WhatsApp Calls, Messenger Calls, Private Messaging, or even electronic mails, to say the least. This quest, though not new, became aflame with the precautions against Covid-19 Pandemic by which people were, in some ecclesiastical jurisdictions, urged to join Eucharistic celebrations spiritually via the Radio and Television, which was taken to satisfy the relevant obligations. This paper seeks to interrogate this view in the light of what will become of the highly priced confession seal which may be tampered with through hacking and other means. More importantly, it equally queries the issue of validity of the sacrament in the light of its matter and form. The study capitulates with a response to sundry positions in the light of the Church's teaching on the Sacrament of Penance.

### **2. The Sacrament of Penance in the Teaching of the Church**

Penance is one of the seven sacraments of the 'new law' instituted by Christ for salvation of men and women through the instrumentality of the Church. The Catechism of the Catholic Church defines sacraments as 'efficacious signs of grace, instituted by Christ and entrusted to the Church, by which divine life is dispensed to us'.<sup>2</sup> In other words, a sacrament is a sacred and visible sign that is instituted by Jesus to give us grace, an undeserved gift from God.<sup>3</sup> The Catechism states that 'those who approach the sacrament of Penance obtain pardon from God's mercy for the offense committed against him, and are, at the same time, reconciled with the Church which they have wounded by their sins and which by charity, by example, and by prayer labors for their conversion.'<sup>4</sup> The Sacrament of Penance, otherwise called Sacrament of Reconciliation<sup>5</sup>, is God's gift to humanity so that

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<sup>2</sup> The Catechism of the Catholic Church (CCC), n. 1131

<sup>3</sup> *Ibid.*, n.1084

<sup>4</sup> CCC, n. 1422

<sup>5</sup> This sacrament goes by various appellation. It is called the *sacrament of conversion* because it makes sacramentally present Jesus' call to conversion, the first step in returning to the Father<sup>5</sup> from whom one has strayed by sin. It is called the *sacrament of Penance*, since it consecrates the Christian sinner's personal and ecclesial steps of conversion, penance, and satisfaction. It is called the *sacrament of confession*, since the disclosure or confession of sins to a priest is an essential element of this sacrament. In a profound sense it is also a 'confession' - acknowledgment and praise - of the holiness of God and of his mercy toward sinful man (CCC, n 1424). It is called the *sacrament of forgiveness*, since by the priest's sacramental absolution God grants the penitent 'pardon and peace.' (OP 46, formula of

any sin committed after Baptism can be forgiven. In the confessional, one has the opportunity to repent and recover the grace of friendship with God. It is a holy moment in which one places oneself in God's presence and honestly acknowledges one's sins, especially mortal sins. The path to forgiveness of sins spans four stages. The first is **contrition**, the most important act of the penitent, which is a sincere sorrow for having offended God. There can be no forgiveness of sin if one does not have sorrow and a firm resolve not to repeat that sin. The second is **confession** by which one confronts oneself with one's sins in a profound way by speaking about them aloud to God through the priest. The third is **penance**, otherwise called **satisfaction** which is an important part of the healing process wherein one performs acts of reparation for the sins committed. The fourth is **absolution** according to which the priest, by virtue of his ordination, speaks the words by which 'God, the father of mercies' reconciles a sinner to himself through the merits of the Cross.<sup>6</sup>

### 3. Rite of Celebrating the Sacrament of Penance

Due to the nature of this study, it may be apt to state the procedure or rite of celebrating the sacrament of reconciliation. This Sacrament may be celebrated face-to-face or anonymously, with a screen between you and the priest in the following stages.

- The penitent and the priest begin with the sign of the Cross, saying: *'In the Name of the Father and of the Son and of the Holy Spirit.'*
- The priest urges the penitent to have confidence in God with these or similar words: *'May the Lord be in your heart and help you to confess your sins with the true sorrow.'*
- The priest may read or say a passage from Sacred Scripture after which the penitent then states: *'Forgive me, Father, for I have sinned. It has been [tell him however many days, weeks, months or years] since my last confession.'*
- The penitent then states their sins. For the confession to be valid, the penitent must confess all of the mortal sins they are aware of having committed since the last confession, be sorry for them, and have a firm purpose of amendment to try not to commit the same sins in the future.
- After this, the priest will generally give some advice to the penitent and impose a penance.
- Then he will ask the penitent to make an act of contrition. The penitent may do so in their own words, or may say one of many memorized acts of contrition like the following from the *Rite of Penance*: 'O My God, I am

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absolution). It is called the *sacrament of Reconciliation*, because it imparts to the sinner the love of God who reconciles: 'Be reconciled to God.'<sup>7</sup> He who lives by God's merciful love is ready to respond to the Lord's call: 'Go; first be reconciled to your brother' 2 Cor 5:20)

<sup>6</sup>Celebrating the Sacrament of Penance, <https://oec.dor.org/sacraments/penance-and-reconciliation/celebrating-the-sacrament-of-penance/> Accessed 28/03/2024

## **ORAEGBUNAM: E-Confession and E-Absolution in the Catholic Church? The Problem of Validity and the Issue of Sacramental Seal**

sorry for my sins with all my heart. In choosing to do wrong and failing to do good, I have sinned against you, whom I should love above all things. I firmly intend, with your help, to do penance, to sin no more, and to avoid whatever leads me to sin. Our Savior Jesus Christ suffered and died for us. In his name, my God, have mercy.’<sup>7</sup>

- After this the priest will say the prayer of absolution, which absolves the penitent from their sins. ‘God, the Father of mercies, through the death and resurrection of his son has reconciled the world to himself and poured out (currently, sent) the Holy Spirit for the forgiveness of sins; through the ministry of the church may God grant (currently, give) you pardon and peace, and I absolve you from your sins in the name of the Father and of the Son and of the Holy Spirit.’<sup>8</sup>
- The penitent makes the sign of the Cross and answers: ‘Amen’
- The priest will then dismiss the penitent with a short prayer and encouragement.
- The penitent should try to fulfill the penance imposed as soon as possible.

Looking at the rites of celebrating the sacrament as outlined above, one observes a close interaction and dialogue between the priest and the penitent under and before the merciful God and father. The interaction is direct and inter-personal without the instrumentality of any intervening medium. Analogically, the penitent presents themselves before the confessor as does the criminal before the judge. The celebration of the sacrament of penance is in its signification and effects a conversation or a discussion between two persons. The penitent confesses to the priest his sorrow for individual past sins, promises to do a penance, and asks for forgiveness. The priest-confessor, *in persona Christi*, assigns a penance and absolves the penitent, perfecting him in grace. Unlike most other sacraments, an inanimate physical object is not needed. It is just a conversation or a concelebration between the penitent and the priest where both persons have an essential sacramental role. It is a dialogue and not a monologue.

### **4. The Church and New Media**

The Church has taken a fundamentally positive approach to the media.<sup>9</sup> The Church's interest in the new media is a particular expression of her longstanding

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<sup>7</sup> Rite of Penance, para. 45.

<sup>8</sup> The most essential words of absolution are: ‘I absolve you from your sins in the name of the Father and of the Son and of the Holy Spirit’ (Rite of Penance, 19). Although the fuller prayer (‘God the Father of mercies . . .’) should be used in most cases, it is not essential to the validity of the absolution.

<sup>9</sup> For example, *Inter Mirifica*; the Messages of Pope Paul VI and Pope John Paul II on the occasion of the World Communication Days; Pontifical Council for Social Communications, Pastoral Instruction *Communio et Progressio, Pornography and Violence in the*

interest in the media of social communication. Even when condemning relevant serious abuses, documents of Pontifical Council for Social Communications make it clear that 'a merely censorious attitude on the part of the Church...is neither sufficient nor appropriate'.<sup>10</sup> Citing Pope Pius XII's 1957 encyclical letter *Miranda Prorsus*, the Pastoral Instruction on the Means of Social Communication *Communio et Progressio*, stated that 'the Church sees the media as 'gifts of God' which, in accordance with his providential design, which unite men in brotherhood and so help them to cooperate with his plan for their salvation'.<sup>11</sup> *Communio et Progressio* noted that 'modern media offer new ways of confronting people with the message of the Gospel'.<sup>12</sup> According to Pope Paul VI, the Church 'would feel guilty before the Lord' if it failed to use the media for evangelization.<sup>13</sup> Seeing the media as an outcome of the historical scientific process by which humankind 'advances further and further in the discovery of the resources and values contained in the whole of creation',<sup>14</sup> the Church often has declared her conviction that they are, in the words of the Second Vatican Council, 'marvellous technical inventions'<sup>15</sup> that already do much to meet human needs and may yet do even more.

Pope John Paul II has called the media 'the first Areopagus of the modern age', and declared that 'it is not enough to use the media simply to spread the Christian message and the Church's authentic teaching. It is also necessary to integrate that message into the 'new culture' created by modern communications'.<sup>16</sup> The Church recognizes that the media, if properly utilized, can be of great service to mankind, since they greatly contribute to men's entertainment and instruction as well as to the spread and support of the Kingdom of God. Therefore, social media can be an incredibly powerful free tool for the Church to reach more people. With over 4 billion active users, social media platforms like Facebook, Twitter, TikTok and Instagram can help the Church reach people who may never have heard of the Church and its message. In some cases, social media has become an extension of existing religious practice as churchgoers connect with their pastors and fellow worshippers outside of the pews and away from the organs. But for others, social media has become a substitute as online users have found new ways to get in tune with religion.

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*Communications Media: A Pastoral Response*, Pastoral Instruction *Aetatis Novae, Ethics in Advertising, Ethics in Communications*.

<sup>10</sup> *Pornography and Violence in the Communications Media*, n. 30.

<sup>11</sup> *Communio et Progressio*, 1971, n. 2.

<sup>12</sup> *Ibid*, n. 128.

<sup>13</sup> Apostolic Exhortation *Evangelii Nuntiandi*, n. 45.

<sup>14</sup> John Paul II, encyclical letter *Laborem Exercens*, n. 25; cf. Vatican Council II, Pastoral Constitution on the Church in the Modern World *Gaudium et Spes*, n. 34.

<sup>15</sup> Vatican Council II, Decree on the Means of Social Communication *Inter Mirifica*, n. 1.

<sup>16</sup> Encyclical *Redemptoris Missio*, n. 37.

## **ORAEGBUNAM: *E-Confession and E-Absolution in the Catholic Church? The Problem of Validity and the Issue of Sacramental Seal***

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### **5. Sacramental Confessions and Absolution through the Cyberspace**

We have seen that the Church has a fundamental love for the media generally and the new media in particular. The Church sees and uses the media as a veritable instrument of evangelization. Yet, at this moment, one would ask, can the media be deployed for the administration of sacraments? Specifically, can one confess their sins through the smart phones, video conferencing, and other forms of social media outfits? If one is stuck at home, or dying in a hospital or even in cases of extreme emergency, can one just dial a priest-confessor for sacramental confession and absolution? Or can one receive the sacrament of penance via Zoom or Skype? With the advent of teleconferencing apps like Zoom, is it possible in the Catholic Church to adopt a teleconferencing option for confessions? Does it touch the validity or just the liceity<sup>17</sup> of the sacrament? In the light of the technical issues that may be involved, how will the sacramental seal be preserved and confessional secrecy be observed?

#### **5.1 The Issue of Validity**

The question of validity is uppermost in the consideration of our subject matter. For what does it profit one if the means of salvation is not available to and utilizable by the Christian, due to the fact that a particular sacrament, as ordained by Christ, is not properly celebrated and appropriated? Validity is the legal ownership necessary for legitimacy and soundness of anything. Validity designates an action which produces the effects intended such that an action which does not produce the effects intended is considered 'invalid'. A sacrament is said to be valid if it is recognised by the Church to be genuine and true when certain minimum requirements are met: proper form, matter, minister, and intent. For sacramental validity, the matter and form of the sacrament must be present and working together. To celebrate or confer a valid sacrament, the valid matter, which is some sense-perceptible material or perceivable action must be joined with the valid form, that is, a formula of words or prescribed signs. Hence, in conferring a sacrament, the matter must be united with the form.<sup>18</sup> While matter (material or tangible element) is the substance through which the sacramental act takes place, the form (formula, words or prayers) conveys the meaning. To make for a valid sacrament, three requirements are involved: first, there must be an outward and visible sign for the eye, some material thing or action. Second, there must be a form of words, a sign for the ear. Third, there must be a person to administer the sacrament,

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<sup>17</sup> Liceity designates an action which has been performed legitimately; an action which has not been performed legitimately is considered 'illicit'. Some actions can be illicit, but still be valid. *Valid but illicit (illegal) (valida sed illicita)* is a description applied in Church law to describe either an unauthorized celebration of a sacrament or an improperly placed juridic act that nevertheless has effect.

<sup>18</sup>M. Plese, *Sacramental Theology: Matter, Form, and Intention Required for Validity*, <https://fatima.org/news-views/catholic-apologetics-140/> Accessed 29/03/2024

because it has been ordained by God as a means of sanctification, and he through his agent, is the only one who can confer what is signified.<sup>19</sup> Validity is presumed whenever an act is performed by a qualified person and includes those things which essentially constitute the act itself as well as the formalities and requirements imposed by law for the validity of the act.<sup>20</sup>

Penance is one of the seven sacraments ordained by Christ. Church laws regarding confession require that priests who are hearing confessions must have valid faculties (power) and jurisdiction. As penance is not only a sacramental act but also one of jurisdiction, such faculties are required for both for validity and liceity.<sup>21</sup> Again, the matter and form of the sacrament of penance are essential to constitute and establish the possibility of appropriating the salvific value of a sacrament. While matter of the sacrament of penance comprises those acts of the penitent in contrition, confession, and the performance of satisfaction for sins, the form is the action of the priest in pronouncing the prayer of absolution and saying the essential words, 'I absolve you in the Name of the Father, and of the Son, and of the Holy Spirit'.

It is now time to interrogate the validity or otherwise of the celebration of the sacrament of reconciliation via the new media. One therefore asks, is there anything in the use of the new media that invalidates the celebration of the sacrament of penance? In other words, is it necessary for validity of the sacramental confession that the priest and the penitent be physically present together in the same place? Surely, the rite of penance as found in the liturgical books says nothing directly about this issue in one way or the other. Again, going through the canonical provisions on the sacrament of penance<sup>22</sup>, one will be disappointed as there is none that specifically mentions the subject. This should not be surprising as video conferencing, for instance, is a relatively new invention which was not envisaged by the Code promulgated, as it were, only in 1983. Yet, there are a number of church documents which provide some guidance on the new reality of cyberspace. For a good discussion on this matter, it may be apt to consider first the very nature of sacrament. A sacrament is defined with theological precision as 'an outward and visible sign of an inward and spiritual grace given to man, ordained by Christ himself, as a means whereby we receive the same and a pledge to assure us thereof.'<sup>23</sup> It is 'a visible sign of an inward grace, instituted for our justification.'

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<sup>19</sup>Jacques Maritain Center : Elements of Moral Theology, Chapter VII. The Law of Sacraments, <https://www3.nd.edu/~maritain/jmc/etext/emt26.htm>, Accessed 29/03/2024

<sup>20</sup> Code of Canon Law, canon 124 §1

<sup>21</sup> Code of Canon Law, canons 965-977

<sup>22</sup> Code of Canon Law, 1983, cc. 957-997.

<sup>23</sup>Jacques Maritain Center: Elements of Moral Theology, Chapter VII. The Law of Sacraments, <https://www3.nd.edu/~maritain/jmc/etext/emt26.htm>, Accessed 29/03/2024

**ORAEGBUNAM: *E-Confession and E-Absolution in the Catholic Church? The Problem of Validity and the Issue of Sacramental Seal***

In a wider sense, the word has been employed in the Church for any sign of a sacred thing, as the Paschal Lamb in the old covenant, '*sacrae rei signum*' (S. Aug.) or for a hidden mystery outwardly signified, '*sacrum secretum*;' or for an oath as a sacred thing. Every sacrament is commemorative of the Passion of Christ; demonstrative of present grace conferred; and prognostic of future glory.<sup>24</sup>

Of great relevance in the stated definition of sacrament is the expression 'outward sign' designating the fact that a sacrament has an external and physical component rather than just an internal spiritual exercise. For instance, in the sacrament of baptism, the external and physical nature of its administration is clear as the proper intention and the correct form of words are necessary yet not enough without the proper physical matter, as one cannot dispense with the use of water. In the same way, a priest cannot consecrate the eucharist without the unleavened bread from wheat and wine pressed from vine.<sup>25</sup> Hence, it is sufficiently obvious that since sacraments like these involve tangible matter, there is no way to celebrate them validly over the airwaves or the internet. This is probably the reason during the chaos of Covid-19 pandemic the Catholic Church did not advert to the possibility of administering baptism via the internet or celebrating Mass by teleconferencing.<sup>26</sup>

Yet, with regard to the sacrament of penance, many were struck with the idea that since it does not require water, or chrism, or bread and wine, why cannot the priest just utter the correct words of absolution over a penitent who is truly sorry for his sins even if via the Skype? To address this wonder, it may be necessary to look at the relevant provisions of the document, *The Church and Internet*, issued in 2002 by the Pontifical Council for Social Communications, which reviews the Church's benefits in using modern means of communication, while also observing some liturgical limitations. The document states, *inter alia*: 'The virtual reality of cyberspace cannot constitute for real interpersonal community, the incarnational reality of the sacraments and the liturgy, or the immediate and direct proclamation of the gospel'.<sup>27</sup> Hence, 'there are no sacraments on the internet; and even the religious experience possible there by the grace of God are insufficient apart from

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<sup>24</sup> T. Aquinas, *Summ. Theol.* III. lx. 3

<sup>25</sup> See C. Caridi, Can I Make My Confession Over the Phone? Canon Law Made Easy, <https://canonlawmadeeasy.com/2020/04/30/confession-over-phone/>. Accessed 29/03/2024

<sup>26</sup> However, the Austrian theologian, Johann Pock, raised the possibility of putting bread and wine near the television or computer screen and effecting the consecration through the priest's words, uttered in another location. Notable is that this idea was immediately discarded by the Church. (See Johann Pock, Holy liturgy under the sign of Covid-19: a missed opportunity, *theocare.network*, <https://theocare.wordpress.com/2020/03/27/karwochenliturgie-im-zeichen-von-covid-19-eine-vertane-chance/> Accessed 30/03/2024

<sup>27</sup> *The Church and Internet*, n. 5



the real-world interaction with other persons of faith'<sup>28</sup> in a flesh-and-blood human community. Similarly, Thomas Weinandy, a member of the International Theological Commission, explained that 'physical presence is absolutely necessary for the validity of the enactment of the sacrament of penance'.<sup>29</sup> He added: 'The reason I say that is because the sacrament is the action of Christ performed by the minister, and for that action to take place, the priest and the penitent must be in communion with one another in a physical manner'.<sup>30</sup> It is in this same manner that 'you can't baptize someone who's not actually present, and you can't participate in the sacrifice of the Mass, a priest can't confect the Eucharist, without being physically present. Reflecting generally on sacraments, Weinandy observes thus:

The sacraments flow from the Incarnation, and because of that, there has to be a bodily presence of the one who is enacting the sacrament, and the one who is receiving the sacrament, as they are doing the sacrament together. The Incarnation sets the framework for the sacramental order. Sacraments by their nature, are incarnational signs that effect what they symbolize and symbolize what they effect, and one must be a part of that sign and reality to participate in the sacrament.<sup>31</sup>

In the same manner, Lombardi responded to the proposition that sacramental confession might one day take place by iPhone app by saying that 'it is essential to understand well that the sacrament of penance requires necessarily the rapport of personal dialogue between penitent and confessor and absolution by the present confessor'.<sup>32</sup>

It is apt to note that the above theological explanation was not pulled out from the blues, if we remember that the Church would have been faced with the same fundamental question in the late 1800s with the invention of the telephone. Human community has had telephone for centuries now, and the Church has never ever indicated that it is proper to make one's confession over the phone, and that despite the obvious difficulty involved in sending missionary-priests to remote regions of the world where priests are few and far between, but phone lines exist. One would

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<sup>28</sup> *Ibid*, n. 9.

<sup>29</sup> Catholic News Agency, Catholic Confession by phone, Skype, or emoji? Could it happen during coronavirus pandemic? Interview with Thomas Weinandy, OFM Cap, <https://www.catholicnewsagency.com/news/43899/confession-by-phone-skype-or-emoji-could-it-happen-during-coronavirus-pandemic>, Accessed 28/03/2024

<sup>30</sup> *Ibid*

<sup>31</sup> *Ibid*. Weinandy noted that 'even in the Old Testament, Moses had to be in front of the burning bush to know he was in the presence of God.' In the 17th century, the Church declared that confession by letter would be invalid.

<sup>32</sup> *Ibid*

### ***ORAEGBUNAM: E-Confession and E-Absolution in the Catholic Church? The Problem of Validity and the Issue of Sacramental Seal***

reasonably expect that if it is adequate to confess sins through the phone, the Church would have said so long ago. Good to note that for over a century, the question of the validity of confessional absolution by telephone was raised by a parish clergy, prompting the then editors of the *Homiletic Monthly*, the precursor to *Homiletic and Pastoral Review*, a US-based journal for Catholic Clergy to research and present a theological response:

The communication (by phone) does not take away the distance, nor does it render those present to each other who are, *de facto*, at a distance, for at most it is but an efficacious medium of communication between absent persons. This is no new doctrine, for if we ask the general opinion of prudent men on this matter, we will receive the same verdict, that the telephone does not create presence, but only a means of communicating with an absent person. From the mere fact, then, of two persons being in communication it does not follow that they are present to each other, as can easily be seen in the case of communication had through a messenger or...by means of a letter...The telephone does not supply moral presence.

What connection, then, does the sacrament of penance require between its matter and form? What presence is demanded to exist between the penitent supplying the matter and the confessor pronouncing the words of the form? The theologians have always taught that the penitent should present himself before the confessor as does the criminal before the judge. They have always demanded, for validity of the absolution, that the penitent be present to the confessor so that the words of the form pronounced in an ordinary way should fall upon the penitent in like manner...This then is the idea of Christ which demands this presence for the validity of the absolution. But this presence is certainly not had through the telephone...and no necessity, no matter how great, can supply it....<sup>33</sup>

#### **5.2 The Issue of Confessional Seal**

While a catholic confesses his sins, mortal or venial, he feels strongly assured that the priest will not, under any pretext, disclose any matter heard at the confessional. By extension, he also feels that his confessions will not be heard by any other person apart from the priest. This is what is known as the confessional seal, which is adequately protected by provisions of the canon law. Yet, there is the vexed issue of whether or not there will possibility of one obtaining the confessional communication between the penitent and the priest if the sacrament of reconciliation is celebrated through the social media. In order to examine closely

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<sup>33</sup> The Casuist, *A Collection of Cases in Moral and Pastoral Theology*, Vol. 1, pp 96-98

the canonical features of the confidentiality of confessions, it may be appropriate to copiously quote the relevant canons:

Canon 983(1) – The Sacrament seal is inviolable; therefore, it is a crime for a confessor in any way to betray a penitent by word or in any other manner or for any reason.

(2) An interpreter, if there is one present, is also obliged to preserve the secret, and also all others to whom knowledge of sins from confession shall come in any way.

Canon 984(1) – Even if every danger of relationship is excluded, a confessor is absolutely forbidden to use knowledge acquired from confession when it might harm the penitent.

(2) One who is placed in authority can in no way use for external governance knowledge about sins which he has received in confession at any time.

A profound study of the provisions will reveal that the two canons deal with distinct aspects of confidentiality which the priest and others who may obtain similar knowledge from the confessional must maintain with regard to matters learned from the individual confession of sins by penitents. Canon 983 is concerned with any inviolable sacramental seal. Canon 984, on the other hand, is concerned with other use of knowledge obtained from confessional even when there is no disclosure of a person's sin. It is observed that the canons do not touch other forms of confidentiality to which the priest, nonetheless, is bound as is any recipient of confidences, and bound even more so as the relationship of the priest to the individual is analogous to that of professional counselor.

It is good to note that paragraph (1) of canon 983 which gives a definition of the confessional seal is almost *in pari materia* with paragraph (1) of canon 889 of the Code of Canon Law 1917. But in order to stress the gravity of the violation of the norm, the 1983 code uses the strong word '*nefas*' meaning 'crime'. Thus, neither the canon nor interpretations of it admit of any exception to the norm. This is the meaning of the expression 'in any way ... by word or in any other manner or for any reason'. Again, no distinction is made among the matters confessed, that is to say, the sinful action itself, attendant circumstances, or the penances imposed, etc. Hence, the secrecy concerning the penitent and his/her confession of sins that is to be maintained is total.

However, in relation to the canonical sanctions at the event of breach, a distinction is made between direct and indirect violation of confessional confidentiality. While the former, namely, one in which the penitent's identity is known or may readily be known circumstantially or by implication is punished by *latae sententiae* (automatic) excommunication of the priest and remission of which penalty is reserved only to the Apostolic See in accordance with canon 1388 (1), the later,

**ORAEGBUNAM: *E-Confession and E-Absolution in the Catholic Church? The Problem of Validity and the Issue of Sacramental Seal***

that is, one in which there is only a slight danger that the penitent may be betrayed 'is to be punished in accordance with the seriousness of the offence'. But in any event, canon 983(1) prohibits both direct and indirect violations of confessional confidentiality. Corriden, Green and Heintschel remark that 'the obligation of the canon is not affected by a contrary disposition of civil law in jurisdictions where communications to an ordained minister, whether sacramental or extra-sacramental, are not considered privileged at law.'<sup>34</sup> It is opined that in criminal matter, a priest may encourage the penitent to surrender to authorities. However, this is the extent of the leverage he wields; he may not directly or indirectly disclose the matter to civil authorities himself.<sup>35</sup>

Further, the duty to observe the confessional confidentiality extends not only to interpreters through whom canon 990 permits penitents to confess their sins but also to all who deliberately or indeliberately, accidentally or in any other way, come to a knowledge of sins from confession. But there are some notable distinctions. Canon 889 (2) of the 1917 code had been replaced in the 1983 code so that the obligation of confidentiality which persons other than priests have is no longer called sacramental seal. Again, at the event of betraying a penitent, these other persons are to be punished with a just penalty, not excluding excommunication in accordance with can 1388(2).

Nevertheless, the implication of canon 984 is that other use of knowledge gained from a penitent's confession of sins may be allowed or tolerated only if there is no danger of revealing the matters disclosed in the confession and the identity of the penitent, and if no harm will befall the penitent from the confessor's use of the information. Apart from this, any other use of the information is entirely proscribed by Canon 984 (1). In paragraph (2), the prohibition against the use of knowledge about sins obtained from the confessional is directed towards church authorities, lest they employ such knowledge in external governance. This prohibition is applicable whether or not the action of the authority is beneficial to the penitent. In point of fact, provisions of Canon 894 are *in pari materia* with those of Canon 890 of the 1917 code.

No doubt, the effect of the above canonical provisions is that the confessional seal is absolutely inviolable irrespective of the provision of every other law, civil or otherwise. Violation of it is regarded as grievous crime and attracts heavy penalty under church law. The law puts violating the seal of the confessional in the highest category of crimes, on par with physically assaulting the pope. Priests who violate

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<sup>34</sup> JA Corriden, TJ Green & DE Heintschel (eds.), *The Code of Canon Law: A Text and Commentary*, (Bangalore: Theological Publications in India, 2001) 691.

<sup>35</sup> 'Confessions' in *Wikipedia, the free encyclopedia*, <<http://en.wikipedia.org/wiki/confession>>. Accessed 28/03/2024.

this solemn obligation are automatically excommunicated from the Church. Kings and military dictators have learned over the centuries that one cannot coerce priests into breaking the seal of the confessional. 'They will be martyrs, not state witnesses, if you try'.<sup>36</sup>

There is no gainsaying that the inviolability of confessional seal demands that the content of the communication between the penitent and the priest does not get to the third party. Yet, the facility of modern means of mass communication makes it possible for the third party to fraudulently tap into the sacramental conversation and get seized of it.<sup>37</sup> This can happen in many ways. An attacker could install scripts or software that would let them get the passwords of one's social media accounts if he has your phone or laptop in his hand.<sup>38</sup> Software like those from Passrevelator<sup>39</sup> make it easy to get passwords and other credentials from devices on different platforms.<sup>40</sup> Again, one can gain access through phishing by which a cyber-attacker tricks the victim into giving sensitive or critical information through fraudulent websites, forms, links or other means.<sup>41</sup> It's pretty easy for anyone to make a Facebook clone with React Native. Tools like Zphisher<sup>42</sup> and PyPhisher<sup>43</sup> make it even easier for an attacker by setting up a phishing page and creating links to it. Another way is by password spraying and bruteforcing. Certainly, passwords are a big security concern. They are often repetitive and easy to guess. While spraying is the process of trying out common passwords, bruteforcing is the process of trying out all possible combinations to gain access. Attackers can get the passwords they use in password spraying from common wordlists. Wordlists

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<sup>36</sup>E. Kniffin, Attacks on the Seal of the Confessional, <https://eppc.org/publication/attacks-on-the-seal-of-the-confessional/> Accessed 28/03/2024

<sup>37</sup>See generally I.K.E. Oraegbunam & K. U. Eze, The Internet and its Facility for Criminality: Some Unique Difficulties for Investigation and Prosecution, *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 5 (2014) <https://www.ajol.info/index.php/nauijlj/article/view/136271>, Accessed 31/3/2024

<sup>38</sup>D. Iwugo, How Hackers Attack Social Media Accounts – And How to Defend Against Them, <https://www.freecodecamp.org/news/how-to-protect-social-media-accounts-from-attackers/> Accessed 31/3/2024

<sup>39</sup>This is a fast and efficient artificial intelligence password recovery software. Regardless of the social network or online account, this is a powerful tool for regaining access to valuable data, especially when one has forgotten or misplaced the password for a Gmail, Twitter, or Facebook account. This artificial intelligence software also provides the opportunity to effortlessly connect to any WiFi hotspot, eliminating the need for tedious configurations or reliance on amateur programmers. It helps for the smooth and hassle-free way to reclaim a password and enjoy uninterrupted access to an account.

<sup>40</sup>*Ibid*

<sup>41</sup>*Ibid*

<sup>42</sup>A tool for tricking Internet users into revealing personal or confidential information which can then be used illicitly

<sup>43</sup>*Ibid*

***ORAEGBUNAM: E-Confession and E-Absolution in the Catholic Church? The Problem of Validity and the Issue of Sacramental Seal***

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are a list of passwords usually gotten from data breaches. The larger the wordlist, the higher the chances of compromising any account. Bruteforcing, on the other hand, involves the attacker generating a custom wordlist alongside usernames or emails on different platforms. This is more effective if the attacker has a specified target.<sup>44</sup> Network sniffing, also known as packet sniffing, is yet another means of hacking into conversations between different parties. This is the practice of intercepting and analysing network packets in order to find out what kind of information is shared within the network. If connections are not properly encrypted, an attacker could easily obtain sensitive information about the sites visited and the messages and passwords that are sent and inputted in them, respectively. WireShark<sup>45</sup> is one of the most common tools for this kind of attack.<sup>46</sup> Another means is by data breaches which are unintentional leaks of sensitive or confidential information. These are usually more devastating to users than organisations and could have far-reaching consequences. Passwords and login credentials from data leaks can be sold and purchased on the dark web. They are then used to gain unauthorised access to the account and the rest is history.

Another most convenient way of getting hold of the communication between the penitent and the priest should they deploy telephones is the ‘call divert’ or ‘call forwarding’ facility. Call forwarding is a feature of phone systems that works by redirecting incoming calls to a different phone number or a service. It is also often referred to as ‘call transfer’.<sup>47</sup> When a ‘Call forwarding’ is activated on a phone number, this means that incoming calls to that phone number can be redirected to some other phone number. Anyone calling that phone number will be connected onward to the forwarding destination number that has been set. Assuming this setting was fraudulently done by a criminal third party on the phone number of either the penitent or the priest to his own, then that third party can be privy to the penitent’s confessions. A forwarded call is actually two calls. When you use forwarding, this usually means that there are two calls being connected together by your phone company. One is the incoming call which is the call from the person that called your number. The other is the outgoing call which is the call from your phone company to the destination you selected.<sup>48</sup> All these interconnections of calls

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<sup>44</sup> *Ibid*

<sup>45</sup> Wireshark can be used as a tool for hackers. This usually involves reading and writing data transmitted over an unsecure or compromised network. Nefarious actors may seek out confidential data such as credit-card information, passwords, search queries, private messages, emails, financial transactions, and more.

<sup>46</sup> *Ibid*

<sup>47</sup> L. Do, What Is Call Forwarding and How Does It Work? <https://www.ringblaze.com/blog/call-forwarding/> Accessed 01/4/24

<sup>48</sup> H. Thome, How Call Forwarding works <https://sonetel.com/en/call-forwarding/> Accessed 01/4/24

may not be encrypted along the trajectory thereby jeopardizing the secrecy required of the communication in the celebration of the sacrament of reconciliation. Penance via electronic means would threaten penitents' right to confess privately ordinarily guarded by the seal of confession. Anagwo succinctly captures this porosity of the new media with regard to the breach of confessional seal thus:

ICT gadgets have main servers from where any information that has passed through them can be retrieved. The machine is not bound by any oath or seal to choose whom to access it or not. Once anyone has access to know what to do or better still, the right button to press, then very sensitive information can be hacked, and the seal of confession breached. When such situation occurs, the electronic device is not blamed because it is not bound by any seal of secrecy.<sup>49</sup>

Nevertheless, it is good to note at this juncture that tapping into confessional conversations, as in other forms of conversation, must not always be for fraudulent purposes. Sometimes, such interference may be permitted by civil law especially in jurisdictions where such communications are not privileged. Ordinarily, eavesdropping or any form of violation of communication privacy, such as confessional secrecy, is a breach of fundamental right.<sup>50</sup> Yet, exercise of fundamental rights is hardly absolute as there can be claw-backs if the exercise is at the threshold of violating another person's right, or for the purpose of preserving public order, public safety, public defence, public morality.<sup>51</sup> It is such curtailment on the fundamental right of privacy that empowers law enforcement agents to conduct searches, make seizures or play the role of agent provocateur during investigation. According to this law, a confessor can be compelled or subpoenaed to testify as to what he heard in confessions. Happily, confessors in such jurisdictions had always preferred being sent to jail rather than break the confessional secrecy.<sup>52</sup> Under the criminal justice law, a priest can be compelled

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<sup>49</sup> E. C. Anagwo, *The Nexus Between ICT and Liturgy: Towards Consolidating Digital Worship in the African Context*, LIT VERLAG Dr. W. Hopf Berlin, Germany, 2023, p. 69.

<sup>50</sup> See the Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended), section 37. It has also been argued elsewhere by the current author that interrupting with the confessional seal by the third party is a violation of the fundamental rights to freedom of religion, though and conscience of both the penitent and the priest (I.K.E. Oraegbunam, 'A Case for Priest-Penitent Privilege in Nigerian Jurisprudence', *International Journal of Research (IJR)* Vol-2, Issue-1 January 2015, Available at <http://internationaljournalofresearch.org/index.php/ijr/article/view/1355/1277> or [https://www.academia.edu/26386909/A\\_Case\\_for\\_Priest\\_Penitent\\_Privilege\\_in\\_Nigerian\\_Jurisprudence](https://www.academia.edu/26386909/A_Case_for_Priest_Penitent_Privilege_in_Nigerian_Jurisprudence), Accessed 29/03/2024).

<sup>51</sup> CFRN 1999 (as amended), section 45.

<sup>52</sup> I.K.E. Oraegbunam, 'A Case for Priest-Penitent Privilege in Nigerian Jurisprudence', *International Journal of Research (IJR)* Vol-2, Issue-1 January 2015. Available at

***ORAEGBUNAM: E-Confession and E-Absolution in the Catholic Church? The Problem of Validity and the Issue of Sacramental Seal***

under criminal sanctions to testify as to what he heard in confessions, failing which he can be charged for the offence of concealment or compounding depending on the grievous nature of the criminal acts confessed by the penitent. Hence, it goes without saying that since Catholic priests would prefer to suffer the relevant criminal punishment, law enforcement agents can resort to hacking into the confessional conversation between the penitent and the priest in order to secure evidence for prosecution. This is especially possible where illegally obtained evidence is still admissible in court even as the victim can maintain a civil action against the law enforcement agent and claim damages.<sup>53</sup> This strictly inter-personal nature of the dialogue presupposes the Church's requirement of the confessional seal demanded of the confessor even under the threats of criminal evidence law in some jurisdictions where the sacramental communications between the penitent and the priest are not privileged.

## **6. Conclusion**

In the light of the above reflections, it is observed that the Catholic Church would be hesitant at permitting sacramental confessions via the social media. Rather, the Church allows for general absolution in much defined circumstances, namely, when 'danger of death is imminent and there is insufficient time for the priest or priests to hear the confessions of the individual penitents' or in times of grave necessity.<sup>54</sup> One would think that in the event of this urgency, the Church would have permitted the use of the new media in order to, for instance, avert the consequences of the danger of death of the penitent or penitents; yet the Church does not do that. Even in giving general absolution as done during the Covid-19 pandemic, Church regulations require physical proximity between the priest and the penitents even if such penitents are gravely and infectiously ill or in the time of grave necessity such as war.<sup>55</sup> Hence, it is clear that physical presence is necessary for valid absolution, and phone lines or other high-tech means of

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<http://internationaljournalofresearch.org/index.php/ijr/article/view/1355/1277>. Or [https://www.academia.edu/26386909/A\\_Case\\_for\\_Priest\\_Penitent\\_Privilege\\_in\\_Nigerian\\_Jurisprudence](https://www.academia.edu/26386909/A_Case_for_Priest_Penitent_Privilege_in_Nigerian_Jurisprudence), Accessed 29/03/2024.

<sup>53</sup> See I. K. E. Oraegbunam, B. E. Ewulum, & I. Agwuncha, "Illegally Obtained Evidence in Nigeria: Juxtaposing the Provisions of the Evidence Act 2011 and the Administration of Criminal Justice Law 2010 of Anambra State", *African Journal of Criminal Law and Jurisprudence* 1(2016), 59-67.

<sup>54</sup> Code of Canon Law, canon 961.

<sup>55</sup> Canon Law Made Easy, Confessions and General Absolution, <https://canonlawmadeeasy.com/2007/12/13/confession-and-general-absolution/> Accessed 2/04/2024. Even with general absolution, the Church's rite says that "penitents who wish to receive absolution . . . indicate this by some kind of sign," such as by kneeling or bowing the head, and by saying an act of contrition. As the Council of Trent taught, "If anyone . . . says that the confession of the penitent is not required in order that the priest be able to absolve him, let him be anathema" (DH 1709).



communication cannot just be deployed. While information and communications technology (ICT) is a game changer, making it possible to now connect the world as a global village more easily than ever, yet with regard to celebrating the sacraments, physical closeness is a key factor. The sacraments, in their various ways, constitute a direct encounter with Christ, the Head, through the ministry of the incarnational Church which is the sacrament of salvation, rather than through the instrumentality of phone lines or internet connections. 'The sacraments are efficacious signs of grace.' As signs, sacraments are physical. They are driven by spiritual principles and ends, but they are rites involving physically manifested words, gestures, and things.<sup>56</sup> Still more, as Anagwo puts it, 'E-confessions do not warrant proper disposition of the confessor and the liturgical decorum necessary for the celebration of the sacrament. The priest may be driving, taking his bath, eating or playing games.'<sup>57</sup>

It is unlikely that the Church would allow celebration of the Sacrament of Reconciliation through electronic means since the sacrament requires both joint physical presence and live interpersonal action between the penitent and priest-confessor. It seems that the conditions for a full, natural, human conversation must exist. A penitent cannot 'confess sins sacramentally to an absent confessor by letter or through a messenger' or 'receive absolution from this same absent confessor'.<sup>58</sup> The problem was not confession by the written word; such confession was readily permitted. The problem was also not confession via the aid of another human person; confession is possible with a language interpreter, for instance. The problem was the issue of simultaneous presence and action, so that the confession and absolution were a part of a single, physical, cooperative conversation. The sacrament demands a truly human presence and dialogue, which entails a natural, human scale. If a penitent's confession uses solely artificial means without any natural sign that manifests contrition to the priest-confessor, or if the priest's absolution uses merely artificial means, one certainly does not have the physicality and actuality necessary for sacramental signification. It thus means that the conditions for a physical tête-à-tête must exist and that the natural organs and senses must be engaged in the sacramental reality. In fact, while it is possible to conduct a spiritual direction, and bless, pray for and with a person through the new media, the Catholic Church may not permit the celebration of sacrament of reconciliation through such means.

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<sup>56</sup> D. M. Langevin, First Things, <https://www.firstthings.com/web-exclusives/2020/04/why-we-cant-confess-over-zoom>, Accessed 2/04/2024

<sup>57</sup> E. C. Anagwo, *Op. Cit.*, p. 69.

<sup>58</sup> DH 1994