

Abortion and Canon Law

It is commonly thought that the Church excommunicates people who have procured a successful abortion. In fact, in probably the majority of cases, mitigating circumstances prevent the censure of excommunication from being incurred. The tragedy of abortion triggers distinct and separate questions regarding the personal responsibility of one who procures a successful abortion: has a sin been committed? and, has a crime been committed?

A sin is a purposeful and deliberate offense against the will of God; an utterance, a deed or a willfully-entertained desire contrary to God's law. Objectively, abortion is a mortal sin, gravely contrary to the moral law.

A crime is a violation of a church law or precept that has been formally established by an ecclesiastical authority which has legislative power (cf. cc 1311 & 1315). While it might be surprising to many people, actually very few sins have been established by the Church as also being crimes. But among those few sins that are crimes, abortion clearly is included (c. 1398).

Going hand-in-glove with crime is the reality of penalty, which is a sanction established by Church law that may be applied against a person who commits a crime to motivate that person to return to the Church's way of life (cf. c. 1311). According to the *Code of Canon Law*, both a person who procures a successful abortion, as well as any accomplice whose cooperation was necessary for a successful abortion, incur the automatic (*latae sententiae*) penalty of excommunication (cf. cc. 1398; 1329, §2; & 1314). Actually, excommunication is a censure which should be seen as a medicinal penalty, meaning that it is intended to foster repentance and reconciliation (cf. c. 1312, §1, 1^o). Thus, excommunication may be applied only until the offender accepts God's healing grace and repents, at which time the excommunication is to be lifted in the Sacrament of Reconciliation. In other words, the Church has established excommunication as a penalty in cases of abortion to give witness to the gravity of the offense not perceived by the secular society, rather than as a permanent stigma for the offender to bear.

A few terms deserve explanation. **Abortion** is the killing of an embryo or fetus by whatever means, and at whatever time from the moment of conception. **Procure** means to acquire, obtain, induce, or cause directly and intentionally by means of physical or moral action. Consequently, a person who actively participates in the abortive act procures the abortion. **Successful** means the goal is attained, not simply desired, intended and/or attempted. Hence, while the desire, intention and/or attempt of an abortion would be gravely sinful, they do not constitute the crime of abortion.

So, can we say that all persons who procure a successful abortion in this strict legal sense are automatically excommunicated? No, because, just as civil law recognizes mitigating circumstances that remove or reduce responsibility, so does Church law. Thus, the following persons are **never subject to any penalty** for procuring a successful abortion (cf. c. 1323):

1. One who habitually lacks the use of reason
2. One who has not yet completed the sixteenth year of age
3. One who without any fault was unaware of violating a law or precept of the Church (even though aware that abortion is a serious/mortal sin)
4. One who acted under compulsion by physical force or in virtue of a mere accident which could neither be foreseen nor prevented when foreseen
5. One who acted out of grave fear, even if only relatively grave (grave fear is an internal response of a person to the credible threat of serious evil to be inflicted by another person).

Next, the following persons are **not subject to an automatic penalty** for procuring a successful abortion, although a **penalty might be imposed as a result of a church process** (cf. c. 1324):

1. One with only the imperfect use of reason
2. One who lacked the use of reason due to drunkenness or another similar mental disturbance which was culpable
3. One acting in the serious heat of passion which did not precede and impede all deliberation of mind and consent of the will, as long as the passion itself had not been voluntarily stirred up or fostered
4. A minor who has completed the age of sixteen years but is not yet eighteen years of age
5. A person who was forced through grave fear, even if only relatively grave
6. One who without any fault was unaware that a penalty was attached to the law or precept.

Therefore, for a person to be **automatically excommunicated** that person must have procured a successful abortion or have been an accomplice to a successful abortion AND:

1. Possess perfect use of reason
2. Been at least 18 years of age
3. Been aware that church law includes the penalty of excommunication for the crime of abortion (this is different from simply knowing that abortion is a serious or mortal sin)
4. Been able to exercise his or her free will and not operating out of grave fear, serious heat of passion, drunkenness or another similar mental disturbance.

The censure of excommunication can be removed by the diocesan bishop and those priests who have the faculty to do so within the diocese, using the formula provided in Appendix I to the Rite of Penance (cf. cc. 1354-1357).

Finally, let's look at **what it means to be excommunicated**. The penalty of excommunication forbids a member of the Church (cf. c. 1331):

1. To have any ministerial participation in celebrating the Eucharistic Sacrifice or in any other ceremonies whatsoever of public worship
2. To celebrate the sacraments and sacramentals and to receive the sacraments
3. To discharge any ecclesiastical office, ministry or function whatsoever, or to place any act of governance.

Please note carefully, however, that an excommunicated person, although outside the sacramental life of the Church and unable to exercise authority of ministry within the Church, still remains a member of the Church, still is a Catholic. Moreover, an excommunicated person is not prohibited from attending Mass or other public acts of worship, nor from taking part in private acts of prayer or devotion. In fact, these should be encouraged so as to help the excommunicated person to become contrite and to reform his or her life.

If you have any further questions about abortion and canon law, you may want to contact a canonist in your diocese. ■



Resources

Please order resources directly from the publishers.

- Aborted Women: Silent No More**, by David C. Reardon. Chicago, Ill.: Loyola University Press, 1987. (Loyola University Press: 800-621-1088)
- Abortion and Healing: A Cry to Be Whole**, (2nd ed.) by Rev Michael T. Mannion. Franklin, Wisc.: Sheed & Ward, 1992. (Sheed & Ward: 800-BOOKLOG)
- Catholic Women and Abortion: Stories of Healing**, ed. Pat King. Franklin, Wisc.: Sheed & Ward, 1994. (Sheed & Ward: 800-BOOKLOG)
- The Jericho Plan: Breaking Down the Walls Which Prevent Post-Abortion Healing**, by David C. Reardon. Springfield, Ill.: Acorn Books, 1996. (Acorn Books: 888-412-2676)
- Men and Abortion: A Path to Healing**, by Catherine T. Coyle. Belleville, Ont. (Canada): Essence Publishing, 1999. (Essence: 800-238-6376)
- Mother of Mercy and of Love**, by Therese Marie Green. Mukilteo, Wash.: WinePress Publishing, 1998. (WinePress Publishing: 800-917-BOOK)
- No One Told Me I Could Cry: A Teens' Guide to Hope and Healing After Abortion**, by Connie Nykiel. Frankfort, Ill. Young Family Press, 1997. (Young Family Press: 888-367-8336)
- A Path to Hope**, by Rev. John J. Dillon. Mineola, N.Y.: Resurrection Press, 1990. (Resurrection Press: 800/892-6657)
- Post-Abortion Aftermath**, ed. Rev. Michael Mannion. Franklin, Wisc.: Sheed & Ward, 1994. (Sheed & Ward: 800-BOOKLOG)
- The Post-Abortion Review**, Springfield, Ill.: Elliot Institute. Quarterly publication focusing on post-abortion injuries. Annual subscription \$20.00; introductory subscriptions available for a limited time at \$10.00 (Elliot Institute: 217/546-9522)
- Psycho-Spiritual Healing AFTER Abortion**, by Rev. Michael Mannion. Franklin, Wisc.: Sheed & Ward. (Sheed & Ward: 800-BOOKLOG)
- A Rachel Rosary: Intercessory Prayer for Victims of Post-Abortion Syndrome**, by Rev. Larry Kupferman. Williston Park, N.Y.: Resurrection Press. (800-892-6657)

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