

HOLY SEE PRESS OFFICE
OFICINA DE PRENSA DE LA SANTA SEDE



BUREAU DE PRESSE DU SAINT-SIEGE
PRESSEAMT DES HEILIGEN STUHLS

BOLLETTINO

SALA STAMPA DELLA SANTA SEDE

N. 210601e

Tuesday 01.06.2021

Press Conference to present the new Book VI of the Code of Canon Law

At 11.30 this morning, a press conference was live-streamed from the Holy See Press Office on the amendments to Book VI of the Code of Canon Law.

The speakers were: Archbishop Filippo Iannone, O.Carm., president of the Pontifical Council for Legislative Texts, and Bishop Juan Ignacio Arrieta Ochoa de Chinchetru, secretary of the same Pontifical Council.

The following are their interventions:

Intervention by Archbishop Filippo Iannone, O.Carm.

With the Apostolic Constitution *Pascite gregem Dei* ("Shepherd God's flock"), dated 23 May 2021, the Solemnity of Pentecost, Pope Francis promulgated the new Book VI of the Code of Canon Law, containing regulations on criminal sanctions in the Church. The legislative text, "so that all may easily be informed and fully understand the provisions in question", will come into force on 8 December, the Solemnity of the Immaculate Conception.

As is well known, this is one of the seven books that make up the Code of Canon Law. "The Code of Canon Law is extremely necessary for the Church", wrote Pope John Paul II. "Since, indeed, it is organised as a social and visible structure, it must also have norms: in order that its hierarchical and organic structure be visible, in order that the exercise of the functions divinely entrusted to her, especially that of sacred power and of the administration of the sacraments, may be adequately organised; in order that the mutual relations of the faithful may be regulated according to justice based upon charity, with the rights of individuals guaranteed and well defined". He added, "the canonical laws by their very nature must be observed" (see Apostolic Constitution *Sacrae disciplinae leges*, 25 January 1983).

Pope Francis reiterates the importance of the observance of the laws for an orderly ecclesial life, and consequently recalls the need to intervene in the case of their violation. "The observance and respect of penal discipline," the Holy Father says, "is the task of the entire People of God, but the responsibility for its correct

application is the specific responsibility of the Pastors and Superiors of the individual communities. It is a task that belongs inseparably to the pastoral munus entrusted to them, and it must be exercised as a concrete and inalienable demand of charity towards the Church, the Christian community and possible victims, but also towards the offender, who needs not only mercy but also the correction of the Church" (cf. *Pascite gregem Dei*).

In the words of the Council, pastors are called to exercise perform their task of "counsel, exhortations, example, and even by their authority and sacred power" (cf. *Lumen gentium*, 27), and, "if necessary, also through the imposition or declaration of penalties, in accordance with the provisions of the law, which are always to be applied with canonical equity" (cf. canon 1311, §2). Should a pastor fail to resort to the penal system -where required- it is therefore clear that he is not fulfilling his function correctly and faithfully" (cf. Apostolic Letters issued *Motu Proprio As a loving mother*, 4 June 2016, and *Vox estis lux mundi*, 7 May 2019).

Indeed, it is charity that requires Pastors to have recourse to the penal system as often as necessary, bearing in mind the three purposes that make it necessary, namely, the restoration of the requirements of justice, the amendment of the offender and the reparation of scandals.

On several occasions the Pope has repeated that the canonical sanction also has a reparatory and salutary medicinal function and seeks above all the good of the accused, so that "it represents a positive means for the realisation of the Kingdom, for rebuilding justice in the community of the faithful, who are called to personal and common sanctification" (To the Participants in the Plenary Session of the Pontifical Council for Legislative Texts, 21 February 2020). Saint Thomas teaches that "Justice without mercy leads to cruelty, but mercy without justice leads to the dissolution of order". For the creation and maintenance of a social order and, therefore, for achieving and maintaining a good level of communion, there is a need for both justice and merciful love.

In recent years, as has been noted by many during the work of revising the regulatory apparatus, the relationship of interpenetration between justice and mercy has at times been misinterpreted, fuelling a climate of excessive laxity in the application of criminal law, in the name of an unfounded opposition between pastoral care and law, and criminal law in particular.

The presence of some irregular situations within communities, but above all the recent scandals, which have emerged from the disconcerting and very serious episodes of paedophilia, have, however, led to the need to reinvigorate canonical criminal law, integrating it with precise legislative reforms; there is "a need to rediscover criminal law, to use it more frequently, to improve the possibilities of its concrete application", in order to better define "a systematic and up-to-date framework of constantly evolving reality".

This reform which is presented today, therefore, necessary and long-awaited, has the aim of rendering the universal criminal provisions increasingly adequate for the protection of the common good and of the individual faithful, more congruent with the requirements of justice and more effective and appropriate for today's ecclesial context, which is obviously different from that of the 1970s, when the canons of Book VI, now repealed, were drawn up. The reformed legislation is intended to respond precisely to this need, offering Ordinaries and Judges a succinct and useful tool, simpler and clearer norms, to encourage recourse to criminal law when necessary so that, respecting the requirements of justice, faith and charity may grow in the People of God.

Law follows life, says a well-known axiom. In this vein, the Pope writes in *Pascite gregem Dei*: "Amid the rapid social changes we are experiencing, to respond adequately to the needs of the Church throughout the world, it became clear the the penal discipline promulgated by Saint John Paul II on 25 January 1983 also needed to be revised. It needed to be modified in such a way as to enable Pastors to use it as a more agile salvific and corrective tool, to be employed promptly and with pastoral charity to prevent more serious evils and to heal the wounds caused by human weakness".

In this way, the new penal code has introduced new criminal offences and has better defined other offences already provided for, punishing them with different penalties. In addition, new offences have been introduced in the area of financial and economic matters, so that "the absolute transparency of the institutional activities of the Vatican State, especially in this field, may always be pursued and respected, and the conduct of all those

holding institutional positions and of all those involved in the administration of assets may always be exemplary” (cf. *Address for the Inauguration of the Judicial Year of the Tribunal of the Vatican City State*, 27 March 2021).

New penalties have been envisaged, such as fines, compensation for damage, and the deprivation of all or part of ecclesiastical remuneration, in accordance with the regulations established by the individual Episcopal Conferences, without prejudice to the obligation, in the case of a cleric who is subject to a penalty, to ensure that he does not lack the necessary means for an honest livelihood. Attention has also been paid to listing the penalties in greater order and detail, in order to allow the ecclesiastical authority to identify the most appropriate and proportionate for individual crimes, and the possibility has been established of applying the penalty of suspension to all the faithful, and no longer only to clerics. More suitable means of intervention have also been provided to correct and prevent crimes. It is also worth mentioning the explicit affirmation in the text of the fundamental principle of the presumption of innocence and the amendment of the rule on prescription, to encourage the conclusion of trials in a reasonably short time.

The crimes reserved to the Congregation for the Doctrine of the Faith, specified after the promulgation of the CIC, have also been included in Book VI; it is indeed necessary that the crimes as such are already present in the general universal norm, and not only in the special norm, which of course, in addition to the reservation of jurisdiction, appropriately establishes the specific provisions on the matter.

Other changes, also in the denomination of the titles of the parts and chapters into which the book is divided, are the result of attention to changing sensibility and the increasingly widespread need in the communities to see the restoration of justice and order, ruptured by crime. In this sense, one can also understand some of the changes concerning the transfer of the canons. One example is the transfer of the canons concerning the crime of sexual abuse of minors and child pornography from the chapter on "offences against special obligations" to the chapter on "offences against life, dignity and freedom of the person". This is an editorial choice, if you like, but it expresses the will of the legislator to reaffirm the seriousness of this crime and the attention to be given to the victims. It should be added that these crimes are now also extended by the Code to members of Institutes of Consecrated Life and Societies of Apostolic Life and to the lay faithful who enjoy a dignity or hold an office or function in the Church.

Criminal laws, which are generally considered hateful norms, define and sanction actions carried out in violation of laws that are intended to protect rights and goods and which are therefore to the detriment of individual believers and the community. Actions which, I am convinced, can be said to be carried out by a tiny minority of members of the Church. Justice demands in these cases that the violated order be restored, that the victim be compensated if necessary, that those who have done wrong be punished and atone for it. The Pope, however, at the conclusion of the Constitution, reminds us that the penal norms, like all canonical norms, must always be brought back to the supreme norm that is in force in the Church, the *salus animarum*. This is why he promulgates the text “in the hope that it will prove to be an instrument for the good of souls”.

Intervention by Bishop Juan Ignacio Arrieta Ochoa de Chinchetru

The new Book VI of the Code of Canon Law

Reasons for the reform

In the years immediately following the promulgation of the 1983 Code of Canon Law, it became apparent that the penal discipline contained in Book VI did not meet the expectations it had raised. Quite rightly, the canons concerning criminal law had been significantly reduced in size compared to the 1917 Codex; but, above all, the basic orientation of the system had changed. The new texts were often indeterminate, precisely because it was felt that individual bishops and superiors, whose task it was to enforce penal discipline, would better determine when and how to punish in the most appropriate manner.

Unlike other texts of the Code that were redefined according to the experience of the norms given *ad experimentum* in the post-Conciliar period, the important changes contained in Book VI did not have the opportunity to confront the reality of the Church beforehand, and were promulgated directly in 1983. The experience immediately demonstrated the difficulties faced by Ordinaries in using the penal norms in the midst of such indeterminacy, to which was added the concrete difficulty of many of them in combining the demands of charity with those required by justice. Moreover, the disparity in the reactions of the authorities was also a cause for concern in the Christian community.

In these circumstances, the Holy See found that it needed to compensate with its own authority for the shortcomings of the ordinary punitive system that had been envisaged, exceptionally reserving for itself - as early as 1988, although, effectively, only from 2001 - the guidance of the penal discipline in the most serious cases.

Work process

This general context led the Holy Father Benedict XVI, who had concrete experience of the limits of the penal discipline due to his longstanding leadership of the Congregation for the Doctrine of the Faith, to formally instruct the Pontifical Council for Legislative Texts to begin the revision of Book VI of the Code of Canon Law. In September 2009 a study group was immediately set up within the Dicastery with expert canonists in criminal law, initiating the work meetings that continued for twelve years.

The work on the revision of Book VI developed in the context of a very broad collegial collaboration and a continuous exchange of suggestions and observations, involving a large number of people throughout the world. The work of the study group in Rome was then always shared with a wider group of canonists. Having arrived at a first Outline, in the summer of 2011 it was sent to all the Episcopal Conferences, the dicasteries of the Roman Curia, the Major Superiors of the Institutes of Consecrated Life, faculties of canon law, all the consultants and a large number of other canonists. More than 150 detailed opinions were received from the consultation, which, after being systematised, were used for the subsequent work of the group, resulting in a new amended Schema in mid-2016.

A period of reflection then began, to consider whether or not even more radical changes should be made to the text. After further study, the opinion prevailed that no further changes were possible at the moment. Further consultations with the Dicasteries and consultants led to the finalisation of the text, which was approved by the Plenary Assembly of the Dicasteries on 20 January 2020. This document, with some further adjustments, mainly in economic matters, was finally settled on by the Pontifical Council and presented to the attention of the Holy Father who signed the Apostolic Constitution on the Solemnity of Pentecost, establishing its promulgation.

As a result of the work, of the 89 canons that make up this Book VI, 63 have been amended (71%), 9 others moved (10%) while only 17 remain unchanged (19%).

Three main guiding criteria

The amendments introduced in the new Book VI basically respond to three guiding criteria.

In the first place, the text now adequately determines the penal norms, unlike the text before, in order to give precise and sure guidance to those who must apply them. In order to ensure that there is also a uniform use of the penal norm throughout the Church, the new norms have reduced the scope of discretion previously left to the authority, without completely eliminating the necessary discretion required by certain particularly broad types of offence that require the discernment of the Pastor on each occasion. In addition, the offences are now better specified, distinguishing cases which were previously rather grouped together; the penalties are now exhaustively listed in canon 1336; and the text everywhere contains reference parameters to guide the evaluations of those who must judge the specific circumstances.

The second criterion that has presided over the reform is the protection of the community and the focus on repairing scandal and compensating for damage. The new text seeks to make the instrument of penal sanctions part of the ordinary form of pastoral governance of communities, avoiding the elusive and dissuasive formulas that previously existed. In concrete terms, the new texts invite the imposition of a penal precept (can. 1319 § 2 CIC), or the initiation of the sanctioning procedure (can. 1341), as long as the authority considers it prudently necessary or when it has ascertained that the restoration of justice, the correction of the offender, and the reparation of the scandal cannot be sufficiently achieved by other means (can. 1341). This is a requirement of *caritas pastoralis*, which is then reflected in various new elements of the penal system and, in particular, in the need to make reparation for the scandal and the damage caused, to condone a penalty or to postpone its application. In general terms, can. 1361 §4 begins by saying that "remission - of a penalty - is not to be given until, according to the prudent judgement of the Ordinary, the offender has repaired the damage which he may have caused".

The third objective is to provide the Pastor with the necessary means to be able to prevent offences, and to be able to intervene in time to correct situations which could become more serious, without however renouncing the necessary precautions for the protection of the presumed offender, as a guarantee of what is now stated in canon 1321 §1: "everyone is presumed innocent until the contrary is proven".

While accepting as inevitable the use of the administrative sanctioning procedure rather than the judicial process, the need to observe all the requirements of the right of defence in such cases, and to achieve moral certainty regarding the final decision, is emphasised, as well as the obligation of the authority to maintain the same attitude of independence that is required of the judge by canon 1342 §3 CIC.

Another instrument accorded to the Ordinary, with regard to the prevention of offences, is the set of penal remedies now set out in Book VI: admonition, reprimand, penal precept and vigilance. Supervision was not envisaged before and the criminal precept is now given special regulation. These are not strictly speaking criminal sanctions, and can also be used without a specific investigation procedure, but always in compliance with the requirements laid down for the issuing of administrative acts.

The new criminal offences

With the same criteria of greater clarity, the criminal offences grouped together in the second part of Book VI have been reorganised, moving canons and reorienting the meaning of the headings of the individual titles for the purposes of better organisation.

First of all, crimes that have been typified in recent years in special laws have been incorporated into the Code, such as the attempted ordination of women, the recording of confessions and the sacrilegious consecration of forms of the Eucharist.

Some offences present in the 1917 Codex that were not accepted in 1983 have also been incorporated. For example, corruption in acts of office, administering the sacraments to persons who are prohibited from administering them, concealing from legitimate authority any irregularities or censures in the reception of sacred orders.

To these must be added a number of new offences, such as violation of the pontifical secret; failure to comply with the obligation to execute a sentence or criminal decree; failure to give notice of the commission of a crime; and unlawful abandonment of the ministry. In particular, offences of a patrimonial nature have been typified, such as the alienation of ecclesiastical property without the prescribed consultations; or patrimonial offences committed through serious misconduct or gross negligence in administration. In addition, a new offence has been typified for the cleric or religious who "in addition to the cases already envisaged by law, commits an offence in economic matters - also in the civil sphere - or seriously violates the prescriptions contained in canon 285 § 4" which prohibits clerics from administering property without a licence from their Ordinary.

Finally, as a last novelty, the offence of child abuse is now framed not within the offences against the special

obligations of clerics, but as an offence committed against the dignity of the person. The new canon 1398 therefore includes in this respect actions carried out not only by clerics, who as we know belong to the reserved jurisdiction of the Congregation for the Doctrine of the Faith, but also offences of this kind committed by non-clerical religious and by lay people who occupy certain roles in the Church, as well as any such behaviour with adults, but committed with violence or abuse of authority.
