Engaging with the State for the Common Good: Some Reflections on the Role of the Church

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The Canon Law of the Roman Catholic Church establishes the right of the Church to proclaim the Gospel and expound it, and to proclaim moral principles especially when this is required by fundamental rights or 'for the salvation of souls' (Canon 747). While this was taken for granted for centuries, society and culture have undergone rapid and extensive changes, especially over the last forty years. From what was once a Christian society and culture, we have moved to a multicultural and secular society, and have seen the rise of 'ideological secularism'. The place of religion and religious values in the public forum is being questioned, and an aggressive secularism seeks to reduce religion and its practice to the private sphere. However, a healthy secularity should recognise both the autonomy of the state from control by the Church and also the right of the Church to proclaim its teaching and comment on social issues for the common good of humanity. This right is recognised in the 1948 Universal Declaration of Human Rights and the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms. From the Church's point of view, this right was recognised for all religions in the Second Vatican Council's 'Declaration on Religious Liberty'. We must defend that right because the Church exists not for its own sake but for the sake of humanity.

The Canonical 'root' of my reflections in this article is Canon 747 of the Roman Catholic Code of Canon Law, which establishes that:

1: It is the obligation and inherent right of the Church, independent of any human authority, to preach the Gospel to all peoples . . . so that . . . it might conscientiously guard revealed truth, more intimately penetrate it, and faithfully proclaim and expound it.

2: The Church has the right always and everywhere to proclaim moral principles, even in respect of the social order, and to make judgments about any human matter in so far as this is required by fundamental human rights or the salvation of souls.¹

So I want to reflect on how the thinking behind that canon has been developed over the years, and how the work of the Bishops' Conference Department of

Codex Iures Canonici (CIC), Canon 747. [The Roman Catholic Code of Canon Law, (1983) (Code of Canon Law)].

Christian Responsibility and Citizenship has mirrored and expressed that canon over recent years in a rapidly changing societal and cultural context.

Over the past forty years or so, we have moved from a society that in the past could be described as generally 'Christian', a society largely based on Christian values, to one that has become increasingly secular and multicultural. Consequently, there is far less agreement in society about, for example, the value and standing of marriage, when human life begins, and the meaning and purpose of human life. This shift raises some fundamental questions about the role of the Church in promoting the common good and about the relationship between the sacred and the secular in general. These questions are not only important in themselves but particularly because, in recent years, we have also experienced the growth of 'secularism', an ideological approach that asserts that religion should be restricted to the sphere of private life and individual conscience. So the question has been raised: Does a proper and appropriate separation between church and state mean that the Church has no right or duty to be involved in politics? Do religious values have any accepted place in political discourse? Does religion have anything to contribute to the common good and the proper ordering, development and flourishing of civil society?

It is appropriate therefore, to begin with a passage from St Matthew's gospel:

Then the Pharisees went away to work out between them how to trap him in what he said. And they sent their disciples to him, together with the Herodians, to say, 'Master, we know that you are an honest man and teach the way of God in an honest way, and that you are not afraid of anyone, because a man's rank means nothing to you. Tell us your opinion, then. Is it permissible to pay taxes to Caesar or not? But Jesus was aware of their malice and replied, 'You hypocrites! Why do you set this trap for me? Let me see the money you pay the tax with.' They handed him a denarius, and he said, 'Whose head is this? Whose name?' 'Caesar's', they replied. He then said to them, 'Very well, give back to Caesar what belongs to Caesar - and to God what belongs to God.' This reply took them by surprise, and they left him alone and went away.2

This, Fr Raniero Cantalamessa suggests, is the beginning of the separation of religion and politics, which, until the time of Christ, had been inseparable in the various regimes of the ancient world.³ Christ changed that perspective

Matthew 22:15-22.

R Cantalamessa, 'Gospel commentary for 29th Sunday in Ordinary Time', available at http://www.ayana.go. zenit.org/article-23960?l = English>, accessed 25 February 2009.

and put forward the idea of a kingdom of God, which is in the world but not of the world. In ecclesial terms, the Church has a spiritual sovereignty constituted by the Kingdom of God. At the same time, there is a proper temporal and political sovereignty that God exercises indirectly through the co-operation of all those who make up a particular state or nation.

Building on that principle, the Roman Catholic Church, particularly in the last century, has developed a deeper and more explicit understanding of the relationship between church and state. It has been expressed in a number of papal encyclicals and other magisterial statements, and in the Second Vatican Council's Pastoral Constitution on the Church in the Modern World. That constitution tells us that

It is of supreme importance, especially in a pluralistic society, to work out a proper vision of the relationship between the political community and the Church, and to distinguish clearly between the activities of Christians, acting individually or collectively in their own name as citizens guided by the dictates of Christian conscience, and their activity acting along with their pastors in the name of the Church. The Church, by reason of her role and competence, is not identified with any political community nor bound by ties to any political system. It is at once the sign and the safeguard of the transcendental dimension of the human person. The political community and the Church are autonomous and independent of each other in their own fields. Nevertheless, both are devoted to the personal vocation of man, though under different titles. . . . But in all times and in all places the Church should have true freedom to preach the faith, to proclaim its teaching about society, to carry out its task among men without hindrance, and to pass moral judgements even in matters relating to politics, whenever the fundamental rights of man or the salvation of souls requires it.4

As far as the political community is concerned, that exists for the common good, and the common good 'embraces the sum total of those conditions of social life which enable individuals, families and organisations to achieve complete and efficacious fulfilment'. 5 Or, as the Bishops of England and Wales said in 1996, the common good 'is the whole network of social conditions which enable human individuals and groups to flourish and live a fully, genuinely human life, otherwise described as "integral human development". All are responsible for all, collectively, at the level of society or nation, not only as individuals.'6

Pastoral Constitution on the Church in the Modern World: gaudium et spes (Vatican City, 1965), para 76.

Ibid, para 74. Catholic Bishops' Conference of England and Wales, *The Common Good and the Catholic Church's* Teaching (1996), para 48.

In a Catholic understanding, religion – and Christianity in particular – does not exist for its own sake but for the sake of humanity. Religion therefore has a public mission and is not solely concerned with safeguarding itself but in enhancing and developing the common good, the growth, development and flourishing of a truly civil society. That understanding was accepted, mutatis mutandis, over centuries in our country. But, since the Second World War, that understanding and perception has been gradually and inexorably diminishing, and came to a head following the horrific events of 11 September 2001 in the United States. Religion suddenly became a very dirty word indeed! It was perceived to be extremist, dangerous and divisive, and, if it was to be tolerated at all, it should be confined solely to the private sphere. It should have no place in the public forum.

That sea change in attitudes and perceptions was well summed up by Pope Benedict in speeches that he gave in Rome in December 2006. It has come to mean, he said, 'the exclusion of religion and its symbols from public life by confining them to the private sphere and to the individual conscience'.7 Such an understanding conceives the separation of church and state as meaning that the former is not entitled to intervene in any way in matters concerning the life and conduct of citizens. However, a proper understanding of a 'healthy secularity' is about the proper autonomy of the state from control by the Church. But that autonomy cannot be autonomy from the moral order: when the Church comments on proposed legislation, it is not meddling in matters outside its own proper competence and duty. Rather, it is the 'affirmation and defence of the important values that give meaning to the person's life, and safeguard his or her dignity', and it is the duty of the Church 'to firmly proclaim the truth about man and his destiny'.

So what is our experience of this phenomenon in England and Wales? In the years following 2001, a fierce and acrimonious debate developed very quickly about the place of 'faith schools', and whether such institutions should have any place at all in a modern, liberal democratic society. And that 'debate', for want of a better word, has continued to the present day. However, our right to have such schools has been very vigorously and ably defended by Archbishop Vincent Nichols, who has also staunchly defended the legitimate rights of the Church to determine certain matters relating to religious education, staffing and the admission of pupils, when proposed legislation would have brought about an illegitimate interference in the way that we run our schools. Many seemed ignorant of the fact that, since 1944, the dual system of Catholic education based on co-operation and agreement between church and state had

Benedict XVI, 'Promoting "healthy secularity", not secularism', speech to the 56th National Study Congress, organised by the Union of Italian Catholic Jurists, given on 9 December 2006, available at http://www.ewtn.com/library/PAPALDOC/bi6layjurists.htm, accessed 23 January 2009.

been an excellent example of a healthy and fruitful collaboration between the secular and the sacred.

In the last few years there has also been an extraordinary amount of new legislation on equality, diversity and discrimination, which has raised profound moral questions and has caused considerable concern for society at large and for faith communities in particular. For example, Parliament passed legislation allowing 'civil partnerships' for couples of the same sex. Although, at the time, the Government was at great pains to assert that a 'civil partnership is not the equivalent of marriage', the immediate media reaction to the first civil partnership was 'first gay marriage'. Another Bill, on 'gender reassignment', became law and allows people, in some circumstances, simply to declare after two years that they have changed their gender, and also permits them to marry in their 'new' gender. Apart from the morality of such a law, as originally drafted, such legislation could have resulted in considerable difficulty and embarrassment, especially for the ministers of religious communities and for civil registrars. In the end, certain exceptions were granted for ministers of religion who otherwise might have been found guilty of discrimination if they refused to assist at such partnership ceremonies. During conversations on that draft Bill with the Lord Chancellor's Department, I mentioned a remark made by Philip Herbert, fourth earl of Pembroke, in the seventeenth century, quoted by Anthony Sampson. Pembroke, complaining of what he saw as the excessive power of Parliament, said: 'A parliament can do anything but make a man a woman and a woman a man.'8 Obviously times have changed!

Beginning in 2003, the Catholic Bishops' Conference was involved for two years with the Lord Chancellor's Department, seeking to include amendments to the Mental Capacity Bill. It was a very intensive and detailed dialogue, much publicised at one point over an exchange of letters between myself and the then Lord Chancellor, Lord Falconer. During the debate in the Commons, the question was asked, 'Who is running the country - the Government or the Catholic Church?' It arose in the context of the Government's agreement to some significant additions and amendments, which, unlike the draft Bill, provided much more protection to some of the most vulnerable people in society. While that was a considerable success, we were notably unsuccessful in obtaining an exemption from certain aspects of the Equality Act (Sexual Orientation) Regulations, which became law last year. And that has had disastrous consequences for our Children's Societies and for the excellent work that they have been doing over many years.

During this time, too, Lord Joffe introduced three successive Bills in the House of Lords to allow assisted suicide. These were rejected after considerable campaigning by an alliance of very many people, including palliative care doctors, some disability groups, a variety of churches and people with no particular religious allegiance at all.

Likewise, the Human Fertility and Embryology Bill raised profound ethical questions about when human life begins, the creation of admixed embryos that will be part human and part animal, the creation of so-called 'saviour siblings' and other concerns that go to the heart of the dignity of human life from its very beginning, and the protection that should be afforded to it.

These are some of the issues of public policy that the Department has taken up with the Government on behalf of the Bishops' Conference, precisely because we believed that the effects that such proposed legislation would have on the common good would be deeply damaging in the long term. And we also believe that the Church's freedom to act in this way is enshrined in her own teaching, and in international and national law.

Of course, the principle of the right to freedom of expression and action in terms of religious belief applies to all religions, especially to the three great world religions - Christianity, Judaism and Islam. Over the centuries, all three of these great religions have suffered persecution and oppression, and in some cases have been themselves the perpetrators of it. Members of the Jewish faith need no reminder of their own history of oppression and persecution, well illustrated and recorded in the books of the Bible and in subsequent history, and in particular the horrors of the Holocaust in the twentieth century and many other persecutions in different countries around the world.

Looking back in history, and particularly in the history of Christianity, the Catholic Church has certainly not been without fault in this regard. Over the centuries, the Church has taken an ambivalent approach to religious freedom, freedom of conscience and freedom of expression. For example, Michael Walsh has written that

There is a long tradition in papal encyclicals of freedom of conscience being roundly condemned. For Pope Gregory XVI, writing in Mirari vos of 1832, the principle of freedom of conscience was the 'false and absurd, or rather the mad principle'. It was 'one of the most contagious of errors; it smoothes the way for that absolute and unbridled freedom of thought which, to the ruin of the Church and State, is now spreading everywhere'. And it brought in its train, he went on, the idea of the 'liberty of the press, the most dangerous liberty, an execrable liberty, which can never inspire sufficient horror'.9

M Walsh, 'Religious freedom: the limits of progress' in A Ivereigh (ed), Unfinished Journey: the Church 40 years after Vatican II: essays for John Wilkins (London, 2003), pp 134–135.

However, the horrors of two world wars and all the cultural change that those terrible events brought about, had a profound effect on the Church, on states and on society. The wholesale abuse of human rights led world leaders to set out what these rights are, and to agree to them, in the Universal Declaration of Human Rights in 1948. Among others, one of those fundamental rights is the right to religious freedom.

Article 18 of the Declaration establishes that everyone

has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public and in private, to manifest his religion or belief in teaching, practice, worship and observance.

This was subsequently spelled out more fully in Article 9 of The European Convention for the Protection of Human Rights and Fundamental Freedoms in 1950, which added the following clause:

Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

As far as the Catholic Church is concerned, the crucial turning point came nearly twenty years after the Universal Declaration of Human Rights, and is spelled out in its own 'Declaration on Religious Liberty' of the Second Vatican Council in 1965, entitled 'Dignitatis Humanae'. Michael Walsh says that 'perhaps no document produced by Vatican II occasioned so much debate, both within the Council and outside it'.10

In fact, it was not until the late 1950s and early 1960s that a Jesuit theologian, Fr John Courtney Murray, began writing about and seeking to address the issues of the relationship between Church and state and of religious liberty. Murray rejected the idea of a 'confessional state' (such as Spain then was) because, he argued, this is to confuse society (that is, the people who do indeed have a duty of worship) with the state. His position, though propounded with great care and complexity, was fundamentally simple: the state has no competence in religious matters. All that it can and must do is to ensure that the individual may practise his or her religion. The issue for him was simply one of the freedom of religion and of the freedom of citizens to practise their religion publicly. His thinking was eventually taken up by some of the Council Fathers and a draft document was put before the whole

Council. The debate that followed, according to Walsh, was arguably the most contentious of any document promulgated by the Second Vatican Council.11

Eventually, in the fourth and final session of the Council in 1965, the Declaration was finally approved. So what was the essence of the Council's 'Declaration on Religious Liberty'? The second and fourth paragraphs state:

This Vatican Council declares that the human person has a right to religious freedom. Freedom of this kind means that all men are to be immune from coercion on the part of individuals, social groups and every human power, so that within due limits, nobody is forced to act against his convictions in religious matters in private or in public, alone or in association with others. The Council further declares that the right to religious freedom is based on the very dignity of the human person as known through the revealed word of God and by reason itself. This right of the human person to religious freedom must be given such recognition in the constitutional order of society as will make it a civil right . . . and the exercise of this right cannot be interfered with as long as the just requirements of public order are observed.

Religious communities have the further right not to be prevented from publicly teaching and bearing witness to their beliefs by the spoken or written word. However, in spreading religious belief and in introducing religious practices, everybody must at all times avoid any action which seems to suggest coercion or dishonest or unworthy persuasion ... Such a manner of acting must be considered an abuse of one's own right and an infringement of the rights of others.12

A declaration such as this marked a significant development in the Catholic Church's thinking and teaching within the space of a century. I believe this development stemmed from a deeper awareness by the Council Fathers of the Church's mission to the whole of humanity. At the heart of this awareness was the Church's belief in and understanding of the inalienable dignity of the human person made in the image and likeness of God. In this deeper self-understanding, the Catholic Church recognised as never before that she must defend, for all people and for all other religions, the rights and freedoms that she claimed for herself, and that she could and must do so without compromising any claims to truth.

It seems to me, that the Declaration of the Second Vatican Council accords very well with the statements of the right to religious freedom in the Universal

Ibid, p 145.

¹² Declaration On Religious Freedom: Dignitatis Humanae: on the right of the person and of communities to social and civil freedom in matters religious (Vatican City, 1965), paras 2, 4.

Declaration of Human Rights and the European Convention on Human Rights: the principle is the same and the wording very similar.

On the face of it, then, both Church and state (or at least all those states that have signed up to the United Nations Declaration and the European Convention) for once agree. What both are saying very clearly is that everyone has the right to freedom of religion and the right to express their religion or belief alone or in community, in public and in private, and to manifest that belief in observance, practice, teaching and worship. The only restriction that can be put on the exercise of that right is the requirement to protect both public order and the rights and freedoms of others. The latter can become an area of considerable controversy when there is a conflict of rights, and disagreement over how that conflict should be resolved.

However, while theoretically there is a remarkable coherence between the teaching of the Church and the law concerning the right to religious freedom, the Church also has a corresponding duty to proclaim the gospel values that contribute to the common good and to human flourishing - because, we believe, those values also contribute to a truly free, democratic and civil society. Over the past hundred years or so, the Church has developed a social teaching rooted in, and based on, the values of the Gospel. At the heart of the Church's teaching is a firm belief in the dignity and equality of every human person, and the sanctity of human life from its conception to its natural end. We believe that the Gospel speaks to us and to all people about what I would call the 'ultimate questions': What does it mean to be truly human? What is the meaning and purpose of human life? What are the values by which we should strive to live and which are important for the way in which we relate to each other in society and the world?

It is these moral values that underpin human rights, a point emphasised by Pope John Paul II in his encyclical letter Evangelium Vitae, in 1995:

Democracy cannot be idolized to the point of making it a substitute for morality, or a panacea for immorality. Fundamentally, democracy is a 'system' and as such it is a means and not an end. Its 'moral' value is not automatic, but depends on conformity to the moral law to which it, like every other form of human behaviour, must be subject: in other words, its morality depends on the morality of the ends which it pursues and of the means which it employs ... Of course, values such as the dignity of every human person, respect for inviolable and inalienable human rights, and the adoption of the 'common good' as the end and criterion regulating political life are fundamental and are not to be ignored.¹³

This point had already been made in the encyclical letter Veritatis Splendor, in 1993:

Today . . . there is no less grave a danger that the fundamental rights of the human person will be denied, and that the religious yearnings which arise in the heart of every human being will be absorbed once again into politics. This is the risk of an alliance between democracy and ethical relativism, which would remove any sure moral reference point from political and social life, and on a deeper level make the acknowledgement of truth impossible. Indeed, 'if there is no ultimate truth to guide and direct political activity, then ideas and convictions can easily be manipulated for reasons of power. As history demonstrates, a democracy without values easily turns into open or thinly disguised totalitarianism'. 14

This is especially true when the fundamental ethical foundation of respect for life - and the dignity - of the person is undermined. As the 2003 Doctrinal Note from the Congregation for the Doctrine of the Faith 'On questions regarding the participation of Catholics in political life' has it:

The history of the twentieth century demonstrates that those citizens were right who recognised the falsehood of relativism, and with it, the notion that there is no moral law rooted in the nature of the human person, which must govern our understanding of man, the common good and the state.¹⁵

The Church has much to offer in terms of a coherent and consistent understanding of objective moral values drawn from the Gospel and the teaching of the Church. It is one of the greatest gifts that the Church has to offer to the common good of society. It follows, then, that we have not only a right but a corresponding duty to participate in political life, as Pope John Paul II reiterated in Christifideles Laici: 'the lay faithful are never to relinquish their participation in "public life" ... that is, in the many different areas that are intended to promote the common good'. 16 This follows the teaching of the Second Vatican Council in the Decree on the Laity, which said:

[The] life of intimate union with Christ in the Church is nourished by spiritual aids which are common to all the faithful, especially active participation in the sacred liturgy. These are to be used by the laity in such a

¹⁴ John Paul II, Veritas Splendor (Vatican City, 1993), para 101, emphasis in original; quotation is from John Paul II's encyclical letter Centesimus Annus (Vatican City, 1991), para 46.

¹⁵ Congregation for the Doctrine of the Faith, 'Doctrinal note on some questions regarding the participation of Catholics in political life (Vatican City, 2003), para 2.

¹⁶ John Paul II, Christifideles Laici: on the vocation and the mission of the lay faithful in the Church and in the world (Vatican City, 1988), para 42.

way that while correctly fulfilling their secular duties in the ordinary conditions of life, they do not separate union with Christ from their life but rather performing their work according to God's will they grow in that union.... Neither family concerns nor other secular affairs should be irrelevant to their spiritual life, in keeping with the words of the Apostle, 'Whatever you do in word or work, do all in the name of the Lord Jesus Christ, giving thanks to God the Father through Him' (Col. 3:17).¹⁷

Therefore, we cannot, so to speak, leave our faith at home and, in the midst of secular society, forget our faith and all that flows from it.

However, we face a number of difficulties in fulfilling that duty and obligation in our own day. The first is the rise of an aggressive secularism, which seeks to deny that right and duty. The second is the apparent diminution of that right by the European Court of Human Rights, which, over the past twenty years or so, seems to have wished to restrict that right merely to the internal governance of the Church and its liturgical worship. The third is perhaps broader and more cultural, and by that I mean the meaning and understanding of such concepts as human rights, equality and discrimination, and the relativist approach to morality.

For example, on the question of the meaning of human rights, this was well put by the Bishops of England and Wales in The Common Good in 1996:

[H]uman rights are sometimes advanced to support claims to individual autonomy which are morally inappropriate. Not everything said to be a 'right' really is one. There is no 'right to choose' to harm another, for instance. The proliferation of alleged 'rights' can devalue the very concept. So can the amplification of rights without an equivalent stress on duties, and without some concept of the common good to which all have an obligation to contribute. However, that reservation must not be allowed to destroy the value of the principle itself: that individuals have a claim on each other and on society for certain basic minimum conditions without which the value of human life is diminished or even negated. These rights are inalienable, in that individuals and societies may not set them at nought: in Catholic terms those rights derive from the nature of the human person made in the image of God, and are therefore in no way dependent for their existence on recognition by the state by way of public legislation.¹⁸

As far as the concept of equality is concerned, the motivation in promoting equality on the part of the state is very laudable and accords with the Church's teaching in

¹⁷ Paul VI, Decree on the Apostolate of the Laity: Apostolicam Actuositatem (Vatican City, 1965), para 4.

principle. However, I detect considerable confusion on the part of legislators and others as to precisely what equality means. In what sense are we equal? The Church believes and teaches that all people are equal in dignity in the eyes of God because we are created in his image and likeness. But, beyond that, common experience teaches us that each one of us is unique, and that uniqueness is manifested in almost every aspect of our lives - our personalities and character, our gifts and abilities, our size, shape and colour. In those respects we are all different and 'one size fits all' equality legislation is simply unrealistic and unworkable.

Again, what precisely is meant by the term 'discrimination'? Recent legislation seems to take the view that all discrimination is wrong and must be outlawed by the law of the land. To discriminate essentially means to make a judgement, and we do that perfectly properly every day of our lives and in almost every aspect of our lives. There is nothing intrinsically immoral in discriminating, but there would be if that discrimination is unjust. So the Church makes a proper distinction and speaks of 'unjust discrimination' and would argue that, because of her understanding of human dignity and equality, *unjust* discrimination is wrong – not discrimination in a vague and general way.

The effect of this dissonance of language and understanding very easily leads to conflict when embedded in legislation. For example, what does a civil registrar do when told that he or she must officiate at a civil partnership? What will a doctor do if the present 'conscience clauses' with regard to a variety of medical matters should be withdrawn? What does a Member of Parliament do when faced with a three-line whip on proposed legislation that includes clauses at variance with the Church's moral teaching? Will it mean that they must resign their public office and be unjustly discriminated against because of their faith?

It seems to me that, increasingly, Catholics in public life are being faced with a dilemma when the teaching of their Church, and their conscience formed by that teaching, is in conflict with the law of the land. If this resulted in Catholics being effectively excluded from public life, that would be to the grave detriment of the Church's rights and duties, and to the detriment of the common good. And that would be a very sad day indeed for both.

Therefore, in conclusion, I suggest that we must not abandon the public square but be vigorously engaged in it, arguing clearly and forcefully for what we believe to be truly in the service of humanity and the common good. Rightly understood, the secular realm, the principles of human rights and, indeed, the equality of all people made in the image and likeness of God are all powerful bulwarks that help to defend the truths that we seek to uphold. We need the courage to continue to engage in intelligent and prudent dialogue with society and the state, and to present the revealed truths of the Gospel in a reasoned and reasonable way. Then we shall be true to our calling as disciples, serve the common good of all, irrespective of race, colour or creed, and fulfil the Church's law as established in Canon 747 of the Code of Canon Law.