

# New Church Law

## Protection Of Rights

(Pope John Paul II is expected to issue the new Code of Canon Law within a few months. It will replace the current code, or general law governing Latin-rite Catholics, which was issued in 1917. This is one in a series of articles by National Catholic News Service to give an overview of the new code and what it will mean to Catholics.)

By Jerry Filteau

In the revised Code of Canon Law, which Pope John Paul II is expected to issue soon, the protection of rights in the church will receive a substantial boost.

There are two major areas of progress in this regard.

First, there are clear, explicit statements in law of the basic rights of persons in the church, especially of laypersons. These were generally lacking in the 1917 Code of Canon Law which the new code will replace.

(These rights, discussed in more detail in earlier articles in this series, include — in broad summary — the fundamental equality of all who are baptized, the right of all to participate in the life and mission of the church, and the rights of access to the means for fulfilling such participation. Specifics in the new code go so far as to spell out the rights of lay employees of the church to an adequate wage and to old age and health security.)

But there is an axiom of common law to the effect that "There is no right unless there is a process to protect it."

Thus the second major advance in the protection of rights in the new code is its development of a whole new set of procedural mechanisms for recourse against decisions that a person believes have violated the law or his rights.

In the 1970s many U.S. dioceses, including Rochester, established "due process" procedures — boards or committees of reconciliation and arbitration and norms for their activities — to attempt to reach peaceful resolution of disputes in the church outside the more formal framework of a church court.

But aside from those procedures (which we are affirmed in the new code), little publicity has been given to what could be one of the most important innovations in church law in the new code: the establishment of a multilevel institutional framework to resolve or adjudicate conflicts that may arise from the administrative decisions of someone in authority.

If someone felt wronged by an action or decision of his bishop or religious superior, "the only recourse in the past was to Rome," said Father John Dolciamore, pastor of Divine Providence Church in Chicago and officialis of the Chicago archdiocesan tribunal.

The intrinsic difficulty of appealing an administrative decision all the way to Rome meant that few persons who felt wronged were likely to pursue their case, said Father Thomas Green of the Catholic University of America, one of the leading U.S. experts on the new code.

Under the new code, three levels of recourse against administrative acts are established, at least as options, below the level of Rome:

- The new code urges "strongly" that any conflict over an administrative act be resolved at the local level by out-of-court procedures of conciliation or mediation. In effect this is a strong approval in the general church law of diocesan "due process" procedures such as have been set up in many places. The new code also authorizes (but does not require) conferences of bishops to mandate the establishment of such structures in each diocese within the conference. If the conference does not mandate such structures, individual bishops within that conference can still establish them in their own dioceses.

- The new code sets universal norms of "hierarchical recourse," under which anyone who considers himself injured by an act of an ecclesiastical authority (including an act by the bishop) can petition his local bishop to have that act revoked or modified or to be compensated for the wrong done him.

- Finally, the new code allows (but does not require) bishops' conferences to establish national or regional administrative courts, and a national administrative court of appeals as well, to which anyone may have recourse against an allegedly harmful decree or act by someone in authority.

In Rome the establishment of procedures of recourse against administrative acts is carried through in the new code by a broadening of the competence of the church's supreme court, the Apostolic Signature. It is made the final court of appeal from decisions of lower administrative courts and the first court of recourse against acts by the various departments of the Holy See. (There is no judicial recourse, in either the old code or the new, against acts by the pope or an ecumenical council.)

The new code also advances the protection of individual rights in the more traditional areas of judicial activity in the church, marriage cases and criminal cases.

In marriage court procedures, the new code for the first time specifies in the law itself normal time limits for cases to be concluded. "Before, this was contained in the commentaries, not in the law itself," said Father Dolciamore.

In marriage cases the new code also introduces more flexible rules for determining which court can try a case.

In a traditional society, the new flexibility of place of trial in the code may make little or no difference, but "in a highly mobile society such as the United States it can be very useful," said Father Dennis Burns of the Boston archdiocesan marriage court.

Since 1970 the U.S. church marriage court system has been operating under special procedural norms which exempted it from some of the strict procedures in the old code. These special norms will end when the new code goes into effect, but the more flexible procedures in the new code go a long way toward meeting the needs which prompted the U.S. request for the special procedures. The major difference U.S. church courts will face in the new code is the mandatory appeals court review of all marriage cases, which could be dispensed with under the special U.S. norms.

The other major traditional area of church judicial activity is that of criminal or penal law — the trial and imposition of penalties for crimes committed against the church.

Where the old code has "about 100 separate canons on statutory offenses," the new code will reduce this list to about 25, said Father Green.

He said the new code also reduces the severity of penalties imposed, reduces the number of automatic penalties, and explicitly recognizes the right of a person "not to be penalized except by due process of law."

The new code also eases the lifting of censures once they are imposed, allowing a bishop to lift many that were formerly reserved to the Holy See.

**Blue Army**  
The Blue Army of Our Church, Fathers Robert Lady of Fatima will hold its Doell, Frederick Bush and monthly vigil 9 p.m., Friday, William Endres will lead the Dec. 3, at Holy Rosary rites.

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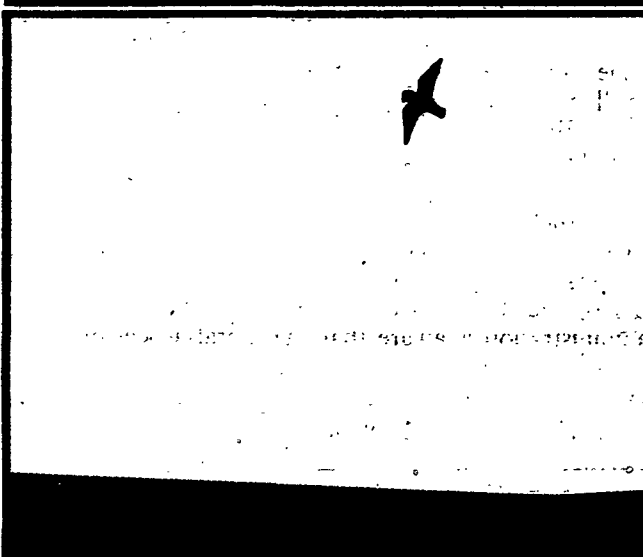
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**THOUGHTS TO CONSIDER**



**EDWIN SULEWSKI**

**Can children benefit from funerals?**  
Children are sensitive and emotional when a death in the family occurs. Children can benefit from a chance to attend the funeral and say their good byes. Like adults, children need some time to adjust and understand what has taken place. Seeing the deceased and understanding that death is different than life helps children avoid myths that suggest the deceased has only gone away or gone to sleep. Children who loved the deceased will gain from the chance to be a part of a meaningful ceremony. They should be told that the ceremony and viewing are special ways to remember the deceased. Naturally, children should only participate if they wish.

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### Sarah Child



All in the Family

### What to Wear Where

I am reading a new book titled "Looking, Working, Living Terrific 24 Hours a Day" by fashion consultant Emily Cho. Under a picture of the attractive author is the directive: "Get Your Life in Order with Personal Style."

It is not my usual kind of reading material. However, heeding the comments of my children who hint that now that youth, looks and wit appear to have flown the coop, it is time to take up the slack, I reluctantly make the effort.

I approach the book with trepidation but on first glance find it is not half bad. Any consultant who begins by ordering you to take your clothes off the doorknob and the bedroom chair and hang them up sounds basic enough for me. Her book is directed toward the woman who works outside the house. Although I have a very nice office downtown, I prefer to do most of my work in the sunporch at home.

It gives me a lot of leeway in various areas. Sometimes I wear my bathrobe to the typewriter (before 8 a.m. and after 10 p.m.) but most of the time I like jeans and a flannel shirt or sweater, adding thermal underwear

and two pairs of socks when the mercury dips below freezing.

Neither the dog nor the birds who dart back and forth all day between the honeysuckle bushes and the feeder have shown any visible signs of disdain.

According to Ms. Cho, however, an editor (on a clothes level between an advertising copy writer and a bank executive) should aspire to outfits somewhat more formal. So I'm trying.

She suggests building a wardrobe around the core colors of either camel or black. Sorry, Emily, they're just not me. Red, maybe. Or a combo of pink and purple.

Emily says suits, not mannish ones, are always in good taste. I have a couple, but I'd feel silly wearing them to work. The composing room would think I'd gone high hat. So I save them for weddings and other such occasions where I stand out in a sea of silk and organza.

I doubt, somehow, I'll ever get the hang of what to wear where. Part of the problem is that I can't seem to work up enough anxiety over being out of step. There are worse sins to guard against; e.g., sounding like an airhead, playing the pompous ass, putting one's foot into one's mouth. Next to these, dowdy-passe is small potatoes.