**UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD**

**ALTERNATIVE REPORT ON FRANCE**

**LIST OF ISSUES PRIOR TO REPORTING FOR THE 88TH SESSION**

**PREPARED BY THE (UK) NATIONAL SECULAR SOCIETY**

**JULY 2020**

THERE IS NO TABLE OF CONTENTS AS ALL MATERIAL RELATES TO CLUSTER 4.

**4. Civil Rights and Freedoms (Article 19)**

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The scale and institutional nature of the problem

An investigation in 2017[[1]](#footnote-1) found 27 bishops who had failed to disclose child sex abuse (CSA) in France’s Catholic Church and identified 339 victims that were presumed not to have received justice in respect of abuse by 32 allegedly predator priests, 28 of whom “were even moved geographically as soon as bishops or clerics were notified of sexual abuse, without the justice ever being informed”. Disclosure has been mandatory since 2002 on pain of a prison sentence and substantial fine.

The Church has not denied the accusations.

The list of 27 non-reporting bishops included the leading bishop in France until earlier in 2020, Cardinal Philippe Barbarin (PB), as well as his four predecessors. PB was convicted of failing to report abuse (a suspended sentence with no fine), although this was overturned on appeal because his lawyers claimed the reporting obligation had expired, rather than that PB had not known of the abuse. That acquittal is itself subject to further appeal to France’s highest court[[2]](#footnote-2). Some specific examples are given below.

A 92 year old priest and former abbot called Roger Matassoli murdered in 2019 near Beauvais (France). The murder was allegedly carried out by a young man who was reportedly being abused by the priest who had also abused his father which had resulted in his grandfather committing suicide[[3]](#footnote-3). Numerous accusations of CSA by the priest had been made to the Church over the years (and more following the murder). In 1989 the priest had admitted to Church authorities abuse going back to 1962[[4]](#footnote-4). Neither the current bishop of Beauvais (France), nor his predecessors reported the abuse accusations and none are included in the Mediapart investigation referred to above.

In 2018 André Fort (AF), former bishop emeritus of Orléans, France became the second bishop in France to be found guilty of failure to report CSA, ever. He was threatened with a year's imprisonment for failure to attend court described and "strategy of flight, suffocation and lies”.[[5]](#footnote-5) AF was sentenced for not reporting to 8 months in prison, suspended, and no fine. The perpetrator he had protected was jailed for CSA offences against “dozens of victims” over twenty years[[6]](#footnote-6) and yet despite AF’s assurances to a victim, he was found to have “officiated with the Scouts of Europe”.[[7]](#footnote-7)

The abuser that Cardinal Philippe Barbarin (PB) failed to denounce was former father Bernard Preynat. Preynat “testif[ied] that as a scout chaplain he had abused as many as two boys ‘almost every weekend’ and as many as four or five a week on camp outings … from the 1970s to the 1990s”[[8]](#footnote-8). A court president described Preynat’s abuse as occurring “almost on[c]e a day”, and one child was reportedly abused over 50 times.[[9]](#footnote-9) “More than 80 other people testified allegations of abuse by Preynat over a 20-year period” – clearly thousands of victims and surely known widely throughout the Church at all levels, but no one informed the police.

Preynat was not defrocked by PB until 2019[[10]](#footnote-10) when adverse publicity about Preynat and his own role left him with little alternative. This was over half a century since the Church first learned that he was sexually abusing children.

PB told a press conference in 2015 "Thank God, the events are beyond the limitation period (for prosecution)"[[11]](#footnote-11). PB blamed “senior church officials” stating they knew about the CSA but later “acknowledged that he had heard about the abuse as early as 2010”[[12]](#footnote-12), as Preynat testified[[13]](#footnote-13). Despite all this, PB testified in 2019 "I cannot see what I am guilty of. I never tried to hide, let alone cover up these horrible facts."[[14]](#footnote-14).

PB sought to hide behind the Vatican’s Prefect of the Congregation of the Doctrine of Faith who had advised him by letter to “avoid public scandal”.

PB’s only regret is that "This affair will remain linked to my name and will hang around my neck forever".[[15]](#footnote-15)

The first bishop to be convicted by a secular court since 1841 was Pierre Pican (PP), bishop of Bayeux who was convicted in 2001 of non-disclosure of CSA by Fr. René Bissey. The Vatican was also criticised by the UNCRC[[16]](#footnote-16) for congratulating the bishop for not denouncing the priest, as required by French law. These congratulations were allegedly made with Pope John Paul II’s approval.[[17]](#footnote-17)

“It shocked church officials that a court would convict a man named by the pope”[[18]](#footnote-18), in effect asserting that bishops should not be subject to secular criminal law.

We conclude that CSA has been substantial and much greater than it would have been had the Church followed the criminal law. A victim lawyer has suggested[[19]](#footnote-19) The Church is incapable of self-regulation and transparency”.

Judicial and legal concerns

The prosecutor asked for a prison sentence for Preynat of at least eight years for multiple offences, but the court sentenced him just five years. He appealed and the court is yet to imprison him.[[20]](#footnote-20)

Returning to AF, according to *Le Monde,* lawyer Fréty for the victims of Castelet and AF’s non-disclosure noted*:* "Since the beginning of this investigation, there has been a case for an indictment of the hierarchy for non-disclosure. The prosecutor's office itself acknowledges that the elements are there, but it does not go through with it." This apparently changed only because “Mgr Fort was finally indicted after the publication of this article and is to be tried alongside the priest, Tuesday, October 30, 2018, for non-denunciation.”[[21]](#footnote-21) We hope that justice was not exercised only on AF because of publicity in *Le Monde.*

Returning to PP, the prosecutor “requested a sentence ranging from four to six months in prison, suspended. Yet the court sentenced PP to just three months in prison, suspended, and no fine, despite “[finding] PP guilty of intentionally obstructing the action of justice”. The rape victims were award only a symbolic one Franc in damages each.[[22]](#footnote-22)

We conclude that the examples we cite suggest that there is a case to answer that many in the Church, especially at the highest levels, consider themselves above the law on CSA or CSA reporting, that the courts appear to treat senior clergy with extraordinary leniency and that the law on CSA reporting is in serious need of reform.

The need for a judicial or parliamentary inquiry and the failure to instigate one

Former Minister of Health, Roselyne Bachelot, lawyers Jean-Pierre Mignard and William Bourdon, and other co-the founders of the victims' association La Parole Liberée called in 2018 for a parliamentary commission of inquiry to uncover "the crimes of paedophilia and their concealment in the Catholic Church". Sadly, attempts to launch a Parliamentary Commission of Inquiry failed in the Assemblé Nationale.[[23]](#footnote-23)

The Church-instituted Sauvé Commission started its work in 2019 and had received 4,500 witness calls by May 2020[[24]](#footnote-24). It is no criticism to point out that it is no substitute for a Parliamentary Commission of Inquiry. Its remit[[25]](#footnote-25) does not consider blame or the operation of justice, nor does it have powers of discovery or summons.

The French Sénat report in 2019 on “sexual offences that may be committed by persons in contact with minors in the course of carrying out their profession or duties”[[26]](#footnote-26) was no substitute either. We examined in detail the forty pages of section II C devoted to “offences in a religious context”, mostly relating to the Church, together with related proposals. With the exception of the contributions from victims/survivors and Proposal 9 concerning a Mandatory Reporting law applying to professionals (referred to in the suggested questions below), it is a deeply disappointing document that will do little if anything to improve France’s conformity with the Convention relative to CSA in religious settings. Our 100 comments on the religious context are attached as Appendix 2.

The report is selective and uncritical about the Church’s role in CSA, baselessly optimistic that the Church and the Pope have turned some unspecified corner to belatedly tackle this centuries-old problem and implies that it should be left to do so. Particularly disturbing, is that canon law could play a major role in this solution, implicitly more than that of criminal law. It did acknowledge that canon law needed reforming to achieve this, by requiring CSA to be reported to civil authorities. We can only assume that the report’s authors did not now that the CRC asked for this in 2014 and the Pope and his commission have actively resisted doing so.

Indeed, Catherine Bonnet resigned from the Pope’s Commission for the Protection of Minors because she was unable to persuade it to recommend “that bishops and superiors of religious orders should be required to report suspected sexual abuse of minors to civil authorities”. She was asked in a newspaper interview about whether more was needed beyond the Sauvé Commission to tackle clerical CSA in France. She responded: “If you want to arrest criminals, there has to be a change in the law, because that is the only thing that scares them.”[[27]](#footnote-27)

Such CSA is therefore an emerging trend and a key issue in conflict with the Convention about which questions need to be posed to the State party.

1. The Committee is deeply concerned about the extent to which the existing CSA denunciation law under Article 434-3[[28]](#footnote-28) adequately protects victims, particularly those of clerical abuse.

This includes but is not limited to:

* 1. the many specific allegations of senior clerics having failed to report but not having not been prosecuted, or even if found guilty to have been subject only to short suspended prison sentences and no fine, regardless of how serious the extent of the CSA and the number of abuses and number of victims, when the maximum is Euros 45,000.[[29]](#footnote-29)   
     Not prosecuting those failing to report CSA means not only that they escape justice, but, worse, the abuser would presumably also escape an early conviction and would remain free to continue abusing.  
     Failure to prosecute and derisory penalties risk being interpreted as a tacit acceptance of CSA, whereas rigorous enforcement of the law and appropriate sentences are a deterrent to both potential offenders and those all those who knowingly shield offenders. These are manifestly not limited to bishops or their equivalent in religious orders, but we are not aware of any cases of less senior clergy, administrators or volunteers being prosecuted.
  2. Numerous potential cases not being brought because they fall outside the prescription period of six years. This appears to be too short, bearing in mind that the Australian Royal Commission found that on *average* victims did not claim until 33 years after their abuse.

Our proposed questions, below, are worded as if they were posed by the Committee.

Proposed Questions

1. We request the State party to
   1. Provide a list of prosecutions for CSA in religious settings since 1 January 2002 when Article 434-3 came into force, showing the name and status/position of those prosecuted, whether the defendant pleaded innocent or guilty, the verdict.  
      If guilty, the maximum sentence and fine, taking into account the number of offences, and the actual sentence, whether or not suspended, and any fine.  
      Provide the same information for failure to report CSA, also indicating to which CSA prosecutions failure to report prosecutions are linked  
      Provide a list of CSA prosecutions in religious settings where failure to report could not be prosecuted because it was prescribed.  
      Provide a commentary on the two lists, in particular on whether the level of prosecutions or sentences appear adequate in the light of current knowledge.  
      Provide a list of any non-bishops (e.g. less senior clergy, administrators or volunteers) or their equivalent in religious orders prosecuted for non-disclosure of CSA in religious settings, investigate whether there is any policy, procedure or custom not prosecute them and if so whether these should be changed so that prosecutions should be routinely considered in future.
   2. Provide a list of prosecutions and convictions for the destruction of records relating to CSA in religious settings
   3. investigate and report on allegations of current and historic failures to conform to Article 434-3, for example by Mediapart[[30]](#footnote-30) ,the Beauvais/Matassoli case[[31]](#footnote-31) and Bishop Fort[[32]](#footnote-32), determine the reasons therefor and to propose statutory and procedural changes as well as any other measures that would ensure as many alleged cases as possible are reported in future.
2. Consider revisions or clarifications to Article 434-3:
   1. for the prescription period in the case of CSA reporting should be materially extended to reflect the average interval between victims being abused and making a claim. This has been found to be 33 years[[33]](#footnote-33). Also to consider whether such an extension could be applied retrospectively, which would not amount to making unlawful any act not previously unlawful.##
   2. so that the offence clearly applies to those who: chose not to pursue rumours of CSA; chose not to ascertain the precise details of CSA; made it known they do not wish to be informed about CSA.##
   3. so that the obligation to report is not extinguished by others having an obligation to report. This could include child witnesses or even victims coming of age.##
   4. so that the obligation to report is not extinguished by professional secrecy or the confession[[34]](#footnote-34), as it is not in Australia[[35]](#footnote-35), following the recommendation of its abuse Commission, nor in Ireland
   5. those disclosing suspected CSA, even if it is not subsequently proved, should be protected from charges of slanderous denunciation unless they can be proved to have acted in bad faith, and that those making such disclosures should not be confronted by those they have suspected.##
   6. So that it becomes mandatory to suspend those suspected of CSA until the allegations have been investigated and concluded.
   7. So that the obligation to report does not expire with the prescription of the crime itself.

## These proposals are designed to overcome actual or reported examples [available on request] of failure to report CSA where Article 434-3 was not or could not be employed.

1. Consider whether the interests of victims and justice would be better served by the establishment of a Commission of Inquiry into CSA in religious settings (including religious orders) and possibly also sports settings along the lines of the Australian Royal Commission or the England & Wales Inquiry. It would, as victims’ lawyers have requested be a parliamentary commission of inquiry [with] (the obligation to respond to summonses, sworn hearings, possible criminal prosecutions). … The Commission of Inquiry could also request the release of a series of documents, such as the diocesan archives.”[[36]](#footnote-36)
2. To provide information on whether in respect of the Criminal Law on CSA:
   1. the maximum sentence of ten years in prison for CSA not involving rape could be materially increased, given the difficulty of proving rape (for which the maximum sentence is 20 years) many years after offence(s) occurred[[37]](#footnote-37).
   2. the prescription for CSA should be further increased, given that “80% of the cases revealed by these testimonies [to a victims’ group] would be prescribed”[[38]](#footnote-38)
   3. the law and penalty are adequate to punish those destroying records of CSA and deter others.[[39]](#footnote-39)
   4. Consider what further the State Party could do ensure that victims’ agreements not to initiate prosecutions for CSA or failure to inform knowledge of CSA, even if not evidenced in writing or even if in exchange for any sum or consideration, be rendered void and for this to be widely publicised. We have been informed by a priest that such agreements are standard with the Church: “It is an unwritten rule to ask for silence on amounts with a commitment not to pursue further prosecutions. This was the policy of SAM, the mediation reception service of the bishops of France.”
   5. Consider whether the law could be strengthened to require prominent displays about CSA and reporting it to external bodies in religious and sports settings.
3. Consider whether education could be improved to increase awareness in an age-appropriate manner about CSA and the importance of reporting it externally.
4. To ask for a progress report on the Sénat report’s Proposal 9, which we commend, for a study into new law on mandatory reporting of CSA that would apply to those serving professionally or in institutions, as opposed to the general public. We invite the State Party to provide a draft or proposed criteria and suggest that consideration be given to the comments above in point 3 above about article 434-3.  
   The first Appendix, an attachment, is a suggested model law on mandatory reporting prepared by Prof Ben Mathews, an international expert on Mandatory Reporting. He is known to the Committee, and made a presentation to the statutory abuse inquiry for England & Wales called IICSA; there is relevant information on its website[[40]](#footnote-40).  
   We are confident Prof Mathews would be happy to answer any questions posed by those considering the introduction of such a law for France,
5. # The Committee notes an informal proposal on pages 15/16 of the Sénat report: “However, it would be possible to go further by following, for example, the suggestion of Catherine Bonnet, a former member of the Vatican commission charged with combating paedophilia in the Church, who proposed to insert into canon law an obligation to report to civil authorities for all bishops and religious superiors. Such a measure would be favourable to the victims because it would remove any ambiguity and thus make the bishops and other clerics accountable, who could no longer hide behind the ignorance of French criminal law to justify their inaction.”  
   Could the State party confirm whether it considers such changes to Catholic canon law, even if they were achievable, would remove any ambiguity and thus make the bishops and other clerics accountable, who could no longer hide behind the ignorance of French criminal law to justify their inaction?

1. <https://www.mediapart.fr/journal/france/220517/le-nombre-d-eveques-ayant-couvert-des-abus-sexuels-passe-27?page_article=1> and <https://www.ncronline.org/news/accountability/french-tv-inquiry-accuses-25-bishops-abuse-cover-ups> [↑](#footnote-ref-1)
2. <https://www.nytimes.com/2020/01/30/world/europe/cardinal-abuse-france.html> [↑](#footnote-ref-2)
3. <https://www.thetablet.co.uk/news/12296/murdered-priest-had-abused-father-and-son> [↑](#footnote-ref-3)
4. <https://www.lefigaro.fr/actualite-france/derriere-le-meurtre-du-pere-matassoli-la-lente-prise-de-consience-de-l-eglise-vis-a-vis-de-la-pedophilie-20200114> [↑](#footnote-ref-4)
5. L'Echo Républicain, 1 Novembre 2018, “Le silence coupable de l'Église” not online « la stratégie de fuite, d'étouffement et de mensonges » [↑](#footnote-ref-5)
6. <https://www.magcentre.fr/165364-orleans-le-proces-de-la-pedophilie-et-du-pesant-silence-de-leglise/> [↑](#footnote-ref-6)
7. <https://www.lemonde.fr/societe/article/2017/04/14/journal-crypte-d-un-pretre-pedophile_5111089_3224.html> [↑](#footnote-ref-7)
8. <https://www.nytimes.com/2020/03/16/world/europe/bernard-preynat-france-abuse.html> [↑](#footnote-ref-8)
9. <https://www.web24.news/a/2020/01/the-freezing-confessions-of-bernard-preynat.html> [↑](#footnote-ref-9)
10. <https://www.bbc.co.uk/news/world-europe-51910689> [↑](#footnote-ref-10)
11. <https://international.la-croix.com/news/priest-launches-petition-seeking-french-cardinals-resignation/8275> [↑](#footnote-ref-11)
12. <https://www.nytimes.com/2020/03/16/world/europe/bernard-preynat-france-abuse.html> [↑](#footnote-ref-12)
13. <https://novenanews.com/france-pedophile-preynat-contradicts-cover-up-cardinal-barbarin-confessed-years-before/> [↑](#footnote-ref-13)
14. <https://www.sudouest.fr/2020/01/30/proces-barbarin-jour-j-pour-le-cardinal-juge-en-appel-pour-ses-silences-7129506-10564.php> [↑](#footnote-ref-14)
15. <https://www.thetablet.co.uk/news/12460/barbarin-regrets-damage-to-his-reputation> [↑](#footnote-ref-15)
16. <https://www.secularism.org.uk/uploads/concluding-observations-holy-see-crc-annotated-by-nss.pdf> [↑](#footnote-ref-16)
17. <https://www.reuters.com/article/us-pope-abuse-cardinal/john-paul-backed-praise-for-hiding-abuse-cardinal-idUSTRE63G1SH20100417> [↑](#footnote-ref-17)
18. <https://www.lemonde.fr/archives/article/2001/09/05/mgr-pican-condamne-a-trois-mois-de-prison-avec-sursis_219190_1819218.html> and [denonciation-de-crimes-et-d-atteintes-sexuelles-sur-mineurs-\_NP\_-2001-09-05-140404](https://www.la-croix.com/Archives/2001-09-05/Le-tribunal-correctionnel-de-Caen-a-condamne-hier-Mgr-Pican-a-trois-mois-de-prison-avec-sursis-Il-avait-comparu-en-juin-pour-non-denonciation-de-crimes-et-d-atteintes-sexuelles-sur-mineurs-_NP_-2001-09-05-140404) and <https://www.newspapers.com/newspage/106954563/> (PA story) and <https://www.la-croix.com/Archives/2001-09-05/Le-tribunal-correctionnel-de-Caen-a-condamne-hier-Mgr-Pican-a-trois-mois-de-prison-avec-sursis-Il-avait-comparu-en-juin-pour-non-denonciation-de-crimes-et-d-atteintes-sexuelles-sur-mineurs-_NP_-2001-09-05-140404> [↑](#footnote-ref-18)
19. <https://www.lexpress.fr/actualite/societe/pedophilie-et-eglise-les-elus-doivent-ils-s-en-meler_2037696.html> [↑](#footnote-ref-19)
20. <https://www.lemonde.fr/police-justice/article/2020/03/16/l-ex-pretre-bernard-preynat-condamne-a-cinq-ans-de-prison-ferme-pour-agressions-sexuelles_6033236_1653578.html> [↑](#footnote-ref-20)
21. <https://www.lemonde.fr/societe/article/2017/04/14/journal-crypte-d-un-pretre-pedophile_5111089_3224.html> [↑](#footnote-ref-21)
22. <https://www.lemonde.fr/archives/article/2001/09/05/mgr-pican-condamne-a-trois-mois-de-prison-avec-sursis_219190_1819218.html> and [denonciation-de-crimes-et-d-atteintes-sexuelles-sur-mineurs-\_NP\_-2001-09-05-140404](https://www.la-croix.com/Archives/2001-09-05/Le-tribunal-correctionnel-de-Caen-a-condamne-hier-Mgr-Pican-a-trois-mois-de-prison-avec-sursis-Il-avait-comparu-en-juin-pour-non-denonciation-de-crimes-et-d-atteintes-sexuelles-sur-mineurs-_NP_-2001-09-05-140404) and <https://www.newspapers.com/newspage/106954563/> (PA story) and <https://www.la-croix.com/Archives/2001-09-05/Le-tribunal-correctionnel-de-Caen-a-condamne-hier-Mgr-Pican-a-trois-mois-de-prison-avec-sursis-Il-avait-comparu-en-juin-pour-non-denonciation-de-crimes-et-d-atteintes-sexuelles-sur-mineurs-_NP_-2001-09-05-140404> [↑](#footnote-ref-22)
23. <https://www.lefigaro.fr/actualite-france/2018/11/02/01016-20181102ARTFIG00269--lourdes-les-eveques-a-l-ecoute-de-victimes.php> [↑](#footnote-ref-23)
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25. <https://www.ciase.fr/mission-de-la-commission/> [↑](#footnote-ref-25)
26. <https://www.senat.fr/rap/r18-529-1/r18-529-11.pdf> [↑](#footnote-ref-26)
27. <https://www.lexpress.fr/actualite/pedophilie-dans-l-eglise-pourquoi-catherine-bonnet-a-donne-sa-demission-au-pape_1986499.html> [↑](#footnote-ref-27)
28. <https://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=31D8EA20515715F0431E81A56A150B0C.tplgfr38s_2?idArticle=LEGIARTI000037289453&cidTexte=LEGITEXT000006070719&categorieLien=id&dateTexte>= [↑](#footnote-ref-28)
29. <https://www.mediapart.fr/journal/france/220517/le-nombre-d-eveques-ayant-couvert-des-abus-sexuels-passe-27?page_article=1> and <https://www.ncronline.org/news/accountability/french-tv-inquiry-accuses-25-bishops-abuse-cover-ups> [↑](#footnote-ref-29)
30. <https://blogs.mediapart.fr/libre-pensee/blog/180420/l-impunite-des-ecclesiastiques-devant-la-loi> [↑](#footnote-ref-30)
31. <https://www.lefigaro.fr/actualite-france/derriere-le-meurtre-du-pere-matassoli-la-lente-prise-de-consience-de-l-eglise-vis-a-vis-de-la-pedophilie-20200114> [↑](#footnote-ref-31)
32. <https://www.lemonde.fr/societe/article/2017/04/14/journal-crypte-d-un-pretre-pedophile_5111089_3224.htm> [↑](#footnote-ref-32)
33. <https://www.childabuseroyalcommission.gov.au/sites/default/files/gender_of_claimants_by_catholic_church_authority_type.pdf> [↑](#footnote-ref-33)
34. <https://www.secularism.org.uk/opinion/2018/06/the-seal-of-the-confessional-and-child-abuse-a-religious-privilege-too-far> [↑](#footnote-ref-34)
35. <https://www.reuters.com/article/us-australia-abuse-lawmaking/australia-moves-closer-to-compulsory-child-abuse-reporting-by-priests-idUSKBN1Y401B> [↑](#footnote-ref-35)
36. <https://www.lexpress.fr/actualite/societe/pedophilie-et-eglise-les-elus-doivent-ils-s-en-meler_2037696.html> [↑](#footnote-ref-36)
37. Rape on less than fifteen years child: 222-24 2 (penal code). Other sexual aggressions on less than fifteen years child : 222-29-1 (penal code) [↑](#footnote-ref-37)
38. <https://www.lexpress.fr/actualite/societe/pedophilie-dans-l-eglise-une-association-lyonnaise-recueille-400-temoignages_1836268.html> [↑](#footnote-ref-38)
39. <https://novenanews.com/france-church-sex-abuse-inquiry-bishops-clumsy-response-complaints/> and <https://www.dw.com/en/cardinal-marx-to-step-down-as-head-of-german-catholic-bishops-group/a-52339848> We can prove evidence of abuse in France. [↑](#footnote-ref-39)
40. <https://www.iicsa.org.uk/research-seminars/mandatory-reporting-child-sexual-abuse> [↑](#footnote-ref-40)