

Revised code of canon law based on Vatican II reforms

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dinator of the Washington, D.C.-based Canon Law Society of America.

Those changes, Father Cogan explained in a telephone interview with the *Catholic Courier*, include increased roles for lay people in the church, the restoration of the permanent diaconate, and permission for Catholics to take part in non-Catholic religious services under some circumstances.

The 1983 code even contains a delineation of the rights and obligations of lay people in the church. This "bill of rights," Father Cogan noted, was a significant change from the 1917 code, which gave few rights to lay people. The rights contained in the 1983 code, he said, evolved out of the Vatican Council's documents.

In fact, Father Cogan observed that the 1983 code and the 1990 Code of Canon Law for Eastern Rite Churches "are often called the last documents of the Council."

The current code is very much a product of the council, acknowledged Father Kevin E. McKenna, chancellor of the Rochester diocese and a canon lawyer.

Pope John XXIII himself linked the two together in 1959, when he issued a call for the 1917 code to be revised the same day he called for the Second Vatican Council. Pope Paul held off work on the revision until the council concluded so that the code would take into account the council's declarations and reflect its spirit, Father McKenna observed.

Thus while the 1983 code adopted some of the format and structure contained in the 1917 code, the revised code clearly takes its content from the council, the diocesan chancellor added.

That the church has an official code is a relatively recent phenomenon. Prior to the 1917 code, several collections of church laws had existed, but none on



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the scale of this century's two codes.

Canon law itself can be traced back to the Christian community's earliest days, noted Monsignor John A. Alessandro, chancellor of the Rockville Centre diocese in his "General Introduction" to the 1985 book, *The Code of Canon Law: A Text and Commentary*.

At the Council of Nicea (325), church leaders attempted to develop "widely applicable norms to protect and foster church unity," the priest wrote. It was after this council that church officials began to use the term "canons" on a regular basis to refer to these norms, he reported.

Various compilations of canons followed — such as "Decree of Gratian" in 1140 and the "Decretals of Gregory IX" — but after the First Vatican Council (1869-70) church leaders realized a need existed for a single, "authoritative collection of all the laws of the Latin Church," Monsignor Alessandro explained. Pope St. Pius X formed a commission in 1904 to carry out this work. Basing its efforts on the civil law codes of 19th-century European nations, the commission finally produced the Code of Canon Law, promulgated by Pope Benedict XV on May 27, 1917.

Eventually, however, the Latin Church's changing life and practices

made it necessary to update this code, Monsignor Alessandro continued, thus leading up to Pope John XXIII's call for revision.

The Code of Canon Law does not cover all church activities, Father McKenna pointed out. Many liturgical practices, for example, are covered by a series of other laws — a fact recognized in Canon 2.

And canon laws are often written to provide general guidelines from which principles can be drawn to apply to specific situations, Father McKenna explained.

Still, canon law often seems a weapon of choice among individuals debating such controversial church issues as lay preachers, altar girls and dissent.

"I think there is sometimes a tendency to use the canons to hit people over the head," Father McKenna acknowledged.

Often, Father McKenna continued, individuals cite a canon and attempt to extrapolate interpretations from it without reference to related canons. This can lead to misinterpretation, because canon laws are meant to be considered in relation to other canons and church rules, he said.

Father McKenna likened such a method of canon law interpretation to the techniques employed by some fundamentalists who take one Bible verse "to promote their positions without taking into account the general themes in the Bible."

Indeed, the chancellor added, the 1983 code itself contains instructions for how to use canon law. Canon 17, for example, clearly explains that canons need to be considered in light of "their text and context," and of "parallel passages."

Thus, Father McKenna acknowledged, when arguments arise, for example, over whether lay people should be allowed to preach in church, opponents of such a practice often cite section one of Canon 767, which states that preaching "is reserved to a priest or to a deacon."

However, supporters of lay preachers cite Canon 766, which explains

circumstances under which lay people may preach, such as when a parish or mission is under the administration of a lay person or when it is "pastorally useful."

Canon law does not explain what constitutes a "pastorally useful" situation, leaving it to the discretion of the local bishop, and even the parish pastor, to determine — and opening the door to differing interpretations.

Likoudis noted that while much of canon law is quite clear, it does indeed contain some gray areas that make accurate interpretations difficult for individuals not trained in theology. He observed that even civil attorneys can err when attempting to interpret canon law.

"Civil lawyers will often project their understanding of civil law into canon law," Likoudis said. "You have to have some background and understanding of church law."

Further, in the United States there is a problem with people applying their understanding of how civil law functions in a democratic society to how canon law might function in the church, Likoudis remarked.

"I think it's important that we don't transpose our democratic mentality into church jurisprudence," Likoudis said. "I think some of the confusion (about canon law) has arisen from this."

Ultimately, Likoudis said, responsibility for enforcing canon law — and for resolving such confusion — lies in the hands of the bishops, adding, "There is no justification for ecclesial laxity."

Further, Likoudis predicted that the 1983 code, in conjunction with the new Catechism of the Church, will "help to restore order."

Despite instances of confusion, debate and misinterpretation, canon law serves a valuable function in the church, Father McKenna maintained.

"The church being a human society as well as (being) of divine origin, it needs to have structure, it needs to have order," he concluded.

Church law is in crisis, official says

VATICAN CITY (CNS) — Ten years after the Code of Canon Law's revision, a Vatican official said church law is in crisis — not because the precepts aren't good, but because people do not feel bound to follow them.

To improve this situation, pastors have to recognize that governing according to canon law is an essential part of their local ministry, said Bishop Julian Herranz, secretary of the Pontifical Council for the Interpretation of Legislative Texts.

Bishop Herranz's speech opened the International Symposium on Canon Law, held last April at the Vatican. The meeting of more than 500 experts was convened to review a decade of experience under the new code, published in 1983.

Bishop Herranz described the updated code as "pastoral," but said it still faces opposition by those who see all church law as an obstacle to the faithful's spontaneity and the Holy Spirit's working.

Some view canon law as violating the principle of democracy — forgetting that church law's authority does not rest on "popular sovereignty," he said. Others have been affected by the prevailing trend toward moral relativism in society, he said.

MISSION NEWS



Kellie Farley

This past summer, Kellie Farley and Donal Ryan, two New Yorkers, ended their service as lay mission volunteers in Belize, Central America. For Kellie, one of the poorest

of her students taught her a life-lesson.

"When my students had to write letters to God," Kellie noted, "this girl wrote, 'Dear God, I have a lot of problems in my life... But because of you, I

know I can get through it all. I love you God. Thanks for being there for me.' I won't ever forget the lesson that young girl taught me about faith." Donal left Belize with a faith, he said, he had made his own; "when I go home, I won't be so inconspicuous about my faith."



Donal Ryan



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