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Canonical Obedience in the Juridical Status of Clerics

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Canonical Obedience in the Juridical Status of Clerics*

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** Abbreviations:

AA	Vatican II, Decree on the Apostolate of Lay People, *Apostolicam actuositatem*, November 18, 1965, AAS 59 (1966) 837-864
A. Exhort.	Apostolic Exhortation
CCC	Catechism of the Catholic Church
CD	Vatican II, Decree on the Pastoral Office of Bishops in the Church, *Christus Dominus*, October 28, 1965, AAS 58 (1966) 673-696
CDF	Congregation for the Doctrine of the Faith
CLSA	Canon Law Society of America
CLSANewCom	Canon Law Society of America. *New Commentary on the Code of Canon Law*, Coriden, J.; Green, T. J. y Beal, J. (ed.), Bangalore 2003
CLSP	Canon Law Society of the Philippines
DB	Sacred Congregation for Bishops, *Directory on the Pastoral Ministry of Bishops Apostolorum succesores*, February 22, 1973, Typis polyglotttis Vaticanis 1973
DP	Sacred Congregation for the Clergy, *Directory on the Ministry and Life of Priests*, January 31, 1994
PamplonaComEng.	*Exegetical Commentary on the Code of Canom Law*, under the responsibility of the Martín de Azpilcueta Institute, Faculty of Canon Law, University of Navarre
PDV	John Paul II, Apostolic Exhortation *Pastores dabo vobis*, March 25, 1992, AAS 84 (1992) 657-804
PCLT	Pontificial Council of Legislative Texts

Introduction

Christ's *faithful*, conscious of their own responsibility, said canon 212, "are bound to show Christian obedience to the sacred Pastors, who represent Christ, declare as teachers of the faith and prescribe as rulers of the Church". With regard to the *religious*, canon 601 indicates that "the evangelical counsel of obedience undertaken in the spirit of faith and love in the following of Christ, who was obedient even unto death, obliges the religious to submit their will to lawful superiors, who act in the place of God when they give commands that are in accordance with their constitution". With regard to *clerics*, canon 273 establishes that they "have a special obligation to show reverence and obedience to the Supreme Pontiff and to their own Ordinary". Obedience, indeed, binds together all the faithful into the harmony of the Church's communion and hierarchy.

All priests must sincerely seek the will of the Father, because otherwise the reason itself for priestly vocation and ministry would disappear. Priests are called to obey the Church's laws, authority included, indeed, authority *first*. However, obedience is sometimes seen with some gestures of rejection, perhaps because it is considered as something that goes against the fundamental human values of freedom, autonomy, and even of one's conscience. Why then obey? This study tries to answer this question and other similar questions such as: What is canonical obedience? Is there any difference between canonical obedience (c. 273) and Christian obedience (c. 212 §1), and religious obedience (c. 601)? Should priests obey their bishop on all matters at all times? Which aspects of priestly life and ministry fall outside the competence of the bishop? Which one falls within the area of their personal autonomy? Are there limits to the exercise of priests' rights? Are there limits to the exercise of the bishop's rights with regard to his priests? How would the bishop handle the case when, for example, he receives information about the misconduct or disobedience of his priests or when allegations are made against them? What pastoral remedies or penalties can be imposed on cases like these? Etc.

Books on canonical obedience *per se* are not very plenty. Several authors, however, had made some studies on it. For example, *F. J. Schneider* wrote a thesis on the *Obedience to the Bishop by the Diocesan Priest in the 1983 Code of Canon Law* (Catholic University of America, Washington D.C., 1990) and *N. Severini*, on the *Obedience of Clerics as an Instrument of Hierarchical Communion: A Theological, Juridical and Pastoral Study with reference to canon 273* (Rome 1992). Although articles regarding priestly obedience are abundant they oftentimes

come merely as a portion of a bigger subject matter. Magisterial documents, especially concerning priests and seminarians, also describe obedience but descriptions usually come in short paragraphs. As far as our knowledge is concerned, there is no such systematic treatment yet of canonical obedience *per se*. This study, however, does not pretend nor intend to do it; its aim is only to provide a *panoramic view of canonical obedience* which hopefully could help those interested to investigate more deeply into this very important topic.

Aside from its academic value, this work could also serve as an aid to bishops and priests towards a greater understanding of canonical obedience. This could also be a valuable tool for seminary formators in presenting obedience in the context of seminary life in which candidates are being trained in community living as an anticipation of "genuine priestly choice to serve the people of God in fraternal communion of the presbyterate and obedience to the bishop" (PDV 68).

This study focuses on canonical obedience and its four important aspects, namely: its *context*, its *texts*, its *content* (i.e., objects) and its *dissent* (i.e., disobedience). It employs an analytical method of pertinent canons and magisterial texts. Figures, tables, and illustrations are utilized to facilitate explanation of concepts. Due to limited number of pages, detailed explanations are skipped and they are rather presented as *highlights* in bullet form.

The entire work is divided into four chapters. Chapter I discusses the *ecclesiological context* of obedience. Canonical obedience can only be understood if placed in its proper context, i.e., in the context of the Church as People of God in its various dimensions (i.e., as a community, society, institution, organization, and hierarchy). This chapter makes a review of the constitutional principles necessary for a correct understanding of canonical obedience. Forms, types, and subjects of obedience, its locus, moments of incorporation and governing norms are also discussed.

Chapter II examines *magisterial* and *canonical texts* and tries to find out what they say about obedience. Four magisterial texts are examined in *Part A*, namely, a Conciliar Decree, *Presbyterorum Ordinis* (1965); an Apostolic Exhortation, *Pastores dabo vobis* (1992); a Directory on the Ministry and Life of Priests (1994); and an Instruction, Priest, Pastor and Leader of the Parish Community (2002). This part offers a doctrinal explanation of obedience which is not found in canonical text, since canonical norms normally do not explain themselves. *Part B* identifies and describes the canons in which the term "obedience" appears. As far as this investigation is concerned, there are fourteen canons which explicitly mention *obedience*. But canon 273, which es-

tablishes the so-called canonical obedience, is given more attention and is discussed at length. In this chapter, the difference between Christian obedience (c. 212), religious obedience (c. 601), and canonical obedience (273) is explained, as well as the distinction between obedience-virtue, obedience-vow, obedience-promise and obedience-duty.

Chapters III discuss in details the *objects* of canonical obedience, namely, the rights and obligations of clerics (cc. 273-289), and some pertinent canons in *munus docendi* and *munus sanctificandi*. Various classifications of the contents of personal juridical status of clerics by various authors are presented. However, this thesis presents its own list of rights and duties classified according to cleric's various conditions (as human being, as baptized faithful, as incardinated cleric, as ordained minister and as officeholder), including those rights that fall within the area of personal autonomy. They are discussed vis-à-vis the duties and rights of their own bishop.

Chapter IV deals with *clerical disobedience* and other related offences. The study on obedience would not be complete if the opposite topic, i.e., disobedience, is left unexamined. Not all offences are treated here, but only those that correspond to the juridical status of clerics and *munus docendi* and *sanctificandi* discussed in previous chapters. Again, figures and tables are utilized to facilitate explanation. Canons 221, which establishes the right to lawful defence of rights, the right to due process of law and the right to proper penal procedure, are explained; the same also with canon 223 which indicates the limits of the exercise of rights. Common issues (e.g., appointment of pastors and parochial vicars, procedure for removal or transfer of priests, procedure to follow in case allegations are made against priests or anonymous letters are received, etc.) are also discussed.

Several points are highlighted in the conclusion. These points do not pretend to close the discussion on this subject matter; rather they serve as an invitation to those who may be interested to investigate more deeply into this topic for further "fine-tuning".

This *excerptum* includes some highlights of Chapter I (i.e., the mystery of the Church and moments of incorporation into its service with the corresponding of obedience of different types); highlights of Chapter II (obedience in magisterial texts, distinction between canonical obedience, religious obedience and common obedience; and the textual analysis of canon 273); highlights of Chapter III (objects of obedience namely the rights and obligations of clerics); and highlights of Chapter IV (the right to defence of one's rights, due process and right to proper penal procedure established in canon 221).

I. Ecclesiological Context

To understand the meaning of canonical obedience and its implications, it is necessary first and foremost to place it in its proper context, i.e., the Church as People of God in its various levels of existence as a community, a society, an organization, and hierarchy in obedience to the mandate of the Lord who, being found in the form of man, humbled himself and yielded perfect obedience to the will of God, even if such obedience terminated in death, death on the cross (cf. Eph 2:8). By His obedience he brought about the redemption. The Father is obeyed by the Son, the Son is obeyed by the Church, the Church is obeyed by her priests, and priests –as spiritual shepherds– are obeyed by the faithful. In the economy of salvation, there exists only one strand of obedience, i.e., the obedience of the Lord. This *divine* obedience (Eph 2:8; Mt 6:9-13) can be carried out in many ways: through the *ecclesial* obedience of the Church (LG), or *Christian* obedience of the faithful (c. 212), or *canonical* obedience of the sacred ministers (c. 273), or *religious* obedience of consecrated persons (c. 601).

Sacred ministers –because they received the sacred power– in faithful obedience to the Lord, play a vital role proclaiming and spreading among all people the Kingdom of Christ and of God. They form the *ordo clericorum* who dedicate themselves to a full-time ministry of teaching, sanctifying, and governing the people of God, as the Lord has commissioned them to do. The obedience of the Church to the mandate of the Lord rests primarily on the obedience of her priests. Pope John Paul II said: "Without priests the Church would not be able to live that fundamental obedience which is at the very heart of her existence and her mission in history, an obedience in response to the command of Christ: 'Go therefore and make disciples of all nations' (Mt 28:19) and 'Do this in remembrance of me' (Lk. 22:19; 1 Cor. 11:24) i.e., an obedience to the command to announce the Gospel and to renew daily the sacrifice of the giving of his body and the shedding of his blood for the life of the world".

But how could the Church possibly obey the Lord's commands, if her priests are only seeking their own will and not the will of him who sent them?[1] Indeed, canonical obedience is one of the concrete manifestations and guarantees of the Church's obedience to the will of her Founder. Canonical obedience

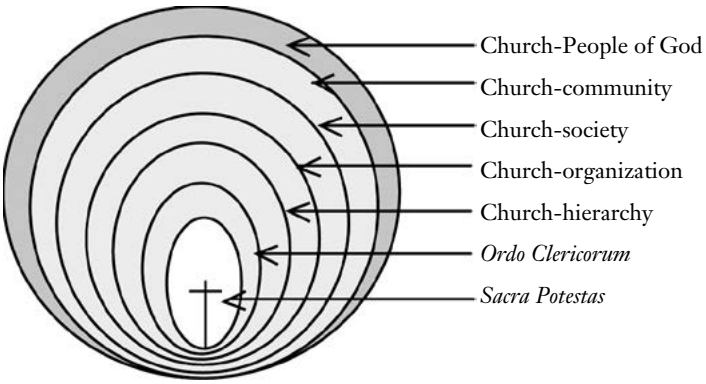
[1] John Paul II, Post-Synodal A. Exhort. *Pastores dabo vobis* 1 (25 March 1992), AAS 84 (1992) 657-804.

is *ontologically* rooted in the sacraments of baptism and ordination[2] and *juridically* rooted in incardination and canonical mission. Such obedience is formally manifested (but not constituted, because it has already been constituted in diaconal order) in the promise of obedience in the rite of priestly ordination.

A. *The mystery of the church*

To describe the mystery of the Church, various images are utilized in the Sacred Scriptures, e.g., sheepfold, flock, piece of cultivated land, village, vineyard, building, temple, household of God, mother, spotless spouse, etc. However, its full revelation took place in the life, death, and resurrection of the Lord. The Church and the sacraments flowed from the pierced side of the Lord. Before He left, the Lord promised to come again to judge the living and the dead. Meanwhile, He entrusted the sacred mission to the Church and gave her the Holy Spirit. It is to her that Christ the Lord entrusted the deposit of faith, so that by the assistance of the Holy Spirit, it might conscientiously guard revealed truth, more intimately penetrate it, and faithfully proclaim and expound it (c. 747). The Second Vatican Council affirms that aside from being the Mystical Body of Christ and universal sacrament, the Church is also the *People of God*. This latter image, i.e., the People of God, is, in fact, the landscape in which canonical obedience is to be studied.

Figure 1. Various aspects of the People of God.



[2] *In our opinion*, the *ultimate* basis of canonical obedience is baptism; its *proximate* basis is ordination; its *intermediate* basis is incardination; and its *immediate* basis is canonical mission or designation to a particular ecclesiastical office. These themes will be explained later on.

Given the complexity it entails, the different aspects of the Church as People of God, *in our opinion*, can be explained with the aid of concentric circles as shown above. Church as *People* covers all the inner circles, but its immediate nucleus is the *community.* The nucleus of community is the *society* in which the central element is the *organization*. The fundamental structural line of organization is the *hierarchy* whose vertebrate is the *ordo clericorum* (order of clerics). The core of *ordo clericorum* is the *sacra potestas* (sacred power) whose one and only source is Christ. Indeed, the Church can be viewed at different levels: *people*, *community*, *society*, *organization*, *hierarchy*, and *ordo clericorum*. These concepts, although distinct in nature, are inseparable. In fact, they are very much interconnected so that one level is inexplicable without the other. Each level builds upon another. The innermost core common to all circles is the so-called *sacred power* entrusted by the Lord to Peter and the Apostles, and to their successors, the Pope and bishops. Such sacred power is conferred on them not for personal benefits but for the salvation of all. Hierarchy is, in fact, understood not as a status of superiority but as *diaconia* to the People of God. A closer look into these various levels would be very helpful.

B. *Moments of incorporation into the service of the church and the corresponding obedience*

The table below, which displays the themes to be discussed, contains the following: *locus* of incorporation; moments and means of incorporation; types of obedience; and, subjects involved: commanding (C) or obeying (O). In 1965, *García-Ruiz*, while commenting on canon 127 of the 1917 code, said that there are four grade of obedience towards the Ordinary, namely: common, canonical, peculiar, and very special.[3] However, in this investigation, the following terms are to be used: *common* obedience of the faithful; *religious obedience* of consecrated men and women, and *canonical obedience* of priests. *In our opinion*, canonical obedience can be specified further into *ministerial*,

[3] A. García Ruiz, in his book, *La obediencia de los clérigos en los documentos pontificios*, Colección Canoníca de la Universidad de Navarra, 1965, 45, gave a commentary on c. 127 of the 1917 code and identified four grades of obedience. "Hasta cuatro grados de obediencia hacia el Ordinario suelen distinguir los autores: (a) la obediencia *común* que obliga a todos los fieles por el cuarto mandamiento y que queda incluida en el canon 119; (b) la *canónica* impuesta a todos los clérigos (c. 127); (c) la *peculiar*, de los presbíteros (c. 127) –que es como una resonancia de la promesa de la ordenación– mayor que las anteriores y que se extiende a objetos especiales y (d) la *especialísima* que vincula la ordenación a titulo de servicio de la diócesis (c. 981)".

particular, and *specific* obedience. Concerning the moments of incorporation into the service of the Church, *to our opinion*, there are four with regards to priests, with their corresponding obedience and *loci* in which the service is immediately performed. What is being referred here is not the incorporation into the Church (which happens only once in baptism), but the "moments" of incorporation into the "service" of the Church.

Figure 2. Locus, moments, types and subjects of obedience

Locus of incorporation	Moments of incorporation	Types of obedience	Subjects
People of God	Baptism	Common or Christian obedience	*O*: The faithful *C*: Competent ecclesiastical authorities
Ordo Clericorum: (*Episcoporum*, *Presbyterorum*, *Diaconorum)*	Ordination	Canonical-Ministerial obedience	*O*: Those ordained *C*: Competent ecclesiastical authorities
Diocese or particular structure of the Church	Incardination	Can-Particular obedience	*O*: Incardinated *C*: Proper Bishop or Superior
Ecclesiastical office	Canonical mission and provision	Canonical-Specific obedience	*O*: Those assigned *C*: Proper bishop or Ordinary

1. *First moment: incorporation into the People of God and Christian obedience*

Three items will be discussed under this section, namely: (a) baptism, (b) common priesthood and (c) common obedience proper of all the baptised. The argument can be summed up this way: baptism is the basis of common priesthood; common priesthood is the basis of common obedience which is also called Christian obedience in canon 212 with which the ecclesiastical authorities (Pope and bishops) are the commanding subjects, and all the faithful are the obeying subjects, without prejudice to canon 11 concerning merely ecclesiastical laws.

2. *Second moment: incorporation into ordo clericorum and ministerial obedience*

The second moment of incorporation into the service of the Church occurs when a baptised person receives the sacrament of Holy Orders *(cf. Figure 2)*. In this case, obedience required of the ordained is called *canoni-*

cal-ministerial obedience. The argument in this section runs this way: the sacrament of Holy Orders is the basis of ministerial priesthood; and ministerial priesthood is the basis of ministerial obedience. The *locus* of incorporation of the ordained is the *ordo.* The presbyter automatically joins the *ordo presbyterorum* when he receives the Holy Orders. His duty of obedience *qua* faithful is modalized by the consecration he receives and now becomes a duty of obedience *qua* minister, and therefore, it is called ministerial obedience. To understand this notion more deeply, there is a need to discuss in details the significance of the following terms: (a) ministerial priesthood; (b) ordination; (c) priestly character; (d) *ordo clericorum*; and, (e) ministerial obedience.

3. *Third moment: incardination to a diocese and particular obedience*

The third moment of incorporation into the service of the Church happens when presbyters are incardinated into a diocese. The corresponding obedience required at this level can, *in our opinion*, be called *canonical-particular obedience*. The term *particular* is used in order to distinguish it from the *universal* nature of *ministerial obedience* and *ordo presbyterorum (cf. Figure 2)*. It is also called *particular* because the locus of obedience at this level is the *particular church*, and for that matter, the diocese and its *presbyterium*. Under this section the following notions should be treated: (a) incardination; (b) presbyterium; and, (c) particular obedience.

4. *Fourth moment: designation to an ecclesiastical office and specific obedience*

Designation to an ecclesiastical office requires another type of obedience on the part of those who were appointed. This can be called, *in our opinion*, as *specific obedience* because it has something to do with the rights and duties specific to an office. *Specific obedience* here is distinct, but not separate from *ministerial* and *particular obedience* which has already been treated above. In order to understand this notion there is a need to review the following concepts: (a) ecclesiastical office and specific obedience; (b) canonical mission; and (c) canonical provision.

II. Magisterial and Canonical Texts

This chapter examines the magisterial and canonical texts in order to find out what they say about obedience. *Part A* studies the following magisterial documents: *Presbyterorum Ordinis*, a Conciliar Decree published in 1965; *Pastores*

dabo vobis, an Apostolic Exhortation issued in 1992; *Directory on the Ministry and Life of Priests* issued in 1994; and *Priest, Pastor and Leader of the Parish Community*, an Instructions given in 2002. Four documents, each one having distinct canonical weight and exigencies: a decree, an exhortation, a directory, and instructions. *Part B* looks into the canonical texts. It identifies the canons in which the term *obedience* appears and finds out what they to say about it. Special treatment is given to canon 273 which establishes the obligation of clerics to show reverence and obedience to the Supreme Pontiff and their own Ordinary. The text of canon 273 is discussed and the terms, such as *clerics*, *special obligation*, *reverence*, *obedience*, and *Ordinary*, are analyzed. Various components of ministerial obedience –its *basis*, *subjects*, *form* and *governing norms*– are also discussed.[4] (Note: *objects*, *extent* and *limits* of obedience will be discussed in details in Chapter III).

A. *Magisterial Texts*

1. Presbyterorum Ordinis[5]

The Conciliar Decree on the Ministry and Life of Priests, *Presbyterorum ordinis*, was promulgated by his Holiness Pope Paul VI on December 7, 1965. Its object is not *sacerdotium* (i.e., both bishops and priests) in general but *presbyteratus*, that is, priests of the second order. Presbyters are conformed to Christ and consecrated unto the service of God. They share in the apostolic mission of the bishops, a mission which itself shares in the mission of Christ, for the salvation of men. Priestly mission is to bring the laity and the religious to share in Christ's own consecration of himself to the Father. The presbyter is sent forth as one consecrated *in persona Christi Capitis*, to proclaim authoritatively the Gospel to the world *(munus docendi)*, to extend the offer of salvation in the sacraments *(munus sanctificandi)*, and to build up the Church (*munus regendi)*.

The various focal points of this document can be seen in the changing emphasis of its title. From the original document directed toward the *functional aspect* not only of presbyters but also of bishops and deacons as clerics *(De clericis)*,

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[4] Regarding the various components of obedience, cf. F. SCHNEIDER, *Obedience to the Bishop by the Diocesan Priests in the 1983 Code of Canon Law*, Washington D.C., 1990. In his paper, he quoted J. SHEENAN'S categories, namely: subjects, basis, object and extent of obedience.

[5] VATICAN COUNCIL II, Decree on the Ministry and Life of Priests, *Presbyterorum Ordinis*, December 7, 1965, AAS 58 (1966) 991-1024. The English translation being used here is from *Vatican Council II: The Conciliar and Post Conciliar Documents.* ed. Austin Flannery, O. Northport (NY): Costello Publishing Co., Inc., 1996, New Revised Edition.

it shifted to a cultic and sacerdotal emphasis (*De sacerdotibus)* followed by the emphasis on priestly life (On the *Life* and Ministry of Priests), to the final document focusing on ministerial aspect (On the *Ministry* and Life of Priests). The shift of primary emphasis from "life" to "ministry" shows the concern of the Council to emphasize the *function* of priesthood rather than its *status* because the significance of the ordained ministry is in its ecclesial service for the glory of God. This change of title is a consequence of the developing Conciliar affirmation that the *ministry* that priests exercise nourishes their spiritual life. The theological foundation for priestly ministry implicit in the decree rests on the theology of *Lumen Gentium* and *Christus Dominus* with their apparent teachings on two modes of participating in the one priesthood of Christ, that of the ordained and that of the common priesthood and teaching on the priestly identity being located in the ministerial function of the Church. *Figure 3* shows the structure of *Presbyterorum Ordinis* and the paragraphs which mention the term obedience. [6]

Figure 3. Obedience in Presbyterorum Ordinis

Structure of the Document	Paragraphs which mention obedience
Preface	
Chapter 1: The Priesthood in the Ministry of the Church Section 1: Priests' Functions Section 2: Priests' Relationship with Others Section 3: The Distribution of Priests, and Vocations to Priesthood	PO 7 mentions obedience twice (2x) in the context of priest-bishop relationship
Chapter 2: The Ministry of Priests Section 1: The Vocation of Priests to the Life of Perfection Section 2: Special Spiritual Requirements in the Life of the Priest Section 3: Aids to the Life of Priests	In PO 15 obedience occurs five times (5x) in the context of priestly virtues; disobedience is mentioned twice (2x).
Chapter 3: The Life of Priests	
Conclusion and Exhortation	

[6] For the complete structure of PO, cf. Gil Hellín, *Presbyterorum ordinis: decretum de presbyterorum ministerio et vita*, Librería Editrice Vaticana, 1996; also cf. M. Confroy, *Religious Life and Priesthood*, Mahwah, N.J., 2008, 27-29; also cf. a short description of PO by J. L. Gutiérrez-Gómez, "Algunas reflexiones sobre el contenido jurídico del decreto 'Presbyterorum ordinis'" en *Ius Canonicum* 9 (1969) 489-494.

2. *Pastores dabo vobis*[7]

Pastores dabo vobis (I will give you shepherds) is a Post-synodal Apostolic Exhortation of Pope John Paul II on the formation of priests in the circumstances of the present day, promulgated on March 25, 1992; it is addressed to bishops, clergy and faithful. The term obedience appears 29 times in this document in various contexts. Figure 4 (next page) shows it.

3. Directory on the Ministry and Life of Priests

This document, *Tota ecclesia*, was approved by Pope John Paul II and authorized its publication on January 31, 1994. It was then issued by the Congregation for the Clergy on the Holy Thursday of 1994, and it is directed, through the Bishops, to all the priests of the Church of the Latin Rite. The directives concern, in particular, the secular diocesan clergy, although with due adaptations, they can also help priests of religious institutes and of societies of apostolic life. Although it contains a theological reflection on the priesthood, discussing particularly the specific aspect of communion, it does not pretend to offer an exhaustive exposition on the priesthood nor a mere repetition of what has already been authentically declared by the Magisterium of the Church, but rather it responds to the principal questions of a doctrinal, disciplinary and pastoral nature, placed upon the priests by the demands of the new evangelization. A *Clarification* of the Pontifical Council for the Interpretation of Legislative Texts (now Pontifical Council for Legislative Texts), dated October 22, 1994, specifies that the norms of the directories which determine the methods of executing universal laws belong in the category of general executory decrees (c. 32).[8]

The term *obedience* appears sixteen times in this document. DP 22 mentions it in the context of the hierarchical communion; DP 61 mentions obedience nine times when it talks about its basis; DP 62 mentions obedience twice in the context of the hierarchy; DP 63 mentions obedience twice in the context of the exercise of authority with charity by those who rule; and at the conclusion of the document, obedience occurs once to challenge priests to live as a living sign of supernatural charity.

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[7] For some helpful references cf. T. Rincón-Pérez, "Sobre cuestiones canónicas a la luz de la Exh. Apost. *Pastores dabo vobis*" en *Ius Canonicum* 33 (1993) 330-332; Also cf. *La formación espiritual de los sacerdotes según Pastores dabo vobis*, Comisión Episcopal del Clero, Madrid, Edice, 1995.

[8] The text of *Clarification* is found in *Sacrum Ministerium*, 1995, 203-273.

Figure 4. Obedience in Pastores dabo vobis

Structure of the Document	Paragraphs which mention obedience
Introduction	• PDV 1 mentions obedience three times (3x) in relation to the obedience of the *Church* to Christ commands
Chapter I *Chosen From Among Me.* The challenges facing priestly formation. At the conclusion of the second Millennium	• PDV 8 mentions obedience only once in relation to *freedom* • PDV 10 mentions obedience in relation to *faith* and Gospel discernment
Chapter II *He has anointed me and has sent me forth.* The nature and mission of the ministerial priesthood	
Chapter III *The Spirit of the Lord is upon me* The spiritual life of the priest	• PDV 21 mentions obedience in the context of configuration to Christ, the Head and Shepherd, who is obedient to the will of the Father; • Nº 26 mentions the obedience of faith of every person; • Nº 27 mentions obedience in relation to the radicalism of the Gospel expressed in evangelical counsels; • Nº 28 mentions it twelve times (12x). It deals extensively with ministerial obedience; • Nº 30 indicates that Jesus Christ is the model and source of virtue of obedience
Chapter IV *Come and see* Priestly vocation in the church's pastoral work	• PDV 38 talks about the obedience of Jesus but presented in the context of the indispensable role of Liturgy and Eucharist in promoting vocations.
Chapter V *He appointed Twelve to be with him* The formation of candidates for the priesthood	• PDV 44 mentions obedience three times (3x) in the context of the human formation of the candidates; • Nº 49 is about the spiritual formation of the candidates and the education in obedience, celibacy and poverty as future "men of charity"; • Nº 55 presents training in obedience in the context of evangelization of cultures and inculturation; • Nº 68 mentions the importance of obedience in relation to the training in community life in the seminary
Chapter VI. *I remind you to rekindle the gift of God that is within you* The Ongoing Formation Of Priests. Conclusion	

4. The Priest, Pastor and Leader of the Parish Community

The document is an instruction from the Congregation for the Clergy addressed to all parish priests and their brother collaborators involved in the *cura animarum* and relayed to them through the kind offices of their Bishops. The Supreme Pontiff John Paul II has approved this Instruction and ordered its publication on August 4, 2002. Its underlying purpose is to direct particular affection towards those priests carrying out their precious office as parish priests who, though beset by many challenges, are always in the midst of their people. The delicate and valuable office they hold provides the opportunity to offer greater clarity with regard to the essential and vital difference which exists between the common priesthood and the ordained priesthood. This, in turn, gives rise to a proper understanding of priestly identity and the essential sacramental dimension of the ordained minister. *Figure 5* shows the structure of PPLPC and the paragraphs which mention the term obedience.

Figure 5. Obedience in Priest, Pastor and Leader of the Parish Community

Structure of the document	Paragraphs which mention obedience
Part I. The common priesthood of the faithful and the ordained priesthood 1. Lift up your eyes 2. Central elements of the ministry and life of priests a) Priestly identity b) Unity of life c) The specific journey to holiness d) Fidelity of the priest to ecclesiastical discipline e) The ecclesiastical communion f) Sense of the universal in the particular	PPLPC 13 presents obedience in the context of the specific journey to holiness. Obedience is fidelity to the commands and docility to the actions of the Lord, in and through the Church PPLPC 15 mentions disobedience in contrast to the fidelity of the priest to ecclesiastical discipline.
Part II. The parish and the office of parish priest 3. The parish and the office of parish priest 4. Positive contemporary challenges for pastoral ministry in parishes	

B. *Canonical Texts*

This section examines obedience in the code of 1983. *First*, it identifies the canons in which the term obedience appears and gives a brief commentary on each canon. *Second*, it makes an exegetical commentary on canon 273 which is the main canon of this study.

1. Canons in the 1983 code in which obedience appears

Figure 6 shows the list of canons in the code in which the term obedience (or disobedience) is mentioned both in its original Latin *(oboedientia)* and English translation. Canons that use the terms *obey*, *they are obliged*, *have to*, *should*, or their equivalent, are not included, only those which explicitly mention the term "obedience". Except canon 678 in which *oboedientia* is not used but rather *subsunt potestati* translated in English as "subject to the authority of..." and thereby, in this case, it also means obedience.

Figure 6. Canons in the 1983 code in which the term obedience occurs

Canons	Topics	Latin phrase
c. 199	Prescription and the obligation of obedience	Obligatio *oboedientiae*
c. 212 §1	Christian obedience of the faithful to their sacred pastors	Christiana *oboedientia*
c. 273	Obligation of clerics to show reverence and obedience to the Supreme Pontiff and their own Ordinary	*Oboedientiam* exhibendi
c. 590	Obedience of the religious to the supreme authority of the Church	*Oboedientiae* parere tenentur
c. 573 §2	Evangelical counsel of obedience in the institutes of consecrated life	*Oboedientiae* profitentur
c. 598 §1	The manner in which the evangelical counsel of obedience is to be observed shall be defined in the constitutions	Evangelica castitatis, paupertatis et *oboedientia*
c. 601	Description of evangelical counsel of obedience	Evengelicum *oboedientiae* consilium
c. 618	Superiors shall promote voluntary obedience among their subjects	Voluntariam *oboedientiam*
c. 678 §1	Obedience of the religious to the diocesan bishop	Religiosi subsunt potestati episcoporum
c. 696 §1	Dismissal of the members of religious institute for their obstinate disobedience to the legitimate orders of their superior	Pertinax *inoboedientia*
c. 705	Obedience of a religious raised to the episcopate to the Roman Pontiff by virtue of the vow of obedience	Voti *oboedientiae*
c. 1371, 2°	Just penalty to those who do not obey and persist to disobey the lawful command or prohibition of the Apostolic See or Ordinary or Superior	In *inoboedientia* persistit
c. 1373	Interdict or just penalty to those who provoke others to disobey ecclesiastical authority or ministry	*Inoboedientiam* in eos provocat
c. 1470 §2	The duty of the judge to impose penalties to those who lack reverence and obedience due to the tribunal	Reverentiae et *oboedientiae* tribunali

That is to say, as far as this investigation is concerned, there are, *in our opinion*, fourteen (14) canons in the 1983 code in which the term obedience is explicitly mentioned.

2. Religious obedience is distinct from common and canonical obedience

Religious obedience (c. 601) is distinct from *common obedience* (c. 212) and *canonical obedience* (c. 273). Although religious obedience is not the focus of this study, it will be helpful to identify its difference from the other two. *Figure* 7 shows their difference.

Figure 7. Common, canonical, and religious obedience

	Common obedience	Canonical obedience	Religious obedience
Obeying subjects:	All the faithful	Those ordained	Members of the institutes of consecrate life
Commanding subjects:	Pope, sacred pastors (c. 212)	Pope, Ordinary, and competent authority (c. 273)	Pope, Superiors, diocesan bishop and competent authority (cc. 590; 678)
Bases of obedience:	Baptism	Ordination (ministerial obedience); Incardination (particular obedience) and canonical mission (specific obedience)	Public profession of evangelical counsels through vows or sacred bonds in an institute canonically established by the Church
Locus of obedience:	Ecclesial communion	Ordo clericorum (*episcoporum*, *presbyterorum*, *diaconorum*); Diocesan *presbyterium*; Ecclesiastical office	Institutes of consecrated life
Governing norms:	Universal norms; specifically, the obligations and rights of the Christian faithful (cc. 208-223); more specifically, the obligations and rights of the lay faithful (cc. 224-231)	Universal norms; specifically the obligations and rights of clerics (cc. 273-289); particular and diocesan norms; more specifically what is stated in an appointment letter	Universal norms; specifically Obligations and rights of Institutes and their members (cc. 662-661); constitutions and statutes
Forms of obedience:	Christian *virtue* Christian *obligation*	Priestly *virtue*; *Promise* of obedience; Canonical *obligation*	*Vow* of obedience; Religious obedience

Obedience, *in our opinion*, can be expressed in three distinct forms, namely: as a *virtue*; as an *obligation*; and, as a *vow*.

a) Obedience as a Christian virtue

Obedience, as a *Christian virtue*, is categorized under *moral* virtues. It is part and parcel, said *St. Thomas Aquinas*, of the virtue of justice. Its object is the lawful command of one's superior, i.e., it inclines one's will to comply with the will of another who has the right to command.[9] It can either be material or formal. The motive of *material obedience* is merely to carry out the physical action commanded; that of *formal obedience* is to perform an action precisely because it is commanded by a legitimate superior. The extent of obedience is as wide as the authority of the person who commands (e.g., obedience to God is without limit, whereas obedience to human beings is limited by higher laws that must not be transgressed) and by the competency or authority of the one who gives the orders. As a virtue, it is pleasing to God because it means the sacrifice of one's will out of love for God. True obedience has always been prized in the Church as an absolutely necessary virtue since it is a way to identify oneself with Christ in the path of holiness. Basic to a positive understanding of Christian obedience is the *desire to do God's will in all things*.

b) Obedience as a Christian duty

Obedience, as a *Christian obligation*, is part of the duty of maintaining the bonds of communion with the Church: bonds of faith, sacraments and governance. Thus, the faithful are obliged to fulfill their duties which they owe to the universal Church and to the particular church to which they belong (c. 209). Specifically, they are bound to follow those things which the sacred Pastors, inasmuch as they represent Christ, declare as teachers of the faith or establish as rulers of the Church (c. 212).

c) Obedience as a priestly virtue

Obedience, as a *priestly virtue*, means the readiness to know and do the will of the One who sent and not his own will, and to dedicate his own will by obedience to the service of God and fellow men. This obedience is not opposed to freedom. In fact, it guarantees authentic freedom. By willing re-

[9] Cf. T. Aquinas, *Summa Theologica*, II-II, Q. 104, art. 3.

sponsible obedience, priest conforms himself to Christ. Priestly obedience operates within the framework of hierarchical union because such ministry is the ministry of the Church itself (PO 15).

d) Obedience as a priestly duty (canonical obedience)

Obedience as a duty, also called *canonical* obedience, is distinct from the virtue of obedience. The proper objects of canonical obedience are the legitimate commands of the superior and prescriptions of the law, especially but not exclusively, concerning the clerical state and ministry in its external dimension (juridical dimension). On the other hand, the development of obedience as a virtue, *in our opinion*, is an object proper to moral or spiritual theology whose main purpose is to facilitate the increase of interior life of priests. This study does not intend to separate virtue from duty in the life of priests. There is no such separation, but only distinction. To question, for example, the command or decision of one's Superior perceived as unjust, most especially if it affects the ministry or limits the exercise of one's rights, should not be misconstrued as an outright disobedience or lack of priestly *virtue*. In fact, priests have the canonical *duty*-right to do so for the good of the Church, and it is, indeed guaranteed by the code, but should be exercised within the limit of the law (cc. 221; 223).

e) Obedience as a vow – religious obedience

A *vow* is a deliberate and free promise made to God concerning some good which is possible and better. This virtue of religion requires that it be fulfilled (c. 1191). *Religious obedience* is the general submission which religious vow to God and voluntarily promised to their superiors in order to be directed by them in the ways of perfection according to the purpose and constitutions of the institute.

However, religious obedience is not unlimited, for it is not possible, either physically or morally, that one should give one's self up absolutely to the guidance of another. Obedience is not vowed absolutely and without limit but according to the rule of each order since a superior cannot command anything foreign to, or outside of, the rule, except in so far as he may grant dispensation from the rule. Canon 601, explained *Rincón-Pérez*, establishes that lawful superior give commands in accordance with the constitution, a fundamental code of each institute which establishes the dimension and content of obedience to which the consecrated life is obliged, through vows or other sacred bonds. The counsel of obedience, vowed by a religious, explained

Rincón-Pérez, no doubt is a matter of moral obligation whose gravity –greater or lesse– is governed by Christian moral laws. But that does not hinder it to be considered a juridical obligation with important repercussions in this dimension. For example, repeated violations of one's sacred bonds or obstinate disobedience to the lawful orders of the Superior in grave matters, etc. are the reasons for expelling a religious from the institute (c. 696 §1).[10]

f) Obedience as a clerical promise

Secular priests do not take vows but rather make a promise of obedience. Such a promise, *in our opinion*, is a mere manifestation during the ordination rite of a canonical obligation to obey which the priest is bound to observe. In other words, the obligation to obey the Roman Pontiff and one's own Ordinary remains binding even if, for example, there is no formal manifestation of it during the ordination rite. Because what binds the priest to obey (with regard to canon 273) is not the promise he made but the fact of his incardination and ordination. In fact, prior to his ordination he is already bound to obey, by virtue of his baptism (with regard to canon 212), the Pastors of the Church, but that is another matter. Unlike a vow, this obligation to obey is not demanded by the *virtue of religion per se* but by *fidelity to one's Ordinary* as an expression of priestly communion and fidelity to the Church and therefore to Christ. Secular priests are bound not by a religious *vow*, but by a *law* of obedience as established in canon 273. They are obliged, *in our opinion*, to obey their bishop as a consequence of their incardination (juridical dimension), of ordination (sacramental dimension) and of priestly ministry (pastoral dimension) which they are bound to carry out as a presbyterium in the diocese.

3. Canon 273: Obedience of Clerics

a) Basis of canon 273

Canon 273 is based on canons 127 and 128 of the 1917 code and PO 7. To quote from the former Code: "All clerics, particularly priests, are bound by a special duty to respect and obey their Ordinary" (c.127). "Any office assigned to clerics by the Ordinary must be accepted and faithfully discharged as often and as long as the bishop judges that the needs of the Church demand it, unless a legitimate impediment excuses" (c. 128).

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[10] Cf. T. Rincón-Pérez, *Pamplona ComEng* on c. 601.

The ultimate objective of the codification of 1917, said *Rincón-Pérez*, was not to make a profound change in the discipline of the Church but to put together into a single legislative body, for practical purposes, various sources (norms) concerning ecclesiastical governance and legal doctrines. As a result, the notion of clerics as well as the religious and laity was defined according to a *class-based* understanding of the Church straight from the Middle Ages. This understanding identifies the Church with the hierarchy or the order of clerics. In effect, the Church is seen as a society of *unequals*, that is, clerics are considered as active members *(ecclesia dominans)* while the rest are passive members *(ecclesia oboediens)* whose task is merely to collaborate in the task considered proper and exclusive to clerics.[11]

The extent of canonical obedience is defined nowhere in the 1917 code. The general understanding of this duty was that it extends to the purposes for which the Church demands obedience, particularly the regulation of the life and activities of clerics in their capacity as ministers of the Church. It was difficult to draw a demarcation line between a cleric's private rights and his duties as minister of the Church and subject to his superior. Clerics seemed to be serving an inferior ministry and were to render due obedience to those above them. The office of bishops in relation to their subjects was to admonish them of their duties, especially with the care of souls and to reprove their transgressions.[12] Obligation, understood in the context of a relation of subordination of an inferior to his superior, said *Schneider*, is based on the power of the bishop to maintain balance and order and rarely on cooperation. Bishop can intervene directly in the priest's life. Priest needed permission and depended on bishop's judgment. The bishop's power was broad. Priest was bound to carry out faithfully the commands of the bishop but his mind need not conform to his bishop's mind.[13]

Furthermore in the 1917 code, unlike the 1983 code, incardination was allowed only on the basis of the *needs of the Church* (c. 128 of 1917 code), that is, only when the service of a priest is needed. But Canon 269, 1[0] of the present code added *"usefulness to the Church"* as additional basis of incardination, that is, a diocesan bishop, aside from the *need*, can incardinate a cleric if the *advantage* of his particular Church requires it.

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11 Cf. T. Rincón-Pérez, *El Orden*… 49-50.

12 Cf. N. Severini, *Obedience of Clerics as an Instrument of Hierarchical Communion: A Theological, Juridical and Pastoral Study with reference to canon 273*, Rome 1992, 60.

13 Cf. F. J. Schneider, *Obedience to the Bishop by the Diocesan Priest in the 1983 Code of Canon Law*, Catholic University of America, Washington D.C., 1990.

However, even if canon 273 of the 1983 code repeats almost verbatim canon 217 of the 1917 code, Pope John Paul II has insisted that the "code is a new law and it is to be evaluated primarily in the perspective of the Second Vatican Council, to which it is intended to conform fully"[14]. Vatican II stresses that authority has to be seen as service and not dominion. The 6th principle of the revision of the code indicated that power should be exercised as service and should not be abused: "By reason of the fundamental equality of all the faithful and the diversity of offices and functions based on the hierarchical order of the Church, it is fitting that the rights of persons be correctly defined and protected; this brings with it the result that the exercise of power appears more clearly to be one of service, that its use is better established and that abuses are eliminated"[15]. In effect, relationships are now perceived not from the viewpoint of the governing authority but in view of the Church as People of God governed with the principles of equality and diversity. This line of thinking brings us to the second basis of canon 283 which is PO 7 that has been commented extensively in Chapter II, Part A. Magisterial Texts, 1. *Presbyterorum Ordinis.*

b) Iter of canon 273[16]

In the 1917 code, the canon on obedience (c. 127) was 4th among the obligations of clerics. When first discussed by the study group, it was placed 12th in the list of sixteen obligations.[17] Later on, this canon became canon 132 in the schema of 1971, and it was the 5th canon in the list of the obligations and rights of clerics.[18] When the seven books of the code were put together, the former canon 132 became canon 247 in the 1980 schema; canon 247 was the 4th in the list of the obligations and rights of clerics.[19]

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14 Address to the Roman Rota, January 26, 1984 cited by J. E. Lynch, CLSA *NewCom* on c. 273.

15 Cf. Preface in *Pamplona ComEng*, Vol. I, 189-191.

16 For details cf. N. Severini, *Obedience of Clerics as an Instrument of Hierarchical Communion: A Theological, Juridical and Pastoral Study with reference to canon 273*, Roma 1992.

17 The stress on the obligation *praesertim quidem presbyteri (particularly of priests)* was omitted by the study group "De Sacra Hierarchia" and substituted it with *imprimis quidem presbyteri (primarily of priests)* at the group discussion session of 20-28 October 1966. A major inclusion in the canon was the obligation to obey the Roman Pontiff.

18 In this canon, the phrase *imprimis quidem presbyteri* which substituted *praesertim quidem presbyteri* was suppressed. Thus, the canon now obliges *all clerics* equally without distinction.

19 There was no change in the words of this canon. It was asked in the observations that this canon be cancelled and replaced by the former canon 127 of the 1917 code. Some did not want to include the Roman Pontiff in the canon because he is also the Ordinary of the universal Church. But this request was denied in the plenary session of the Commission for the Revision of the Code.

In the schema of 1982, canon 247 became canon 276 after having been amended.[20] The Supreme Pontiff then studied the 1982 schema with the help of experts. Some canons were dropped while others were joined or altered. Finally, in the 1983 code the cleric's obligation of obedience became the *lead canon* of the obligations and rights of clerics. The Holy Father seemed to have been well aware of this change since he, together with a small group of consultors, reviewed the final version. Some laws on clerics have been abrogated, but the law demanding reverence and obedience has been retained and even put at the top of the list.

c) Textual analysis of canon 273

The Latin text says: "*Clerici speciali obligatione tenentur Summo Pontifici et suo quisque Ordinario reverentiam et oboedientiam exhibendi*". (Clerics have a special obligation to show reverence and obedience to the Supreme Pontiff and to their own Ordinary). Here, the following terms will be analyzed: (1) clerics; (2) Supreme Pontiff; (3) Ordinary; (4) special obligation; and, (5) reverence and obedience.

– "Clerics"

During the 2nd century, clerics *(Gk. Kleros)* was a term applied to those who belong to the body of men who are a portion of God and at the same time have God himself as their lot. According to the 1917 code, "clerics are those who are dedicated to the divine ministry at least by the first tonsure" (c. 108 §1). In the 1983 code, clerics refer to the part of the People of God who by the sacred orders participate in the priesthood of Christ.

They are distinct from the common priesthood that all the faithful, including themselves, share by virtue of baptism since they act in the person of Christ by virtue of their ordination. They are consecrated and are deputed to divine worship and pastoral service of the faithful and become part of the hierarchy of the Church, an organization in which clerics are subordinate to one another and ecclesiastical power is in various degrees. Unlike the 1917 code, the present code stipulates that clerics refer *only* to deacons, priests and bishops.[21]

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[20] This schema was presented to the Roman Pontiff after the amendments of the Code Revision Commission. Canon 247 became canon 276 in the *Schema Novissimum*. There was no change in the wordings of this canon.

[21] Cf. J. PULICKAL, *Dictionary of Canon Law*, Manila 2005, 93-94.

Canon 949 of the 1917 code lists three *major* or *sacred* orders: priesthood, diaconate and subdiaconate;[22] and the four orders are called *minor:* acolyte, exorcist, lector and porter. Although they have been venerated in the past, said, *Le Tourneau*, this distribution is no longer suitable to the requirements of modern times. Hence, a reform was carried out by Pope Paul VI in his Motu proprio *Ministeria quaedam* issued on August §15, 1972. The minor orders no longer exist as orders, i.e., as part of the sacrament of Holy Orders, and they are now considered to be *ministries* and their conferral is now called *institution* and not *ordination.* The two of them, namely, the acolytate and the lectorate, must be received by future priest as part of the passage towards ordination. However, they can also be received by those who do not intend to be ordained. This reform draws the line between clergy and laity, between that which belongs to the clergy and can only be carried out by them, and that which can be asked from the laity.[23]

The M. Pr. *Ministeria quaedam* which produced canon 1009 §1 has also brought about change in the discipline of the Church. While the legislation of the 1917 code has established the seven orders, among which the order of bishops was not included, the current code establishes only three orders as mentioned above. Only those orders that are of divine institution are considered to belong to the sacrament of Holy Orders which configures a baptised person as a sacred minister and integrates him into the hierarchy.

The *episcopate*, which has not previously been listed among the various grades of the sacrament of Holy Orders,[24] is recognized by the Second Vatican Council as a sacrament: "This Sacred Council teaches that by the episcopal consecration the fullness of the sacrament of Orders is conferred, that fullness of power, namely, which both in the Church's liturgical practice and in the language of the Fathers of the Church is called the high priesthood, the supreme power of the sacred ministry" (LG 21). One must bear in mind, in this sense, that for a long time the sacramentality of the episcopate has been the object of doctrinal controversy. Although the Council of Trent itself affirmed the *superiority* of bishops worth the respect of priests, it did not affirm the *sacramentality* of the episcopal ordination.

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22 The subdiaconate appeared in the 3rd century; it was considered to be a major order in the West after the Lateran Ecumenical Council in 1139 had generalized the obligation of celibacy for this order.

23 Cf. D. Le Tourneau, *Pamplona ComEng* on c. 1009.

24 Cf. CCC 1555-1561.

Presbyters are true participants in the priesthood of Christ,[25] but they do not possess the fullness of the pontiff and in consequence they exercise their power under the authority of the bishops (LG 28; PO 10). The priesthood of priests as well as the power conferred through ordination are not derived from the priesthood of bishops but directly from Christ. The universal dimension of the *ordo presbyterorum* is founded in the priesthood of Christ.

The *diaconal order* is also of divine institution and it has its origin in the sacrament of Holy Orders as defined in canon 1008.[26] However, the word *pastors* can be only be applied to bishops and priests because they are the only ones who are consecrated and empowered *to act in the person of Christ the Head.* Thus, deacons cannot represent Christ the Head and Pastor but Christ Servant. The diaconal order does not belong to the priesthood but to the ministry.[27] Pope Benedict XVI in a motu proprio, *Omnium in mentem (To everyone's attention)*,[28] dated October 26, 2009 and published in December of the same year, modified five canons of the 1983 code, two concerning the sacrament of Holy Orders and three being related to the sacrament of marriage. The previous text of canon 1008 seemed to attribute to deacons as well as to priests (bishops and presbyters) the function in acting *in the person of Christ, the Head of the Church*. The concluding words of canon 1008 were therefore revised to read "... so that, each according to his own grade, they serve the People of God with a new and specific title". The motu proprio specified the distinct forms of serving the People of God exercised by deacons and priests by adding to canon 1009 a third paragraph: §3. "Those who are constituted in the order of episcopate or presbyterate receive the office and faculty of acting in the person of Christ the Head, while deacons receive the power to serve the People of God in the *diaconia* of liturgy, word and charity".

The difference between the episcopate and the priesthood is only in grade. Priests participate in the priesthood of Christ (PO 10) and are collaborators of the episcopal order and therefore exercise this sacred power to sanctify and govern the portion of the flock of the Lord that corresponds to them *under the authority of the bishop* (LG 28).

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25 Cf. CCC 1562-1568.

26 Cf. CCC 1569-1571.

27 Cf. T. Rincón-Pérez, *El Orden*... 49-50.

28 Cf. T. Rincón-Pérez, "El elemento del Orden y el sacerdocio ministerial a la luz del M. *Omnium in mentem*" en *Ius canonicum*, 51 (2011) 43-67; Also cf. The work of the same author, *El estatuto canónico del diaconado permanente*, *en* El orden de los clérigos o ministros sagrados, Pamplona 2009, 337-363.

Consecration and *mission* are two ontological components of the condition of sacred ministers or clerics. By sacramental consecration, clerics are configured in a peculiar way to Christ: in the case of priests, to Christ Head and Pastor and in the case of deacons, to Christ as Servant. Furthermore, the sacrament of Holy Orders confers upon the ordained a sacred power which enables him to exercise a sacred ministry which requires such power, making him participate in the universal mission of Christ. *Consecration* and *mission* are co-essential and interrelated. It is, therefore, not possible for consecration to exist without a mission or a mission without first having received the sacred power by means of consecration.

The term *clerics* and *sacred ministers* are synonymous from the canonical point of view. But the terms *priest* and *sacred minister* are not equivalent because the latter is broader.[29] While all priests are sacred ministers (i.e., priests and bishops), not all ministers are priests (i.e., deacons). Thus, the term *clerics* used in canon 273 refers to deacons, priests and bishops and does not refer to the clerics as understood in the 1917 code. This study, however, focuses, but not exclusively, on the obedience of diocesan *priests* to the diocesan bishops.

– "*Supreme Pontiff*"

Canon 127 of the 1917 code did not mention obedience to the *Supreme Pontiff* but only to the *Ordinary*. In 1966, a study group in charge of the revision added this term to the canon. In 1971, it was recommended that this canon be cancelled and replaced by the former canon 127 of the 1917 code because some did not want to include the Roman Pontiff in the canon since he is already the Ordinary of the universal Church. But this request was denied in the plenary session of the Commission for the Revision of the Code. Hence, in its present form, the term *Supreme Pontiff* is retained.

The obligation of obedience binds not only clerics. *All the faithful* "are bound to follow with Christian obedience those things which sacred pastors, inasmuch as they represent Christ, declare as teachers of the faith or establish as rules of the Church" (c. 212 §1). *Members of the institutes of consecrated life* are bound to obey the Supreme Pontiff as their highest superior by reason of the sacred bond of obedience (c. 590 §2). *Clerics*, however, are bound by a *special obligation* of obedience not merely towards their own Ordinary but also towards the Supreme Pontiff, the successor of Peter, who is the Ordinary of

[29] Cf. T. Rincón-Pérez, "Noción restringida del clérigo y ministerios laicales" en *El Orden*… 73-81.

the entire Church (c. 273). Unlike members of the institutes of consecrated life, clerics do not profess a vow of obedience to the Roman Pontiff but are obliged to show reverence and obedience to him also as their Ordinary to whom they promise the same in the rite of the ordination to priesthood and diaconate.[30]

– *"Ordinary"*

The 1917 code considered Ordinary as that person who had episcopal or quasi-episcopal, ordinary power in the external forum, both proper and vicarious. It has not specified whether he had executive power. It has to be taken into account that the differentiation of the functions of the Church governance was not completely developed until the 1983 code.[31] Regarding this matter, the 1983 code is more precise: not all those who govern with ordinary power are known as *ordinaries* as noted in the great number of canons. There are those who enjoy executive, ordinary power, be it proper or vicarious, that must be *general* (c. 479) which differentiates them from Ordinaries who due to their office have some ordinary power which is not general but specific or are referred to certain sphere of competence.[32]

Canon 134 §1 indicates that "in addition to the Roman Pontiff, the title of *Ordinary* is understood in the law as diocesan bishops and others who, even if only temporarily, are placed over some particular church or a community equivalent to it according to the norm of canon 368 as well as those who possess *general ordinary executive power* in them, that is, vicars general and episcopal vicars; likewise, for their own members, major superiors of clerical religious institutes of pontifical right and of clerical societies of apostolic life of pontifical right who at least possess ordinary executive power"[33].

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30 Cf. *The Code of Canon Law, Canon Law and Spirit*, prepared by the Canon Law Society of Great Britain and Ireland, 2003, 155.

31 Principle 7 for the revision of the code states: "In order that these objectives are suitably put into practice, it is necessary that particular attention be given to regulating a procedure which protects subjective rights. For this reason, in revising the code attention must be given to that which, to date, has been lacking in this domain, namely administrative recourse and the administration of justice; to this end the various functions of ecclesiastical power (i.e., the legislative, administrative and juridical power) must be clearly distinguished and the organs which are to exercise a given function must be adequately defined" (cf. Preface of *Pamplona ComEng*, Vol. 1, 191).

32 Cf. H. Franceschi, *Pamplona ComEng* on c. 134; Also cf. J. I. Arrieta, *Governance Structures within the Catholic Church*, Montreal 2000.

33 Cf. J. I. Arrieta, *El Pueblo de Dios*, 139.

The title *local Ordinary* is understood to include all those mentioned in canon 134 §1 except the superiors of religious institutes and societies of apostolic life (c. 134 §2). Within the context of executive power, those things which in the canons are attributed by name to the *diocesan bishop* are understood only to belong only to the diocesan bishop and to others made equivalent to him in canon 381 §2, excluding the vicar general and episcopal vicar except by special mandate (c. 134 §3).[34] Canon 381 §2 indicates that those who preside over other community of the faithful mentioned in canon 386 are equivalent to a diocesan bishop unless it is otherwise apparent from the nature of the matter or from a prescript of law. Canon 386 states that particular churches, in which and from which the one and only Catholic Church exists, are first of all dioceses, to which, unless it is otherwise evident, are likened a territorial prelature and territorial abbacy, an apostolic vicariate and an apostolic prefecture, and an apostolic administration erected in a stable manner.

This study however focuses, but not exclusively, on the *diocesan bishop* as the *ordinary*.

A *diocesan bishop*[35] is one whom is entrusted the care of a diocese (c. 376). He has the ordinary (flowing from his office), proper (exercised in his own name) and immediate power (directly exercised over those entrusted to his care without an intermediary) required for the exercise of his pastoral function except in cases which the law or a decree of the Supreme Pontiff reserves to the supreme authority or to another ecclesiastical authority (c. 381 §1). He is responsible for teaching, governing and sanctifying the faithful of his diocese, sharing these duties with the priests and deacons who serve under him. Although in principle he enjoys all the authority necessary for the exercise of his office, he is situated within a hierarchical communion. At times the higher interests of that communion may limit episcopal discretion. Yet the former system of granting faculties to bishops has been replaced by a system of papal reservation, which may restrict the disposition of certain issues to the supreme church authority or to some supra-episcopal authority. Thus, the diocesan bishop is presumed to have all the authority necessary for his ministry unless the law *explicitly* provides otherwise.

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34 Cf. M. Wijlens, CLSA *NewCom* on c. 134.

35 Cf. cc. 375-380, bishops in general; cc. 381-402, diocesan bishops; J. Herranz, "The personal power of governance of the diocesan bishop" in *Communicationes* 20 (1988) 288-310.

For the affairs of their own dioceses, diocesan bishops are responsible directly only to the Pope. They govern their flock in the name of God as representatives of Christ. They are not *delegates* of the Holy See, though they are subject to its authority, but exercise their own powers by virtue of their *office*. Bishops are not considered *vicars* of the Roman Pontiff because they exercise the power they possess in their own right and are true prelates of the people they govern. They are vicars and legates of Christ, and their power comes from Him. This power of governance is a *sacred* and *personal* power which is radically conferred by episcopal ordination and it becomes a *juridical power* by means of canonical mission from supreme authority.[36]

– "*Special obligation*"

Clerics, conscious of their own responsibility *qua* faithful, are bound to follow with *Christian obedience* those things which the sacred pastors, inasmuch as they represent Christ, declare as teachers of the faith or establish as rulers of the Church (c. 212 §1). This obligation is modalized when clerics are ordained, incardinated and appointed to an ecclesiastical office and Christian obedience now becomes special *clerical obedience*. Clerics are bound by a *special obligation* to show reverence and obedience to the Supreme Pontiff and their own Ordinary (c. 273). This obligation of obedience is created not on the basis of baptised-bishop relationship but cleric-bishop relationship arising from the reception of the sacrament of Holy Orders and incardination. Clerics cooperate in the episcopal ministry. Being incardinated in the diocese they are destined for its service (c. 266 §1).

This obligation is called *special* because is being required in almost all cases is no longer Christian obedience but *canonical obedience*. The bishop is empowered to enforce the *universal law* that regulates the clerical state and clerics are bound to obey whatever pertains to their state as such. The authority of the bishop to enforce the common law regarding clerical discipline (cc. 273-289) includes the right to interpret the law in accordance with the local circumstances. His commands, however, must be in conformity with the spirit of the law. The bishop, explained *Renken*, cannot command anything prohibited by it. Conversely, he cannot prohibit what the code clearly permits.[37] (Note: The extent of the diocesan bishop's authority in relation to his priests will be discussed in Chapter III).

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[36] Cf. Herranz, cited by J. A. Renken, CLSA *NewCom* on c. 381.
[37] Cf. J. A. Renken, CLSA *NewCom* on c. 273.

– *"Reverence and Obedience"*

Reverence is a feeling or attitude of deep *respect* tinged with *awe* and *veneration*. *Respect* denotes both a positive feeling of esteem for a person or other entity (such as a nation or a religion) as well as specific actions and conduct representative of that esteem. Respect can be a specific feeling of regard for the actual qualities of the one respected.

The word *reverence* is often used in the *sacred context*, i.e., in relation to religion. This is because religion often stimulates this emotion through the recognition of God, the supernatural and the ineffable. Reverence involves a humbling of the self in respectful recognition of something perceived to be greater than the self. Religion is commonly what evokes reverence. While the code uses the term *reverence* (c. 273), the rite of ordination to the diaconate and priesthood uses the term *respect* when the bishop asks the candidate who makes the promise of obedience: "Do you promise respect and obedience to me and my successors?" and the elect responds, "I do". In this study, *respect* and *reverence* are used interchangeably. Again, reverence is respect but understood in a religious context.

Canon 273 does not only urge obedience but also reverence. Obedience, said *St. Thomas Aquinas*, proceeds from reverence. Whereas reverence regards the *person* directly, obedience regards the *precept* of that person.[38] Reverence is said to consist of the exterior signs of honour through which subordinates acknowledge the *dignity* and *authority* of their superiors.

Respect for the bishop: his human dignity, office, and excellence. Respect may have several objects. In this study, however, three general objects worth respecting in the diocesan bishop are identified: his person, his office and his excellence. Correspondingly, three kinds of attitude of respect also emerge, namely: respect for his dignity as a *human person;* respect for *his office as bishop*; and, respect for *his excellence or merits*.

Respect for the intrinsic dignity of persons means the respect to which all humans *qua* humans are equally entitled should also be given to the diocesan bishop. It is linked to practical disposition not to harm, humiliate, degrade or diminish the bishop.

Respect for his office means to respect the legitimate exercise of his rights, power, freedom, discretion, faculties and decisions as pastor and teacher of the

[38] Cf. T. Aquinas, *Summa Theologica*, II-II, Q. 104, art. 3.

diocese. Bishops receive their mission and power from the Lord by virtue of episcopal consecration. Hence, they are not to be interfered unlawfully or to be frustrated.

Respect for his excellence means to appraise his merits based on his distinctive achievements or virtues and to give them favorable treatment. This is also called "respect-estimation" whose object can be some special qualities or characteristics which the priests believe the bishop possesses (*direct respect)*, for example, the bishop is extraordinarily intelligent. The object can also be a valuable fact external to the bishop that the priests believe to provide a reason for an attitude of respect *(derivative respect)*, for example, priests respect their bishop because he comes from an esteemed university and he is presumed to be extraordinarily intelligent and well formed.

Respect should be accorded to the bishop in these aforementioned aspects. The bishop should see to it that he conducts himself according to his status and function. If *personal excellence* is lacking or diminishing *ex parte episcopi*, then respect due to his office should not be withdrawn because Christ's faithful, conscious of their own responsibility, are bound to show Christian obedience to what the sacred Pastors, who represent Christ *(i.e., his office as bishop)*, declare as teachers of the faith and prescribe as rulers of the Church (c. 212 §1) and that clerics have special obligation to show reverence and obedience to their own Ordinary (c. 273). Like every *human being*, the bishop also enjoys the fundamental right to one's good name and the right to the protection of one's private life. These rights are derived from exceptional dignity which belongs to the human person (cf. GS 26). Thus, "no one may unlawfully harm the good reputation which a person enjoys, or violate the right of every person to protect his privacy" (c. 220) within the Church as *communio* (c. 209).

Canon 386 describes the diocesan bishop's teaching function and canon 391 his multi-faceted governing function. Not all of the bishop's teaching carries the same weight and authority; an order or hierarchy of truths exists within Christian doctrine. The code reflects this order or hierarchy of truths in canons 750-754 which indicates the specific response of the faithful to Church teaching. Inasmuch as bishops do not always intend to engage the full extent of their teaching authority when they teach on a specific issue, careful examination of each teaching is required to determine the proper response. Thus obedience to which the canon obliges the faithful is not blind, unquestioning reality but rather an intelligent and reflective response. Obedience is also a required response to what sacred pastors prescribes as *rulers of the Church*. But

the exercise of the bishop's authority is not an end in and of itself, rather, it must serve the Church as *communio*, and aim at fostering the common good (c. 223) as well as maintaining communion (c. 209). Canon 212 §2 expressly recognizes the right of all the faithful, including priests, to express their needs and their wishes to the sacred pastors, with special emphasis given to spiritual needs. Canon 384 specifies that the diocesan bishop is to attend to presbyters and *listen* to them as assistants and counselors. Needs and desires may be expressed either individually or through associations (cc. 298; 278; 302); they may be expressed orally or in writing. Such needs however should reflect the context of the Church as *communio* in which all the faithful contribute to its mission (cc. 210; 211) and all clerics work for the same purpose, namely the building up of the Body of Christ (c. 275). In particular way in which priests can express their needs and wishes is through diocesan synod (c. 460), councils, such as finance council (c. 492), presbyteral council and college of consultors (cc. 495-502), pastoral council (cc. 511-514).

Canon 212 §3 states that according to the knowledge, competence and prestige which they possess, the faithful have the right and even at times the duty to manifest to the sacred pastors their opinion on matters which pertain to the good of the Church and to make their opinion known to the rest of the faithful, without prejudice to the integrity of faith and morals, *with reverence toward their pastors*, and attentive to common advantage and *dignity of person*. In other words, the faithful, especially priests, should know that the right to express opinions should occur within the context of *communio* and should aim at the edification of the Church as a whole, not at its splintering into various groups. This right and duty does not exist as an absolute right but rather is concretely situated within the particular community of faith.[39]

Respect for the rule of law. The duty of respect to ecclesiastical authorities extends to a duty to *respect the law*, expressed in its obedience. Authorities also have the duty of respect for law. Law is an instrument to preserve something valuable hence one has the duty not to damage its proper functioning. Law, said *Higgins*, "proves to be an instrument presently necessary for, or vitally important to, preventing harm, and preserving the well being of members of the community, and is integral in creating conditions in which human capacity can be realized. The instrument of law derives its value from facilitating

[39] Cf. R. Kaslyn, CLSA *NewCom* on c. 212.

the good of its subjects. The rule of law creates a climate in which human capacities can develop, identities can be understood, justice can be done, and self-respect can blossom"[40]. When the law functions well and remains respected and observed, priests organize their expectations around canonical directives. They construct their daily lives around the scaffolding of canonical laws.

Disrespect of the rule of law destabilizes this structure. It undermines the priests' ability to trust their fellow priests to abide by proper standards of conduct, it erodes confidence in the effectiveness of laws, and, it reduces priests' ability to perform ordinary acts with trust and confidence in those who lead. When the rule of law is undermined, fear and suspicion infect ordinary activities, and unnecessary caution cauterizes priests' capacity to serve. However, when canon law is respected, trust in the *prebyterium* grows and the just ordering of the diocese is assured. A just ecclesial order is necessary for the building up of the body of Christ in the spirit of fraternity and charity.

Bishop and priests are to develop and maintain *affective* and *systemic* trust among themselves for the sake of ministry. *Affective trust* arises in direct *interpersonal* contexts and come in various kinds and degrees. *Systemic trust* arises primarily from procedural and structural dimensions of the ecclesiastical institution. It includes agencies of accountability, institutionalized transparency, just sanctions and protection of the right to defend oneself or to vindicate one's rights in a fair trial. Most of these structures are established by the code, others are remitted to the diocesan bishops, or bishops' conference or particular councils. Priests need proper information and genuine evidence of good faith to enable them to respect, trust, or have confidence in authorities and institutions. Some form of social order in the diocese is necessary because the possibility of relations among priests presupposes at least a context of peaceful relations wherein they can effectively perform their function as ministers. They should never forget that the faithful have the right to be led by pastors who respect the rule of law and at the same time compassionate as their Lord.

III. Objects of Canonical Obedience

This chapter now deals with the *objects* of canonical obedience. *Objects*, in this case, refer to the set of obligations and rights of clerics indicated in canons 273-289. Particular norms or diocesan statutes, albeit are objects of obedi-

[40] R. Higgins, *The Moral Limits of Law: Obedience, Respect, and Legitimacy*, New York 2004, 66.

ence, are not covered by this study. It is up to diocesan bishops (e.g., c. 277 §3) or particular councils (c. 445) to determine through their particular norms what is left undetermined by universal norms according to the provisions of the law.[41]

A. *Personal juridical status of clerics*

1. Notion of personal juridical status of clerics

The *personal juridical status of clerics* refers generally to the set of active and passive conditions of the clergy, but specifically to the obligations and rights indicated in canons 273-289 of the 1983 code.[42] These rights and duties arise from the very nature and mission of the sacred ministry. In other words, the bases of cleric's juridical status, and its consequent rights and duties, are (1) their ontological configuration with Jesus Christ which the sacramental *consecration* entails, and (2) the sacred *mission* to which they are destined.[43] The juridical status of clerics, explained *Navarro*, "more than reflecting the functions that the cleric is called to perform in the Church, is the juridical translation of the sacramental *identity* of clerics. This identity determines not only the mission and functions proper to clerics, but also the way of presenting themselves in the Christian community and in civil society"[44]. The personal juridical status affects all clerics (i.e., bishops, priests and deacons) in their condition as ordained faithful and incardinated cleric in the diocese.

The power and the faculties which clerics receive, either through the sacrament of Holy Orders or canonical mission, however, are to be exercised not for the benefit of oneself but of the faithful.[45] Clerics are destined to ministerial activity and this destination is the key to their personal juridical condition which generates peculiar rights and duties. Moreover, even if the obligation

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41 Regarding these three objects of obedience, cf. RINCÓN-PÉREZ, *El Orden*… 307.

42 Cf. T. RINCÓN-PÉREZ, commentary on the obligations and rights of clerics in *Code of Canon Law Annotated*, Montreal 2004, 2nd edition, 222; also cf. write-ups of the same author entitled, "Estatuto jurídico personal del clérigo" en *El Orden*… 285-379. .

43 Cf. T. RINCÓN-PÉREZ, "Los sujetos del ordenamiento canónico" en *Manual de Derecho Canónico*, 177).

44 L. NAVARRO, "The Juridical Status of the Clergy" in *Philippine Canonical Forum*, CLSP, Vol. III, 2001, 31.

45 Cf. LOMBARDÍA, *El estatuto personal en el ordenamiento canónico: fundamentos doctrinales*, cited by T. RINCÓN-PÉREZ, *El Orden*... 285.

and rights affirmed here are proper to the clerical state, they must, however, be interpreted in accordance with the common obligations and rights of the faithful since clerics do not lose their baptismal condition even if they are ordained.

2. Importance and characteristics of personal juridical status of clerics

It is very important because, it serves as basis of the obligations and rights of clerics, recognized or established in the code to harmonize their life and personal behaviour with the sacred nature of their ministry. It also serves as basis for safeguarding the true identity and ministry of priests in the face of possible laicization i.e., secularization of priestly functions, and clericalization of lay functions.

The main characteristics of the juridical status of clerics, said *Navarro*, are: *First*, it is perpetual and not *ad tempus.* The life of cleric is regulated by special norms, obligations, functions, etc. This applies throughout all his life and even into retirement. However, with the loss of clerical status as a result, for example, of penalty for grave crimes, his life will no longer be regulated by the norms dealing with clerics. But the substantial reality of his being ordained may permit him, in those cases explicitly established by the law, to administer validly the sacrament of penance (c. 976). A priest who has lost the clerical status *remains to be* an ordained faithful, but as his new status is completely exceptional, he cannot exercise in the Church and at the service of souls the functions connected to the power of Holy Orders.

Second, the juridical status of clerics, maintained *Navarro*, does not depend upon the actual exercise of clerical functions. At times, a cleric does not have a concrete obligation to fulfill or cannot exercise them because of age, health, etc. Nevertheless, he will always be a cleric and his life will be regulated by these norms. Priesthood is forever therefore a priest continues to have rights proper to his status and is bound to avoid what is unbecoming of that status. The juridical status of clerics is with him always and not only during the time when he performs some ministry. Obviously, aside from the obligations and rights derived from his juridical status as cleric, he also has other obligations and rights derived from whatever ecclesiastical office or functions he discharges but only as long as he is assigned to that office.

Third, the norms on rights and duties of clerics leave room for particular laws of bishops' conferences and of dioceses. Unlike the norms in the 1917 code which regulated concrete aspects and prohibited specific activities, the

new code merely establishes general principles which are made more specific through particular norms.[46]

The seventeen canons on personal juridical status of clerics (cc. 273-289) are *juridical* in character, albeit their contents are not always juridical (e.g., canon 276, etc.). They are not simple recommendations but binding juridic norms that are valid for the whole Latin Church. Sanctions may be imposed for the violation of certain obligations such as engaging in trade and business without permission from the Ordinary (c. 1392), failure to observe continence and celibacy (cc. 1394; 1395), serious neglect of the duty of residence (c. 1396), obstinate disobedience after a warning (c. 1371), and, inciting others to disobey legitimate Church authority (c. 1373).

With regard to the juridical nature of the obligations, a distinction, clarified *Rincón-Pérez*, should be made between *obligations* in the strict sense and simple *recommendations*. Although the latter are extremely useful for making the personal life of clerics more compatible with the sacred functions they discharge, they can hardly be enforced by legal means. However, commands or prohibitions to do concrete acts, for example, could be enforced if norms are *systematically ignored or unfulfilled*. Yet, the juridical dimension of some of the obligations is difficult to define objectively. But if non-fulfilment of these obligations would affect the lifestyle required of a sacred minister in such a way that non-fulfilment has a negative effect on the juridical life of the People of God, then the code reacts against it and protects itself from it.[47]

3. Various ways of classifying the contents of personal juridical status of clerics

Figure 8 (cf. Appendix) shows the list of seventeen canons in their proper sequence as presented in the code. Take note that the canon on canonical obedience (c. 273) is placed as the lead canon. Rights are interspersed with the obligations because they are correlative. The ancient and outmoded clerical privileges no longer find a place in the current code. The sources of these canons are mainly the two titles of the 1917 code: *on the rights and privileges of clerics* (cc. 118-223), and *on the obligations of clerics* (cc. 124-144).

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[46] Cf. L. Navarro, "The Juridical Status of the Clergy" in *Philippine Canonical Forum*, CLSP, Vol. III, 2001, 41-45; T. Rincón-Pérez, "La función del derecho particular diocesano" en *El Orden*... 289-291.

[47] Cf. T. Rincón-Pérez, *Code Annotated*... 222-223.

Figure 8 also shows the Latin verbs used to express the levels of obligation (e.g. *tenentur*; *astringuntur*; *servanda est*, *vetantur*; *prohibentur* have greater exigencies than *commendatur*, *invitantur* or other subjunctive exhortative verbs like *uniti sint*, *gaudeant*, etc.) For example, the verb *tenentur*; which expresses a greater exigency, is used in reference to the duty of obedience (c. 273), fidelity to service (c. 274), holiness of life (c. 276), and celibacy (c. 277), while an exhortative verb *colant* is used in reference to simplicity of life (c. 282). Why does the code use more demanding terms with regard to celibacy and obedience but more relax with regard to simplicity of life? The reason for this will be discussed later on. Furthermore, *ius est* is used in reference to the right of association and *merentur* in reference to remuneration. Why use only *merentur* and not *ius est* for remuneration*?* In other words, the exigency of command or exhortation that the code establishes in each canon can be perceived from the verbs it has utilized. Take note, however, that the "text" of the canon is only one of the bases of interpretation. With regard to the rules of interpretation, canon 17 establishes that ecclesiastical laws are to be understood according to the proper meaning of the words considered in their text and context. If the meaning remains doubtful or obscure, there must be recourse to parallel places, if there be any, to the purpose and circumstances of the law, and to the mind of the legislator. Laws are authentically interpreted by the legislator and by the person whom the legislator entrusts the power of authentic interpretation (c. 16 §1). However, the purpose of displaying the Latin verbs is to show the different exigencies of the norms (whether they are obligations or plain exhortations) which obviously determine the duty and the way priests would observe the norm as well as the limit of the authority of the bishop with regard to the life and ministry of his priests.

Other authors, like for example, *Rincón-Pérez*, [48] divide the canons into two groups, namely: *duties* (priestly holiness; special duties and prohibited activities) and *rights* (to ministry, formation, association, remuneration and vacation). Take note that in this classification priestly holiness is presented as a juridical duty, that is, a duty *ex iustitia* in relation to the Christian faithful. The People of God has the right to be led by priests who are holy, and in a sense, it is the duty of priests to be holy (this will be explained below). Holiness of life is the hermeneutic principle which informs other duties. Special prohibitions are placed under the category of duties and obedience is listed under the special duty of clerics. *Figure 9* shows such classification *(cf. Appendix)*.

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[48] For example, T. Rincón-Pérez, cf. *El Orden*... 297-355.

Some author, like *Miras* and *Cenalmor*,[49] classify them as follows: capacities;[50] common duties modalized by clerical condition; duties proper to clerics; rights proper to clerics; common rights modalized by clerical condition; and, congruence of life and special prohibitions. Unlike *Figure 9 (Appendix)*, special prohibitions are not placed under clerical duties but are considered independently as separate category. *Figure 10 (Appendix)* shows such classification.

Still others, e.g., *Hervada*, [51] classify the juridical conditions of the *faithful vis-a-vis* clerical rights and duties, [52] as follows: (1) *condicio communionis* which refers to rights and duties of communion and solidarity with respect to the common means of salvation, i.e., word and sacraments; (2) *condicio libertatis* which includes rights and duties that fall within the area of personal autonomy and responsibility; (3) *condicio activa* which denotes rights and duties to participate actively in the life and ministry of the Church; (4) *condicio subiectionis* which represents rights and duties which fall under the supervision of legitimate authorities as a consequence of hierarchical nature of the Church; and (5) *condicio humana*[53] which covers rights and duties derived from the natural rights of human beings. The sacrament of Holy Orders creates modalizations to such fundamental rights and duties in a lesser or greater degree. Nevertheless, clerics even if they have received Holy Orders, still continue to exercise the fundamental rights like the rest of the faithful, e.g. right to due process, right to act and defend oneself by judicial process, right to privacy, etc. *Figure 11* (*Appendix*) shows the fundamental condition *vis-a-vis* clerical rights and duties.

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49 For example, J. Miras and D. Cenalmor, cf. *El derecho de la Iglesia, curso básico de derecho canónico*, Pamplona 2005, 180-182.

50 *Capacity*, (Latin *capacitas*; from *capax*, able to hold much; from *capere*, to hold or contain), means the ability to hold or to receive. *Ability*, (Latin *habilitas*, aptitude or ability), means the ease and promptitude of execution. *Capacity*, natural or legal, has reference to the *receptive power*; *Ability* has reference to *active* exercise of the faculties which arise from high mental endowments or skills. For example, one may have the capacity to hear confession, but no ability to do it due to physical or canonical limitations. A priest is *capable* of celebrating the Mass but is not *able* to do it due to illness. A lay person or a woman may be *able* to celebrate the Mass, but it is invalid because he or she does not have the *capacity* which only the sacred ordination can grant. Only the ordained has the *capacity* to receive ecclesiastical offices whose exercise requires the power of order; now whether he has the *ability* or the aptitude or promptitude to do it well is another question.

51 For example, J. Hervada, *Elementos...*, 143-147; and J. I. Arrieta, *El Pueblo de Dios*, 124-129.

52 The obligations and rights of the faithful are indicated in canons 208-223. However, canon 208 does not indicate a right but a general principle of fundamental equality and diversity. Also, canon 223 does not indicate a right but certain limitations of the fundamental rights, namely: common good of the Church; the rights of others and one's own duties towards others.

53 This one, i.e., *condicio humana*, is the author's addition.

Unlike *Figure 11* which presents the duty-rights in the context of fundamental condition, *Figure 12* shows the common rights and duties *vis-a-vis* the clerical rights and duties *(cf. Appendix)*.

Others, like *Navarro*,[54] divide the content of personal juridical status of clerics into three kinds of norms according to what a cleric is to be and how he is to act appropriately in that role, namely: (1) norms dealing with the exercise of the *ministry* and from these norms emerges the relation of dependence between cleric and his superior; (2) norms describing their *lifestyle* as intimately related to their identity; and, (3) norms acknowledging areas of freedom and *autonomy* for a cleric because not everything in the life of a cleric is placed under hierarchical dependence. There are limits to exercise of autonomy, e.g., that the social activities should be in harmony with the clerical state for the fulfilment of the ministry, and that to be a member of an association cannot be an obstacle for the fulfilment of the ministry. *Figure 13* shows the three kinds of norms *(cf. Appendix)*.

4. General juridical principles governing bishop-priest relationship (commanding and obeying subjects)

Before analyzing each canon on the obligations and rights of clerics, it would be helpful to identify first the general principles governing bishop-priest relationship, that is, between the commanding and obeying subjects.[55] These principles would serve as parameters in trying to understand the extent of the bishop's authority and the obligation of the clerics to obey. Some of these are based on an *Explanatory Note* of the Pontifical Council of Legislative Texts.[56] These principles should be taken into account when interpreting the canons. Another set of principles that are also useful in interpreting clerical obligations and rights is the ten principles for the revision of the code.

a) *On the bond of subordination of priests to the diocesan bishop*

The bond of subordination of the priest to the diocesan bishop exists as a result of the Sacrament of Holy Orders and incardination in the diocese, and

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54 For example, L. NAVARRO, cf. his work, "The Juridical Status of the Clergy" in *Philippine Canonical Forum*, CLSP, Vol. III" (2001) 31-47.

55 Cf. BRENNAN on "Collaboration, Consultation and Communio between Bishops and Priests" in the *Proceedings of the 68rb Annual Convention* of Canon Law Society of America, Washington DC, 2006, 97-107.

56 PCLT, "Explanatory Note", *Communicationes*, 36 (2004) 33-38.

not only the result of the obligation of obedience required of clerics in general towards their proper Ordinary (c. 273) or indeed as a result of the obligation of oversight on the part of the bishop (c. 384). Thus, the bond subordination in this case is not to be interpreted absolutely according to the secular standards existing in social and labour system.

b) *No generalized subjection for it is confined only to sphere of ministry and duties*

The bond of canonical subordination between priests and the diocesan bishop (c. 273), inasmuch as it is canonical, does not generate some sort of generalized subjection but is confined to the sphere of the exercise of the ministry and of the general duties of the clerical state. For priests, said the *Explanatory Note* (see nt. 56), canonical obedience is restricted to those matters that are prescribed by canon law. It is determined by the clerical status and office, on one hand, and by the extent of episcopal jurisdiction, on the other.

c) *On the bishop's duty to confer an office. Duty of oversight is not absolute control*

The bishop has the duty to provide for the conferral of an office or a ministry to be exercised in favour of that particular church for whose service the priest was promoted (cc. 266 §1; 274 §2). He must defend their rights and see to it that the priests faithfully fulfill the obligations proper to their state, and that they have at their disposal the means and institutions needed to sustain their spiritual and intellectual life. Moreover, he also has the duty to respect the rights of priests arising from incardination and the exercise of the ministry in the diocese. Among these one might mention the right to adequate remuneration and social provision (c. 281), the right to an appropriate term for holidays (c. 283 §2) and the right to receive ongoing formation (c. 279). The duty of oversight of the diocesan bishop (c. 384), consequently, is not configured as an absolute or indiscriminate control over the entire life of priest. Priest enjoys a legitimate initiative and a just autonomy.

d) *Service is assumed not with the bishop but with the diocese*

The service which the priest carries out in the diocese is bound to a permanent and lasting involvement which he has assumed not with the physical person of the bishop but with the diocese by means of incardination. Thus, the particular nature of the ministerial obedience required of the priest, said the *Explanatory Note*, does not make the bishop a "boss" of the priest inasmuch as he does not "work" for the bishop but for the diocese (in which of course the head is the bishop) and that, as a consequence, it is not juridically correct to consider the priestly ministry analogous to a relationship of "dependant labour" existing

in civil society between an employer and an employee. The relationship between priest and bishop goes beyond a business contract, because it is founded on a sacramental bond carried out in the context of ecclesial communion.

e) *Various levels of exigency of canons on personal juridical status of clerics*

Not all canons on the obligations and rights of clerics, *in our opinion*, require equal and the same exigency and they therefore differ in their binding force *(cf. Appendix*, *Figure 8 for the Latin verbs used in each canon*). Some canons, for example, require special obedience while others provide wider space for the exercise of legitimate autonomy. Certain canons require priest to ask permission from the local Ordinary to do things, while others establish absolute prohibitions and set concrete penalty for their violations. There are canons which appear as mere recommendations, yet their neglect or grave violations which create scandal or harm the ecclesial communion could entail penalty, e.g., simplicity of lifestyle (c. 282).

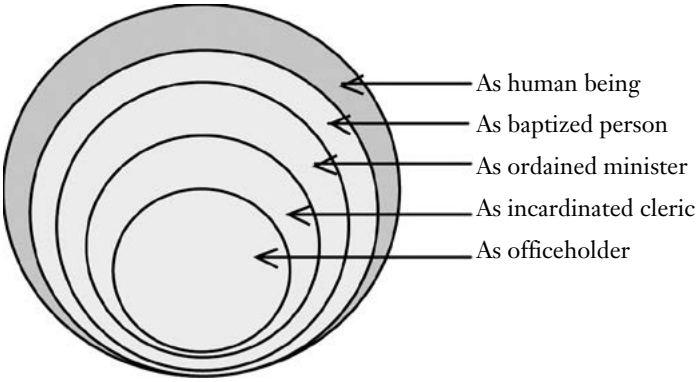
B. *Rights and duties of clerics in accordance with their various conditions*

Priests have rights and duties corresponding to their various conditions (or status) and functions in the Church, namely: as a human being, as a baptised person, as an ordained minister, as an incardinated priest, and, as an officeholder. In effect, the obedience required of them will depend on which concentric circle (or level) they are immediately located. Each circle has its corresponding obedience. The different forms and types of obedience have already been discussed in previous chapters *(cf. Figures 2 and 7)*, hence, there is not need to repeat them in this section.

Looking at *Figure 15* below, the farther the circles are from the centre, the greater the personal autonomy priests would enjoy in relation to their bishop. The closer the circles are to the centre, the greater control the bishop could exert and in effect, the obedience required of priests becomes more and more specific. Not all aspects in the life of priests fall under the total control of their bishop for he has no absolute power over his priests. This means he cannot oblige his priests to show the same degree of obedience at all time on all matters. The bishop should know whether norms are obligatory or mere exhortations, whether they are prohibitions that can be dispensed with.

Priests enjoy greater personal autonomy in the exercise of their rights as human being or as baptised person. However their priestly condition modalizes the exercise of those rights. For priests, canonical obedience is a *law* (c. 273). It differs from the vow of obedience professed by the religious (c. 601).

Figure 15. Rights and duties of clerics in various juridical conditions and corresponding obedience



Below is the integrated list of rights and duties attributed to priests in their various conditions and the corresponding obedience called for by those conditions. Ecclesiastical authorities, especially bishops, should take these into consideration in dealing with priests, i.e., they should know the limits or extent of their authority and should respect the lawful autonomy of priests. But at the same time they should not relinquish their duty-rights to ensure that priests live up to their true identity and fulfill faithfully their ministry. Obedience as duty does not contradict obedience as virtue. In fact, obedience-duty is a constitutive element of the obedience-virtue.

1. Priests, as human beings, have following duties and rights:[57]

- Duty to humanize the world and respect the natural law.
- Right to fundamental equality and legitimate diversity among human society; the right to privacy and good reputation (c. 220).
- Right to choose the state of life (c. 219).
- Right to association and assembly (c. 215).
- Right to defence of rights (c. 221).
- Right to worship God according to one's conviction (c. 214).
- But the way these rights and duties are exercised need to be in harmony with their priestly identity and ministry.

[57] This list is based on the one made by K. LASCH, "The Rights and Obligations of Clerics" in *Code*, *Community*, *Ministry*, 2nd edition, edited by Edward Pfnausch, CLSA, Washington D.C., 1992, 28-36.

2. Priests, as baptised Christians, have the following duties and rights:

- Duty to *Christianize* the world and imbue it with Gospel values and its corresponding *Christian obedience* to the competent ecclesiastical authority.
- Duty to preserve ecclesial communion (c. 209).
- Right to fundamental equality of dignity and action as well as legitimate diversity of condition and office among all of Christ's faithful (c. 208).
- Duty-right to lead a holy life (c. 210).
- Duty-right to proclaim the Gospel (c. 211).
- Duty to obey the sacred Pastors as teachers and rulers of the Church; to make known his spiritual needs (212).
- Duty to provide for the needs of the Church and promote social justice (c. 222).
- Right to make known their views but must always respect the integrity of faith and morals, show reverence to Pastors and take into account the common good and dignity of individuals (c. 212).
- Right to spiritual assistance (c. 213).
- Right to worship and follow one's form of spiritual life (c. 214).
- Right of association and assembly (c. 215).
- Right to apostolic activity (c. 216).
- Right to Christian education towards maturity as human being and baptized person (c. 217).
- Right of freedom in pursuit of sacred science (c. 218).
- Right to immunity from coercion in choosing a state of life (c. 219).
- Right to protect one's privacy and good reputation (c. 220).
- Right to defence, due of process of law and penal process according to law (c. 221).
- But the way these rights and duties are exercised need to be in harmony with their priestly identity and ministry.

3. Priests, as ordained ministers, have the following:

a) Rights

- Only the clergy can assume offices which require the power of orders (c. 274). Although the law allows deacons or lay persons to participate in pastoral ministry due to the shortage of priest (c. 517 §2), only a

priest can be appointed to the full care of souls (c. 150). The revised code also gives stability to the office of pastor who must be a priest. His appointment is for an indefinite period of time (c. 522).

- Secular clerics have the right to join with others in the pursuit of goals that conform to the clerical state (c. 278 §1).
- Right to adequate remuneration for the fulfilment of their ministry, this income should be commensurate with their position, adequate for their necessities, and sufficient for the cleric to give an equitable income to those whose services he may require in the fulfilment of his responsibilities (c. 281 §1).
- Right to social assistance which will provide for their necessitites in time of illness, incapacity, or old age (c. 281 §2).
- Right to a reasonable period of vacation (c. 283 §2); pastors and associate pastors are entitled to one month's vacation, but not more (cc. 533 §2; 550 §3).

b) General obligations:

- They are bound by a special obligation to show reverence and obedience to the Supreme Pontiff and to his own Ordinary (c. 273). This is called *canonical-ministerial obedience*.
- Unless legitimately prevented, clerics are bound to assume and faithfully fulfill the assignment given to them by their Ordinary (c. 274 §2).
- They should not be absent from the diocese for a notable period of time without at least the presumed permission of one's own Ordinary (c. 283 §1).
- As consecrated in a special way to God and as dispensers of God's mysteries in the service of the People of God, clerics are obliged to seek spiritual perfection in their own lives (c. 276 §1).
- They are bound by daily recitation of the Liturgy of the Hours (c. 276 §2, 3^{0}).
- They are to offer the Eucharistic sacrifice frequently (c. 904).
- They are obliged to undertake spiritual retreats in accord with the local regulations (c. 276 §2, 4^{0}).
- They should recognize and promote the mission which the laity exercise in the Church and in the world (c. 275 §2).
- They are to act prudently in their habitual association with persons when such association can endanger celibacy or cause scandal (c. 277 §2).

- Duty to avoid groups or associations whose goals and activities are not in conformity with clerical obligations or interfere with the fulfilment of their priestly responsibilities (c. 278 §3).
- Duty to continue sacred studies, follow the solid teaching based on scripture, handed down in tradition, accepted by the Church and set forth especially in documents of the councils and Popes, avoiding innovations based on worldly novelty and false knowledge (c. 279 §1).
- In accordance with local law, they should participate in continuing education courses and conferences with the aim of acquiring a greater knowledge of the theological sciences and pastoral methods necessary to fulfill priestly responsibilities (c. 279 §2).
- They should promote as much as possible the preservation of peace and harmony among all the people (c. 287 §1).
- They are to wear suitable ecclesiastical attire in accord with the norms of the episcopal conference and local custom (c. 284).
- As cooperators with the bishop, they have the duty to proclaim the Gospel of God (c. 757).
- They must regard preaching as priority inasmuch as their primary responsibility is the proclamation of the Gospel to everyone (c. 762).
- They must see to it with zeal that they stir up and teach the Christian faith, especially through the ministry of the word (c. 836).
- They have the obligation to give the sacraments to the faithful who are properly disposed and are not prohibited by law from receiving them (c. 843 §1);
- They have the obligation to give the sacraments only to Catholics and are forbidden to give them to non-Catholics except in circumstances permitted in the law (c. 844 §1).
- They should fulfill faithfully their duties in the areas of *munus docendi*, *sanctificandi et regendi*.

c) Prohibitions:

- They should completely avoid whatever is unbecoming to their state of life in accord with local customs (c. 285 §1).
- They should avoid things which, though not unbecoming in themselves, are inconsistent with the priestly state (c. 285 §2).
- They are forbidden to assume public office, especially one which involves the exercise of civil power, without permission of both the prop-

er bishop and the bishop of the place where he intends to exercise administrative authority (c. 285 §3).

- Without permission of the bishop, they are not to undertake the administration of property which belongs to lay person or to assume a secular office which requires the duty of rendering an account.
- They are forbidden to offer bail even upon security of his own property without consulting the Ordinary.
- They are forbidden to sign a surety for an obligation to pay money (c. 285 §4).
- Without the permission of legitimate ecclesiastical authority, they are forbidden to conduct business or trade either personally or through others, for personal gain or for the benefit of others (c. 286).
- They may not take an active role in political factions or in management of labour unions, unless, in the judgement of the competent ecclesiastical authority and with its permission, it would be required for the protection of the rights of the Church and for the common good (c. 287 §2).
- They may not enter military service without the permission of the bishop (c. 289 §1), but they are to take advantage of civil laws exempting them from duties and public offices foreign to the clerical state (c. 289 §2).

d) Exhortations:

- Since all clerics are working together to achieve the same goal, the building up of the Body of Christ, they should be united among themselves in a bond of fraternity and prayer and should strive for cooperation with each other in accord with local law (c. 275 §1).
- Among the means clerics may utilize in striving for spiritual perfection in their own lives are the following: first of all, faithfully and zealously fulfill their pastoral ministry; reading the scripture; reception of the Eucharist, especially urged is daily celebration of the Mass; meditation; frequent confession; devotion to the Blessed Virgin Mary; and other means of sanctification (c. 272 §2).
- Especially valuable for secular clerics are those societies or associations which afford a fraternal support, encourage holiness in the priestly ministry, and promote fraternal unity among priests and with the bishop (c. 278 §2).

- They are to study even the non-sacred sciences especially those related to the sacred sciences, particularly if they help in the pastoral ministry (c. 279 §3).
- Strongly recommended is some form of common life for clerics. Where it exists, it should be maintained (c. 280).
- They are to cultivate a simplicity of life and shun anything that smacks of worldliness (c. 282 §1).
- They are exhorted to give any surplus funds they may have after providing for their own necessitites, to the activities of the Church and to charitable causes (c. 282 §2).

e) Areas of personal autonomy:

- The enjoy personal autonomy in areas that correspond to the freedom of the faithful, i.e., right to have one's own spirituality; association of clerics (c. 278); freedom in temporal affairs, i.e., clerics are exhorted to give any surplus funds they may have after providing for their own necessitites, to the activities of the Church and to charitable causes (c. 282 §2).
- But the way in which freedom and autonomy is exercised needs to be in harmony with the identity and ministry of clerics.

4. Priests, as incardinated cleric have the following duties and rights:

- They have a particular duty to obey *(canonical-particular obedience)* their Ordinary in all matters related directly or indirectly to priestly ministry.
- Duty of ministerial service to the faithful.
- Duty of residence within the particular church, if it is territorial in nature, as what usually occurs.
- Right to an ecclesiastical office or ministry or right to receive a specific pastoral assignment rooted in the duty *ex iustitia* of the Ordinary as a result of priests' incardination in the diocese.
- Right to just sustenance because they are incardinated.
- Right to remuneration because they dedicate themselves to, or make themselves available for, the ministry in the diocese.
- Right to spiritual and intellectual assistance and to social security assistance.

In relation to incardinated clerics, the diocesan bishop has:

- The duty to ensure good formation for candidates to priesthood.
- Duty to confer ecclesiastical office to incardinated priests, appropriate to each one's personal condition and circumstances.
- Right to organize and direct a pastoral program which the incardinated should implement.
- Duty to provide adequate spiritual, intellectual and social security assistance. This is the duty *ex iustitia* correlative to the right of the clergy;
- Duty to provide just sustenance to clergy according to the provisions of canon 384.
- Duty to establish more detailed rules concerning celibacy and to pass judgement on the observance of such obligation in particular cases.

5. Priests, as officeholders:

- As officeholder, the priest designated through a canonical mission has the rights and duties pertaining to such office (e.g. as parish priest, parochial vicar, vicar general, vicar forane, financial administrator, chaplain, rectors, etc). At this level, obedience that is required is called *canonical-specific obedience*.
- Canonical offices will be enumerated with their corresponding numbers of canons: Those appointed to a diocesan synod (cf. cc. 460-468); those assigned to diocesan curia, i.e., vicar general, episcopal vicar, chancellor, notaries, financial committee and administrator (cf. cc. 469-492); Judicial vicar, judges, auditors and relators, promotor of justice, defender of the bond and notaries (cf. cc. 1419-1437); members of the Council of priests and college of consultors (cf. cc. 495-502); chapter of canons (cf. cc. 503-510); members of the pastoral council (cf. cc. 511-514); parish priests and assistant priests (cf. cc. 515-552). The obligations and rights of assistant priests are defined not only by the canons of this chapter, but also by the diocesan statutes, and by the letter of the diocesan bishop; they are more specifically determined by the directions of the parish priest (c. 548); Vicars forane (cf. cc. 553-555); Rectors of churches (cf. cc. 556-563); chaplains (cf. cc. 564-572), etc.

In relation to the officeholders, the bishop has:

- The duty to foster a various forms of apostolate in his diocese and is to ensure that throughout the entire diocese, or in its particular districts,

all works of the apostolate are coordinated under his direction, with due regard for the character of each apostolate (cf. c. 394 §1);

- Duty-right to establish offices, commissions, councils, or ministries he deems useful and helpful to his pastoral ministry. He should see to it that their functions are clearly defined in their statutes or in his letter of appointment.

IV. Disobedience and Clerical Offences

The study on obedience will not be complete if its opposite, i.e., disobedience, is left unexamined. Disobedience is normally manifested in clerical misconduct and abuses rooted in a false understanding of *liberty* or in *ignorance* about the essential elements of a reality whose deeper meaning is not understood and whose constancy is not recognized.[58]

Some clerical misconduct may be addressed effectively by means of fraternal correction (c. 1341) or pastoral remedy (c. 1312 §3), but those that constitute grave offence[59] may require formal administrative or judicial penal processes. In any case, priests have the right of protection of their rights against any allegation whether it involves minor (i.e., disruptive to the ministry) or major (i.e., delictual or grave violations of penal laws) infractions. Whenever allegations of clerical disobedience or misconduct are made against priests, their rights, in fact everyone's rights, must be upheld, especially the rights to lawful defence, to due process of law and to proper penal procedure (c. 221).

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[58] In general, disobedience and misconduct consist in the following: doing any act in contravention of the ecclesiastical law; failure to do any act required by ecclesiastical laws; serious, persistent and continuous neglect or inefficiency in the performance of clerical duties; conduct unbecoming of or inappropriate to clerical state and ministry.

[59] In the ecclesiastical law the term *offence* implies an external and morally imputable violation the law to which at least an indeterminate sanction is attached. There are three elements which constitute an offence (c. 1321): the objective (the external violation of the law); the subjective (grave imputability by reason of malice or of culpability) and the legal (the prescription of the law or precept). Not every violation is an offence, but only the violation of those laws which have a penalty attached to them. Offence should not be confused with sin. Because, an offence, in the first place strictly needs the necessary objective and external element. Sin is always a voluntary violation of the law inasmuch as it is a moral law. Offence is a voluntary violation inasmuch as it contradicts the external reality of the law. All offences are necessarily external, even if it may be occult; while a sin can be external or internal. All ecclesiastical offences are, at the same time, grave sins. But not all grave sins are offences. Thus, an offence could be an externally manifested grave sin that damages the social order of the Church and so her ability to carry out the mission entrusted to her.

No one, said canon 1321 §§1-2, "can be punished for a commission of an external violation of a law or precept unless it is gravely imputable by reason of malice or of culpability. A person who deliberately violated a law or a precept is bound by the penalty prescribed in that law or precept. If however, the violation was due to the omission of due diligence, the person is not punished unless the law or precept provides otherwise".

In this chapter, clerical offences relative to disobedience and their corresponding penalties will be examined. Only those that constitute *grave infractions* typified in the Code will be discussed in details. *Minor infractions* and disruptive behaviours that do not constitute an offence are not covered by this investigation; they are remitted to the prudent judgement of bishops. Administrative procedure and judicial process will be described but not in details. Indeed, a lot of manuals and commentaries have been written regarding this matter.[60]

1. *Protection and limits of rights (cc. 221; 223)*

Canon 221 §1 establishes that the Christian faithful can legitimately vindicate and defend the rights which they possess in the Church in the competent ecclesiastical forum according to the norm of law. (§2) If they are summoned to a trial by a competent authority, the Christian faithful also have the right to be judged according to the prescripts of the law, applied with equity.[61] (§3) The Christian faithful have the right not to be punished with canonical penalties except according to the norm of law.

This canon specifies three substantive rights, namely: the right to vindicate and defend one's rights; the right to due process; and right to proper penal procedure. These are necessary, explained *Cenalmor*; "to ensure that rights are not only recognized but that they do not become meaningless. Even

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60 For example, T. J. Paprocki 's commentaries on canons 1732-1752, CLSA *NewCom*, 1818-1847; J. Miras' *Compendio de derecho administrativo*, Pamplona 2005; J. Miras' commentaries on canons 1732-1739, and A. Marzoa, *Pamplona ComEng* on c. 1740-1752; C. De Diego-Lora and R. Rodriguez-Ocaña, *Lecciones del derecho procesal canónico*, Pamplona 2003.

61 *Equity* is the softening of the rigour of law through charity, so that the ideal of justice may be more fully achieved and the inevitable insufficiencies of laws (cf. c. 19) be compensated for. Equity is a duty of the judge. *Canonical equity* aims at ensuring that rights are protected or injustices corrected in situations where a strict application of the law might harm these rights or where the law is incapable of correcting an injustice. It ensures that the Church's mission of salvation remains paramount.

the most eloquent assertions of rights lack substance and life unless there are effective administrative procedures to vindicate such rights when they are being violated. The need to juridically safeguard the rights of the faithful is intrinsically linked to the concept itself of *ius* because any true right involves the obligation to grant its holder what properly belongs to him. For those in public authority, this obligation translates not only into the duty to respect the rights of each person but also to ensure, to the extent possible, the regulation of mechanisms needed for each one's just protection, which forms part of the common good"[62].

2. *The right to lawful defence of one's rights (c. 221 §1)*

The right of defence is derived from natural law and not from a concession of positive law. It guarantees the concrete possibility of each party in a dispute to participate in the process that leads to its resolution. Priests, like all the faithful, should be given the opportunity to be heard and to know and, if possible, to contradict the petition, declarations and proofs proposed by the other party. Thus, it consists in the faculty to use all lawful means in order to defend or to protect one's rights and vital interests in the course of canonical procedures.

The right of defence must remain intact. Subjective rights without concomitant right to their protection are absurd. However, it should be exercised according to the just depositions of positive law and not according to the changing whims or self-interest of an individual person. Since it is derived from natural law, this right is indispensable. The Church has always understood that it cannot dispense from natural law and divine positive law. The right of defence, therefore, is a fundamental presumption of all laws. In fact, canon 1620, 7^{0} establishes that a judgement is null, with a nullity which cannot be remedied, if the right of defence has been denied to one or the other party. To protect this right, the code establishes that a party can freely appoint an advocate and procurator for himself; however, he can plead and respond personally, unless the judge considers the services of a procurator or advocate to be necessary (1481 §1). In a penal trial, there must be a *de facto* defence, a technical defence in fact, because in a penal trial the accused must always have an advocate (cc. 1481 §2; 1723). In each tribunal, as far as possible, permanent

[62] Cf. D. Cenalmor, *Pamplona ComEng* on c. 221.

legal representatives are to be appointed who will receive a salary from the tribunal, and who may exercise the office of advocate or procurator for parties who may wish to choose them (c. 1490). The accused should be given access to all accusations, the evidence, and information about one's canonical rights (c. 1598 §1).

Canon 221 establishes the rights of the faithful to invoke and legitimately defend the rights they have in the Church (i.e., cc. 208-220; cc. 273-289 for priests) as well as those rights recognized by the universal law, particular law, or by any other sources of law, e.g., statutes or contracts. The defence of these rights, clarified *Cenalmor*, "can be achieved by two means: in the first place, by claiming them legitimately before the ecclesiastical authority or before other members of the faithful; and in the second place, through the corresponding recourse to the competent ecclesiastical forum, whether administrative or judicial, *ad normam iuris*"[63].

Even though the faithful may resort to competent ecclesiastical forum to vindicate one's rights in the Church, the code urges that "all Christ's faithful, and especially bishops, are to strive earnestly, with due regard to justice, to ensure that disputes among the People of God are as far as possible avoided, and are settled promptly, and without rancour" (c. 1446 §1). Once a lawsuit has been filed, the Christian obligation weighs particularly upon the judge, who at the beginning of the litigation and during the proceedings prior to judgement, "is not to fail to exhort and assist the parties to seek an equitable solution to their controversy in discussions with one another. He is to indicate to them suitable means to this end and avail himself of serious-minded persons to mediate" (c. 1146 §2). When the issue is about a private good of the parties, in which the defence of a right, therefore, would not affect the public good, the judge shall consider "whether an agreement or a judgement by an arbitrator, in accordance with the norms of cc. 1713-1716, might usefully serve to resolve the controversy" (c. 1446 §3). Similar solutions are indicated by the code with regard to conflicts over singular administrative acts (c. 1733 §1), for which the bishops' conference or a diocesan bishop are prescribed to create a permanent office or council in order to seek out and suggest equitable solutions (c. 1733 §2). However, the use of all these means, and in general, the preference for avoiding juridical disputes and for diligently searching for an amicable settlement without adversely affecting justice should not diminish the right of the

[63] D. Cenalmor, *Pamplona ComEng* on c. 221.

faithful to defend their rights in competent ecclesiastical forum *ad normam iuris*.[64]

The majority of cases in which priests perceive a violation of their rights arise from the administrative acts of church authority, e.g., their bishops. Such acts would include decrees, precepts and rescripts (c. 35). Privileges, dispensations, or other favours fall under *rescript* (c. 59 §1). If these acts violate the rights of priests, they must proceed administratively through a hierarchical recourse and not through the Church's ordinary tribunal system (c. 1400 §2). All these acts of church authority require executive power of governance (c. 35). However, explained *Kaslyn*, challenges to acts which do not involve the power of governance might form the basis for adjudication in an ordinary tribunal. For example, many actions taken by various officials within the diocesan curia would not involve executive power, and priest who feels aggrieved by such specific acts could theoretically initiate a case in the ordinary tribunal.[65]

3. *The right to due process of law (c. 221 §2)*

Due process refers to the right to be judged according to juridical norms. After affirming the right of the faithful to legitimately vindicate or defend the rights they enjoy in the Church, canon 221 §2 affirms the right to be judged *ad normam iuris* to be applied with equity. Thus, there is a strict duty on the part of church authority to ensure that the judicial process unfolds according to previously established juridical norms, both substantive and procedural, to be interpreted with equity. Canonical equity[66] is the softening of the rigour of law through charity. It aims at ensuring that rights are protected or injustices corrected in situations where a strict application of the law might harm these rights or where the law is incapable of correcting an injustice. It ensures that the Church's mission of salvation remains paramount. Equity is rooted in the biblical interpretation of law in which the demands of justice are inseparable from mercy.[67] The competent authority should make decisions that are fair and should be seen to be fair. The faithful need to know that the bishop hears

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64 Cf. D. Cenalmor, *Pamplona ComEng* on c. 221.
65 Cf. R. J. Kaslyn, CLSA *NewCom* on c. 221.
66 Regarding canonical equity, cf. A. Marzoa, *Pamplona ComEng* on c. 1752.
67 Cf. D. Cenalmor, *Pamplona ComEng* on c. 221.

his priest before he acts and that there has been a fair hearing worthy of the dignity of his priests and that whatever action he takes is a consequence of a just process carried out according to the principle of legality.

4. *The right to proper penal procedure (c. 221 §3)*

A trial has two objects: to vindicate the rights of persons (i.e., physical or juridic) and to impose or declare penalties (c. 1400 §1). The Church has its own inherent right to constrain with penal sanctions Christ's faithful who commit offences (c. 1311). However, the Ordinary is to utilize other means of achieving the goals of penal system, including fraternal correction and rebuke, before beginning a judicial or administrative penal procedure (c. 1341). Penalties are to be established only insofar as they are really *necessary* for the better maintenance of ecclesiastical discipline (c. 1317). Penal procedure is to be initiated only in *extrema ratio* or as the last resort (c. 1341). Canon 1341 permits the Ordinary to impose or declare penalties only after three conditions have clearly been established: (a) that the scandal cannot be sufficiently repaired; (b) that justice cannot sufficiently be restored; and, (c) that the accused cannot sufficiently be reformed by other means such as fraternal correction, rebuke or pastoral care. These required conditions must be met during the investigation prior to initiating either administrative or judicial proceedings (c. 1717 §1).

The penalties legitimately imposed by the ecclesiastical authority, said *Kaslyn*, "are one of the clearest cases in which the free exercise of rights can be limited (c. 96), hence, the juridical protection of the faithful is particularly important in the face of possible abuses. Canon 221 §3 provides for protection by indicating that the faithful have the right that no canonical penalties be inflicted upon them except in accordance with the norms of law"[68].

In summary, this chapter deals with the clerical disobedience and misconduct. While some misconduct can be addressed with mere fraternal correction or pastoral remedy, those which constitute grave offence, however, merit either an administrative procedure or judicial penal process. Clerical offences relative to disobedience and their penalties are examined. Canon 221, which establishes that the Christian faithful can legitimately vindicate and defend their rights, serves as the skeleton of this chapter because it specifies three substantive rights namely: the right to vindicate and defend one's rights;

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[68] Cf. R. J. Kaslyn, CLSA *NewCom* on c. 221; D. Cenalmor, *Pamplona ComEng* on c. 221.

the right to due process; and the right to proper penal procedure. The duty of the bishop to protect the rights of priests is also discussed. The limits to the exercise of rights (c. 223) are also examined. Five basic procedure rights are enumerated, namely: the right to impartial decision-maker; the right to adequate notice; the right to be heard; the right to assistance and representation; and the right to an equitable decision and remedies. Cases which usually involve clerical disobedience are presented such as: appointment of pastors and associate pastors; the case in which allegations are made against a priest; the case of anonymous letter against a priest; non-cooperation of priests in psychological testing and treatment; removal of pastors; transfer of pastors; resignation from office upon completion of the 75th year of age; in case of plausible delict or abuses concerning the Eucharist; and complaints regarding abuses in liturgical matters. Clerical offences relative to obedience are identified as well as their corresponding penalties.

Conclusion

This study now presents the following conclusions:

1. *A panoramic view of canonical obedience*

Canonical obedience has been examined in different aspects corresponding to various disciplines of Canon Law, e.g., from the point of view of constitutional law, fundamental law and Church organization in Chapter I; from the point of view of administrative law in Chapters II to III, including *munus docendi et munus sanctificandi*, institutes of consecrated life, and external ecclesiastical law; from the point of view of penal and procedural law in Chapter IV. Indeed, the life and ministry of priests cover practically all disciplines of canon law. However, given its encompassing scope, this study has only scratched, so to say, a surface of canonical obedience, albeit, it has presented a general overview of it. Hopefully, further investigations will be conducted regarding this subject matter and more "fine-tuning" will be made in the near future. Nevertheless, the points enumerated below display only some highlights this study has discovered or rediscovered as the case may be.

2. *On the forms of obedience: divine, ecclesial, Christian, canonical, and religious*

In the economy of salvation, there exists only one strand of obedience, the obedience of the Son of God who yielded perfect obedience to the will of God, even if such obedience terminated in death, death on the cross (Eph

2:8). This divine obedience is the basis of the *ecclesial* obedience of the entire Church, of the *Christian* obedience of the faithful (c. 212), of the *canonical* obedience of clerics (c. 273), and of the *religious* obedience of consecrated persons (c. 601). However, ecclesial obedience rests primarily on the obedience of priests. Pope John Paul said, "Without priests the Church would not be able to live that fundamental obedience which is at the very heart of her existence and her mission in history, an obedience in response to the command of Christ, 'Go therefore and make disciples of all nations' (Mt 28:19), an 'Do this in remembrance of me' (Lk 22:19; 1 Cor 11:24), i.e., an obedience to the command to announce the Gospel and to renew daily the sacrifice of the giving of his body and the shedding of his blood for the life of the world" (PDV 1).

3. *On Christian obedience*

"Christ's faithful, conscious of their own responsibility, are bound to show Christian obedience to what the sacred Pastors, who represent Christ, declare as teachers of the faith and prescribe as rulers of the Church" (c. 212 §1). Christian obedience can also be called, in our opinion, *common* obedience correlative to common priesthood. Baptism, the first moment of incorporation into the service of the Church, is the basis of common priesthood; common priesthood is the basis of common obedience in which the ecclesial authorities are the commanding subjects (Pope and bishops) and all the faithful are the obeying subjects, without prejudice to canon 11 concerning merely ecclesiastical laws. Lay faithful, in particular, enjoy greater autonomy compared to clerics because most of their actuations in the world are not done in the name of the Church (i.e., they are not acting as public representatives of the Church).

4. *On canonical obedience*

"Clerics have a special obligation to show reverence and obedience to the Supreme Pontiff and their own Ordinary" (c. 273). This special obligation is also called canonical obedience to distinguish it from religious obedience of consecrated persons. "Priestly obedience, imbued with the spirit of cooperation, is based on the very sharing in the episcopal ministry which is conferred on priests both through the sacrament of Holy orders and the canonical mission" (PO 7). The sacrament of Holy Orders is the second moment of incorporation into the service of the Church (take note that what is being referred here is incorporation into the "service" of the Church, not incorporation to the "Church" which happens only once in baptism). Holy Orders is the basis

of ministerial priesthood; ministerial priesthood is the basis of canonical-ministerial obedience. The locus of incorporation is the *ordo*. The presbyter automatically joins the ordo presbyterorum when he receives Holy Orders. His duty-rights *qua* faithful are modalized by the consecration he receives and become duty-rights *qua* sacred minister. The ultimate basis of canonical obedience is baptism, its proximate basis is the sacred ordination, its intermediate basis is incardination, and its immediate basis is canonical mission of designation to a specific ecclesiastical office *(cf. Figure 2)*.

Canonical obedience, *in our opinion*, has three types, namely, ministerial, particular, and specific. While the locus of incorporation of ministerial obedience is the ordo clericorum, that of particular obedience is the diocese or any particular structure of the Church, and that of specific obedience is the ecclesiastical office. While the duty-rights in ministerial obedience are universal in scope, i.e., involves all clerics, that of particular obedience is particular in scope, e.g., it involves the diocesan presbyterium; and that of specific obedience is determined in the appointment letter of the bishop. The commanding subjects are the Pope, Ecumenical Council, bishops and particular councils as the case may be.

For example, canon 284 indicates that "clerics are to wear ecclesiastical dress (thus, it involves ministerial obedience), in accordance with the norms established by the episcopal conference and legitimate custom (which involves particular obedience). Incardination and canonical mission add nothing to the juridical status of clerics; they merely particularize or specify those duties and obligations, especially those that are left to the determination of the diocesan bishops or particular councils. Incardination is the third moment and canonical mission or designation to an office is the fourth moment of incorporation into the service of the Church *(cf. Figure 2)*.

Canon 273 does not actually use the term "canonical obedience" but rather "special obligation" of clerics. But canon lawyers also called it canonical obedience to distinguish it from the religious obedience (c. 601) *(cf. Figure 7)*. It is called special because the obligation to obey is no longer generated by baptism established by canon 212, but by the reception of Holy Orders, incardination, and canonical mission *(cf. on "special obligation")*.

5. *On religious obedience*

"The evangelical counsel of obedience, undertaken in the spirit of faith and love in the following of Christ, who was obedient even unto death, obliges submission of one's will to lawful Superiors, who act in the place of God when

they give commands that are in accordance with each institute's own constitutions" (c. 601) *(cf. Figure 7)*. The basis of religious obedience is the public profession of evangelical counsels through vows or sacred bonds in an institute canonically established by the Church. The commanding subjects are the Pope, Superiors, diocesan bishop and other competent authority, according to their respective competence. While the baptised are obliged with Christian obedience (c. 212) and are encouraged to develop the virtue of obedience, clerics have special obligation to obey the law of obedience established in canon 273 and are encouraged to develop priestly virtue of obedience, which is the most important virtue priests must possess (PO 15). The religious, by virtue of their public profession of the evangelical counsels, are obliged to obey with the vow of obedience (c. 601).

6. *Obedience and areas of personal autonomy*

The duty of the diocesan bishop (c. 384) is not configured as an absolute or indiscriminate control over the entire life of priests. Priests enjoy legitimate initiative and personal autonomy *(condicio libertatis)* in areas that correspond to the freedom of the faithful, because not everything in the life of clerics is placed under hierarchical dependence. e.g., right to have one's own spirituality (c. 214 configures in c. 278), right of association (c. 215 modalized by c. 278), freedom in temporal affairs, but they are exhorted to give surplus funds they may have after providing for their own necessitites, to the activities of the Church and to charitable causes (c. 282 §2).

The bond of canonical subordination between priests and the diocesan bishop, inasmuch as it is canonical, does not generate some sort of generalized subjection but is confined to the sphere of the exercise of the ministry and of the general duties of the clerical state. Canonical obedience is determined by the clerical status and office, on the one hand, and by the extent of episcopal jurisdiction, on the other. The bishop cannot command anything prohibited by the law. Conversely, he cannot prohibit what the law clearly permits.

Private matters, private life, including spiritual life do not fall within the ambit of canonical obedience but within the ambit of personal autonomy of clerics because each one has the freedom to develop the gifts received from the Holy Spirit and follow his own vocational path. But personal autonomy does not mean individualism or indifference to common welfare of the Church or separation from ecclesial communion. It is rather an expression of the principle of diversity which does not diminish the value of unity. In financial matters, provided that priests are not incurring debts, the bishop may not

interfere in their personal finances or disposition of their inheritance. In civil matters, cleric enjoys all the liberties of every citizen. Canon 285 §3, however, limits the right of cleric to hold public office. He is forbidden to assume public office whenever it means sharing in the exercise of civil power. He may join any political party unless it is condemned by the Church and he may vote for any candidate he deems fit. But his personal autonomy in this area, however, must be exercised within the limits set by canon 287 §2 which states that priests are not play an active role in political parties or in directing trade unions, unless in the judgement of the competent ecclesiastical authority, that is required for the defence of the rights of the Church or to promote the common good. On debatable political issues he may take a position but always within the limit set by the provisions of the law (cc. 209 and 223). However, if there is doubt whether a bishop has the authority to give a certain order, the order is to be obeyed because of the obligation of protecting the principle of authority which prevails over the good of the individual freedom.

But the way in which freedom and autonomy is exercised needs to be in harmony with the identity and ministry of clerics and always within the limit established by canon 223. This value of personal autonomy which is "in itself positive, but if made absolute and claimed outside of its context, assumes a negative value. This attitude could be manifested in ecclesial circles and in the very life of the priest whenever his activities in the service of the community become reduced to a subjective realm. In reality, the priest, by very nature of his ministry, is at the service of Christ and the Church. Therefore, he must be disposed to accept all that is justly indicated by his Superiors and, in a particular way, if not legitimately impeded, must accept and faithfully fulfill the task entrusted to him by his Ordinary" (DP 61).

Moreover, priests should know, and should not confuse, which among their actuations fall within their personal autonomy, and which one fall outside of it, that is, what belongs to the just autonomy of public juridical person which they represent; what they do in their name and they do in the name of the Church; what belongs to their "private good" and what belongs to the "public good". Obviously, actuations belonging to public juridical person should not be considered as manifestations of personal autonomy.

7. *Obedience as a clerical promise*

Secular priests do not take a vow of obedience; rather, they make a promise of it. Such a promise is a mere manifestation of the canonical obedience which they are bound to observed. The obligation to obey the Roman

Pontiff and one's own Ordinary remains binding, even if, for example, there is no formal manifestation of it during the ordination rite. Because what obliges them to obey is not the promise itself but the effect of incardination (established prior to the promise), ordination and canonical mission they received. (Indeed, they are already bound by Christian obedience by virtue of their baptism). Secular priests are not bound by religious *vow* established in canon 601 but by a *law* of obedience established in canon 273 (*cf. obedience as a clerical promise)*. It is in this sense that the obedience that they are to observe is called *canonical.*

8. *Obedience-virtue and obedience-duty*

The distinction between *obedience-virtue* and *obedience-duty* oftentimes is not very clear. *In our opinion*, canonical obedience should not be equated right away with the virtue of obedience, albeit ideally they should come together. Obedience-duty has for its proper object not the development of virtues but the observance of norms, the protection of rights, the faithful carrying out of duties, the clarification of roles, the distribution of work, in short, the maintenance of order in the diocese so that everyone could live according to their state of life and do their proper functions in the Church.

The law on canonical obedience is established to ensure that priests perform their tasks not according to their personal whims but according to the intention of the Church. When priests legitimately question their bishop's command or decision, or make recourse against the commands which they perceive as unjust, this should not be misconstrued right away as lack of priestly virtue or an outright disobedience or a questioning of the will of God, because it could also be a legitimate exercise of their fundamental rights to manifest to their bishop their views on matter which concern the good of the Church (c. 212 §3); to make known their needs and wishes to the Pastors of the Church (c. 212 §3); to enjoy a good reputation and to protect their privacy (c. 220); to lawfully vindicate and defend the rights they enjoy in the Church (c. 221); to be consulted regarding matters that would greatly affect them, especially if the bishop's decision would limit the exercise of their fundamental rights (e.g. c. 50).

9. *Reverence and obedience*

"Clerics are bound to show reverence and obedience…" (c. 273). This canon does not only urge obedience but also reverence. Reverence is a feeling or attitude of deep respect tinged with awe and veneration. The word *reverence* is often used when it means respect in a sacred or religious context. Obedi-

ence, said St. *Thomas Aquinas*, proceeds from reverence. Whereas reverence regards the person directly, obedience regards the precept of that person. In other words, while the object of reverence is the *person*, that of obedience is the *command* or prohibition of that person. The loss of reverence toward one's superior, does not necessarily mean not to obey his legitimate commands or prohibitions, because, the object of obedience is not the virtues that may be present (or absent) in the person of the bishop but his legitimate commands *(cf. reverence and obedience)*.

In our opinion, there are three possible objects of reverence (worth respecting) in the diocesan bishop, namely: his *person*, his *office*, and his *excellence*. If personal excellence is lacking or diminishing *ex parte episcopi*, respect due to his office should not be withdrawn because Christ's faithful are bound to show Christian obedience to what the sacred Pastors, who represent Christ (i.e., their office as bishops), declare as teachers of the faith and prescribe as rulers of the Church (c. 212 §1) and that clerics have special obligation to show reverence and obedience to them (c. 273). "Priests must respect in their bishops the authority of Christ, the Supreme Shepherd" (PO 7). Obedience, said *Del Portillo*, "must be given to competent authorities, although is some cases the interior attitude of those exercising the power does not correspond to the function of service which they must exercise, since it is not grounded either in the attitudes of mind or the personal virtues of those who rule, but instead in the hierarchical constitution of the Church itself as desired by God". A cleric, for example, may not be very fond of his bishop, but he is obliged to obey his lawful commands and faithfully fulfill them in view of the command good, his own duties and the rights of other faithful (c. 223).

10. *Objects of canonical obedience*

The three objects of obedience are: the rights and obligations of clerics (cc. 273-289, except, c. 288); pertinent canons relative to munus docendi (cc. 764; 767; 772 §1; 831; 772 §2; 773); and pertinent canons relative to munus sanctificandi (cc. 838; 841; 846). The rights and duties of clerics according to their various conditions are enumerated *(cf. Figure 15)*. The list could facilitate the interplay of rights and duties between bishop and priests.

11. *"Obedience" is loosely described in magisterial documents*

In the magisterial documents that have been examined, i.e., PO, PDV, DP, and PPLPC, the term obedience, *in our opinion*, is being described *loosely*, in a sense that they do not categorically define obedience as Christian, canonical or religious, nor there is a categorical distinction between obedience-du-

ty and obedience-virtue. PO, for example, merely uses the phrase "priestly obedience" both referring to obedience-duty and obedience-virtue. DP 62 uses the term "hierarchical obedience" to refer to the canonical obedience established in canon 273. PDV 28 merely describes the three dimensions of obedience. It is *apostolic* because it recognizes, loves and serves the Church in her hierarchical structure. Indeed, there can be no genuine priestly ministry except in communion with the Supreme Pontiff and the Episcopal College, especially with one's own bishop. It is *communitarian* because it is not the obedience of an individual who alone relates to the authority, but rather an obedience which is deeply a part of the unity of the presbyterate, which as such is called to cooperate harmoniously with the bishop, and through him, with Peter's successor. Priestly solidarity should be based on belonging to a single presbyterate. Within the presbyterate, this obedience is expressed in co-responsibility regarding directions to be taken and choices to be made. Lastly, it is *pastoral* in character because it is lived in an atmosphere of constant readiness to allow oneself to be taken up, as it were "consumed" by the needs and demands of the flock. These dimensions, *in our opinion*, correspond respectively to the three components of the diocese (c. 369) to which a presbyter is incardinated: the bishop (apostolic), the presbyterium (communitarian), and the people (pastoral obedience).

12. *The occurrence of the term "obedience" in the code of 1983*

There are 14 canons in which the word "obedience" (Latin: *oboedientia)* appear at least in Latin and its English translation, except c. 678 §1 which uses the phrase "subsunt potestati episcoporum" translated in English as "obedience to the diocesan bishop". One canon establishes Christian obedience (c. 212); one canon on canonical obedience (c. 273); one canon on prescription and obedience (c. 199); two canons are related to penal law (cc. 1371, 2^0; 1373); one canon is related to procedural law (c. 1470 §2); eight canons have reference to evangelical counsel and religious obedience (cc. 590; 573 §2; 598 §1; 601; 618; 678 §1; 696 §1; 705). Obviously, most of the canons in which the term "obedience" appears are related to religious obedience *(cf. Figure 6).*

In the preparation of the list of the rights and obligations of clerics in the 1982 schema, the Supreme Pontiff then studied it with the help of experts. Some canons were dropped while others are retained. Finally, in the 1983 code, canonical obedience became the lead canon of the obligations and rights of clerics (from the 4th place, then it was transferred to the 12th, then to the 5th, then to the 4th again, then finally to the 1st place). The Holy Father

seemed to have been well aware of this change since he, together with a small group of consultors, reviewed the final version. A canon on clerical obedience definitively became the first canon on the juridical status of clerics *(cf. Iter of canon 273)*. No one really knew exactly the intention why this norm has been put at the top. *In our opinion*, it seems logical because the norm on canonical obedience serves as an *orientation*, situating obedience under the authority of the Roman Pontiff and one's own Ordinary (c. 274) in the context of *hierarchical communion*. It also serves as a directive, ordering that subsequent norms on juridical status of clerics are to be obeyed faithfully (c. 274).

13. *Various classification of the canons on juridical status of clerics*

The content of the juridical status of clerics could be classified in various ways. Some authors *(e.g. T. Rincón-Pérez)* classify them simply into two groups, namely: duties and rights. Others *(e.g., J. Miras)* classify them under the following categories: capacity; common duties modalized by clerical condition; duties proper to clerics; common rights modalized by clerical condition; rights proper to clerics; and norms on the congruence of life and special prohibitions. Some others *(e.g., J. Hervada)* classify them in relation to the juridical conditions of the faithful, i.e., condicio communionis, libertatis, activa, subiectionis, humana. Still others *(e.g., L. Navarro)* divide the contents into three kinds of norms, namely: norms dealing with the exercise of the ministry and from these norms emerges the relation of dependence between cleric and his superior; norms describing their lifestyle as intimately related to their identity; and norms acknowledging areas of freedom and autonomy for a cleric because not everything in the life of cleric is placed under the hierarchical dependence. But *we*, following *Lasch*, classify rights and duties according to various conditions of clerics, namely: priests (or clerics) as human beings; priests as baptised Christians; priests as ordained ministers (rights, general obligations; prohibitions; exhortations; areas of personal autonomy); priests as incardinated clerics; priests as officeholders *(cf. supra Figure 15)*. The latter classification highlights the extent and limits of the rights and duties both of clerics and bishops. Clerics enjoy greater autonomy with regard to rights corresponding to their condition as human person and as baptised person. But the exercise of such rights is modalized depending upon the level of their incorporation into the service of the Church *(cf. supra Figure 2 in relation to Figure 15)*.

14. *On disobedience and clerical offences*

The study of canonical obedience would not be complete without examining its opposite, namely, disobedience and other related clerical offenc-

es. Canons 221 and 223 serve as framework of the discussion of Chapter IV. Canon 221 specifies the three substantive rights: the right to vindicate and defend one's rights; right to due process of law; and right to proper penal procedure. Canon 223 establishes of the exercise of these rights (common good of the Church; the rights of others; and one's own duties to others). Five procedural rights are explained: right to impartial decision-maker; to adequate notice; to be heard; to assistance and representation; and to equitable decision and remedies.. Delicts related to canonical obedience are also explained with their respective penalty so that offender-priest may know his rights, and at the same time the bishop would know the limits of his authority, and both of them would act according to the norm of the law. Minor infractions which do not constitute an offence are remitted to the prudent judgement of the bishop.

15. *The ultimate, proximate and immediate purposes of canonical obedience*

The *ultimate* purpose of the norm on canonical obedience, like the rest of canonical norms, is *salus animarum* (c. 1752). Its *proximate* purpose is to promote, guarantee and protect common good of the People of God (ecclesial communion), particularly, the just ordering of the diocese, which in turn makes it possible for each member to enjoy fully and easily the necessary and desirable means for salvation and for sanctity. Ecclesial life cannot exist without canonical obedience, since the Church needs obedience to sacred law, in conformity with the Apostle's words: 'But all things should be done decently and in order' (1 Cor 14:40)" *(cf. John Paul II, Address to the Tribunal of Roman Rota, January 18, 1990)*. Obedience to the laws of the Church does not weaken individual good and freedom; in fact, it is the perfection of good and freedom. Since the good of the Church, well understood, is also the good of each individual.

It is not true that to be more pastoral, obedience should become less canonical. There is no exercise of canonical obedience which does not take account, first of all, of the pastoral dimension of the ministry. Canonical obedience is intrinsic to pastoral ministry, thus all priestly ministry always includes a dimension of canonical obedience.

The *immediate* purpose of canonical obedience is the faithful observance of the laws of the Church, specifically, of the rights and obligations of clerics (cc. 273-289) as well as pertinent canons of *munus docendi* and *munus sanctificandi*. Clerics are obliged to accept and faithfully fulfill the office committed to them by their Ordinary (c. 274).

APPENDIX

Figure 8. Canons on personal juridical status of clerics

Canons	Topics	Latin verbs and their objects
c. 273	Clerical reverence and obedience to the hierarchy	*Tenentur* – in reference to special obligation
c. 274	Availability for service and fidelity in the ministry	(§2) *tenentur* – to faithfully fulfill the ministry
c. 275	Clerical fraternity and cooperation	(§1) *se uniti sint* –fraternity; *prosequantur* –cooperation; (§2) *agnoscant et promoveant* –mission of the laity
c. 276	Holiness of life	(§1) *tenentur* –to seek holiness; (§2) *invitantur* –to say Mass daily; *tenentur* –to pray daily the Liturgy of the Hours; *tenentur* –to make spiritual retreats; *sollicitantur* –mental prayer and devotion
c. 277	Clerical celibacy	(§1) *tenentur et astringuntur* –to celibacy; (§2) *se gerant* –to company; (§3) *competit* –for bishops to issue norms
c. 278	Associations of clerics	(§1) *ius est* –for association; (§2) *magni habeant* –in relation to recognized associations; (§3) *abstineant* – harmful associations
c. 279	Continuing formation	(§1) *prosequantur* –sacred studies; (§2) *frequentent* –pastoral courses; (§3) *prosequantur* –other sciences linked to sacred sciences
c. 280	Common life	*Commendatur valde* –to the one not yet established; *servanda est* –to the one already established
c. 281	Clerical remuneration and social security benefits	*Merentur* –remuneration; *gaudeant* –social benefits
c. 282	Simplicity of life and detachment from temporal goods	(§1) *Colant* –simplicity; *se abstineant* – vanity; (§2) *velint impendere* –excess goods for charitable works
c. 283	Clerical residence and vacation	(§1) *Ne discedant* –from diocese; (§2) *competit* –vacation
c. 284	Clerical attire	*Deferant*
c. 285	Inappropriate clerical activity; activity foreign to clerics; forbidden to assume public office with civil power; financial involvement	(§1) *abstineant* –unbecoming activities; (§2) *vitent* –alien activities; (§3) *vetantur* –public office; (§4) *ne ineant* –administration of goods; *prohibentur* –to act as surety; *abstineant* –from signing promissory notes
c. 286	Forbidden to conduct business and trade without permission	*Prohibentur*
c. 287	The clergy as signs of peace; forbidden to take active role in political parties and trade unions	(§1) *foveant* –peace and justice; *ne habeant* -active role in political parties
c. 288	Exemptions for permanent deacons	(This will be skipped because it pertains to deacons, not presbyters)
c. 289	Use of exemptions allowed by civil law	(§1) *Ne capessant* –to volunteer to armed services; (§2) *utantur* –exemptions

Figure 9. Duties and rights of clerics (based on the classification of Tomás Rincón-Pérez)

Duties	Canons	Topics
Priestly holiness:	c. 276 §1	Duty to seek holiness, grounded in a profound spiritual life, through faithful fulfilment of the ministry. Priestly holiness as the informing principle of the clerical duties
	c. 276 §2	Means to attain sanctity proper to clerics
Special duties of clerics:	c 273; 274 §2	Duty of obedience and availability for ministry
	c. 275 §1	Duty of fraternity and mutual cooperation among the clergy (of communion with the *presbyterium*); common life (c. 280)
	c. 275 §2; c. 381 §2	Duty of clerics in relation to lay faithful: a) acknowledgement and promotion of the mission of lay faithful; b) duties of pastoral charity and pastoral justice
	c. 283 §1	Duty of residence
	c. 277	Gift-duty of celibacy
	c. 284	Duty of ecclesiastical dress
Activities prohibited for clerics:	c. 285 §§1-2	Conduct unbecoming and activities foreign to clerical state
	c. 285 §3	Exercise of public office which entails participation in civil power
	c. 287 §2	Active part in political parties and in governing labour unions
	c. 285 §4	Activities related to economic matters, such as the usual exercise of commerce and union activities
Rights	**Canons**	**Topics**
Ministry	c. 274 §2	Duty-right to exercise a ministry
Formation	c. 279	Permanent formation as duty of justice; permanent formation as a right to liberty
Association	c. 278	Right of association of clerics, both in civil associations that do not detract from clerical status, and associations created within the heart of the Church; (Note: it is distinct from clerical associations established in c. 302)
Remuneration	c. 281	Rights pertaining to adequate remuneration and social security benefits
On vacation	c. 283 §2	Right to legitimate vacation period

Figure 10. Juridical status of clerics (based on the classification of Jorge Miras)

Classification	Canons	Topics
1. Capacity	c. 274 §1	Only clerics are capable of receiving offices whose exercise requires the power of order and the power or ecclesiastical governance
2. Common duties of all the faithful but nuanced or reinforced by the condition of sacred minister	c. 273	Duty of obedience to legitimate pastors
	cc. 275; 280	Duty of fraternity, communion and cooperation, especially with fellow sacred ministers
	c. 276 §§1-2, 1^0, 2^0, 5^0	Search for holiness especially in the exercise of functions proper to pastoral ministry
3. Duties proper to the clergy, especially related to sanctity, availability and effectiveness in the ministry	c. 274 §2	Duty to accept and faithfully fulfill the office committed to them by their Ordinary.
	c. 275 §2	Duty to acknowledge and promote the mission which the laity exercises in the Church and in the world
	c. 276 §2, 3^0-4^0	Obligation to carry out the Liturgy of the Hours daily and make spiritual exercises
	c. 277	Duty of celibacy
	c. 279	Dedication to permanent formation
	c. 282	Duty to follow a simple way of life and detachment from worldly things
	c. 283 §1	Duty of residence in the diocese
	cc. 284; 288	Duty to wear ecclesiastical dress
	c. 287 §1	Duty to foster among people peace and justice
4. Rights proper to clerics	c. 274	Right to receive concrete pastoral mission as the reason of ordination.
	c. 281	Right to receive just remuneration and necessary social assistance
	c. 283 §2	Right to a sufficient time for annual vacation

Classification	Canons	Topics
5. Common rights modalized by clerical condition	c. 278 §§1 and 3	Natural right to association as long as it is congruent to clerical condition. Clerics are to abstain from joining associations incompatible to clerical state or which make difficult the fulfilment of pastoral work
	c. 278 §2	Right to association which promote holiness in the exercise of ministry and foster unity among the clergy and with their bishop.
6. Special prohibitions and congruence of life	c. 285	Duty to avoid or abstain from certain activities unbecoming and foreign to clerical life and ministry
	c. 285 §3	Clerics are prohibited to accept public office with civil power, unless permitted by the Ordinary
	c. 285 §4	Clerics are prohibited from accepting certain economic obligations
	c. 286	Prohibited from conducting business or trade
	c. 287 §2	Prohibited from active participation in political parties and from directing trade unions
	c. 289 §1	Clerics are not to volunteer to the armed services without the permission of the Ordinary
	c. 288	Some of the prohibitions do not affect permanent deacons

Figure 11. Fundamental conditions of the faithful vis-a-vis clerical duties and rights (based on the classification of Javier Hervada)

Duty-rights according to the condition of the faithful	Duties and rights of clerics
1. Condicio communionis:	
– Right to receive spiritual goods (c. 213)	
– Right to one's own rite and the right to one's own form of spiritual life (c. 214)	
– Right to a Christian education (c. 217)	
– Duty to lead a holy life (c. 210)	– Canon 276 modalizes canon 210 with the duty to seek holiness especially in the exercise of functions proper to pastoral ministry (c. 276 §§1-2, 1º, 2º, 5º)
2. Condicio libertatis:	
– Right to work for divine message of salvation (c. 211)	
– Right to one's own rite and the right to one's own form of spiritual life (c. 214)	
– Right to association and the right to hold meetings (c.215)	– Canon 278 modalizes canon 215, e.g., the right to association, as long as it is congruent to clerical condition. Clerics are to abstain from joining associations incompatible to clerical state or which make difficult the fulfilment of pastoral work (c. 278 §§1 and 3); – Right to association which promote holiness in the exercise of ministry and foster unity among the clergy and with their bishop (c. 278 §2).
– Right to choose a state of life (c. 219)	– Once clerical life is chosen, and once a cleric is admitted, he acquires the capability and rights like the following: only clerics are capable of receiving offices whose exercise requires the power of order and the power or ecclesiastical governance (c. 274 §1); – Right to receive concrete pastoral mission as the reason of ordination c. 274; – Right to receive just remuneration and necessary social assistance c. 281; – Right to a sufficient time for annual vacation c. 283 §2

Duty-rights according to the condition of the faithful	Duties and rights of clerics
3. Condicio activa:	
– Right to make known one's needs and one's own opinion (c. 212 §§2-3)	
– Right to freedom of research and to express the results obtained (c. 218)	
– Right to promote or sustain apostolic action (c. 216)	
– Duty to provide for the needs of the Church (c. 222)	
– Duty to promote evangelization (c. 211)	– Canon 211 is modalized by special prohibitions for clerics. The common duty to bring the Gospel to temporal affairs is modalized by clerical condition, for example: duty to avoid or abstain from certain activities unbecoming and foreign to clerical life and ministry (c. 285); – Clerics are prohibited to accept public office with civil power, unless permitted by the Ordinary (c. 285 §3); – Clerics are prohibited from accepting certain economic obligations (c. 285 §4); – Prohibited from conducting business or trade (c. 286); – Prohibited from active participation in political parties and from directing trade unions (c. 287 §2);
4. Condicio subiectionis:	
- Right to act and to defend oneself by judicial process (c. 221)	
- Duty to obey the teachings and governance of pastors (c. 212)	- Canon 273 modalizes canon 212, that is, from duty of Christian obedience to ministerial obedience, a special obligation of reverence obedience to legitimate pastors (c. 273)
- Duty to maintain ecclesiastical communion (c. 209)	- Canon 209 is modalized with the duty of fraternity , communion and cooperation, especially with fellow sacred ministers (c. 275; c. 280)
5. Condicio humana:	
- Duty, correlating to human or natural law, to respect the good reputation and privacy of others (c. 220)	
- Right to act and to defend oneself by judicial process (c. 221).	

Figure 12. Rights and duties: common vis-à-vis of the clerical

Common rights:	
– Right to divine message of salvation (c. 211)	
– Right to petition, and the right to freedom of expression and of public opinion (c. 212)	
– Right to spiritual goods (c. 213)	
– Right to one's own rite and the right to one's own form of spiritual life (c. 214)	
– Right to a Christian education (c. 217)	
– Right to freedom of research and to express the results obtained (c. 218)	
– Right to a good reputation (c. 220)	
– Right to act and to defend oneself by judicial process (c. 221)	
– Right to promote apostolic enterprises (c. 216)	
Common rights:	**Modalized by clerical condition:**
– Right to association and the right to hold meetings (c.215)	– Right to association as long as it is congruent to clerical condition. Clerics are to abstain from joining associations incompatible to clerical state or make difficult the fulfilment of pastoral work (c. 278 §§1 and 3); – Right to association which promote holiness in the exercise of ministry and foster unity among the clergy and with their bishop (c. 278 §2).
Common rights:	**Capacity and rights proper to clerics:**
– Right to choose a state of life (c. 219)	– Only clerics are capable of receiving offices whose exercise requires the power of order and the power or ecclesiastical governance (c. 274 §1); – Right to receive concrete pastoral mission as the reason of ordination c. 274; – Right to receive just remuneration and necessary social assistance c. 281; – Right to a sufficient time for annual vacation c. 283 §2
Common duties:	
– Duty, correlating to human or natural law, to respect the good reputation and privacy of others (c. 220)	
– Duty to provide for the needs of the Church (c. 222)	
Common duties:	**Modalized by clerical condition:**
– Duty to maintain ecclesiastical communion (c. 209)	– Duty of fraternity, communion and cooperation, especially with fellow sacred ministers (c. 275; c. 280)
– Duty to seek sanctity (c. 210)	– Duty to seek holiness especially in the exercise of functions proper to pastoral ministry (c. 276 §§1-2, 1º, 2º, 5º)
– Duty to obey the teachings and governance of pastors (c. 212)	– Special obligation of reverence obedience to legitimate pastors (c. 273)

Common duty:	Special prohibitions for clerics:
– Duty to promote evangelization (c. 211)	– Duty to avoid or abstain from certain activities unbecoming and foreign to clerical life and ministry (c. 285); – Clerics are prohibited to accept public office with civil power, unless permitted by the Ordinary (c. 285 §3); – Clerics are prohibited from accepting certain economic obligations (c. 285 §4); – Prohibited from conducting business or trade (c. 286); – Prohibited from active participation in political parties and from directing trade unions (c. 287 §2); – Clerics are not to volunteer for the armed services without the permission of the Ordinary (c. 289 §1); – Some of the prohibitions do not affect permanent deacons (c. 288)

Figure 14. Three kinds of norms with regard to the content of personal juridical status of clerics (based on the classification of Luis Navarro)

Kinds of norms	Canons
Norms dealing with ministry:	– Obligations of obedience (cc. 273; 274) – Obligation of residence (c. 283 §1) – Dispositions dealing with goods received because of the ministry (c. 282 §2)
Norms dealing with clerical life-style:	– Norms concerning activities which are alien or not fitting to clerical state: – Activities foreign or unbecoming (c. 285); – Forbidden to conduct business and trade without permission (c. 286); – Forbidden to play active role in political parties or directing trade unions (c. 287 §2) – Use of exemptions allowed by civil law (c. 289 §1) – Norms which help the cleric to have in his daily life the essential elements of the typical virtues for his configuration with Christ: – Clerical celibacy (c. 277) – Simplicity of life-style (c. 282) – Fostering peace and harmony based on justice (c. 287) – Holiness of life (c. 276)
Norms concerning areas of autonomy:	– Associations of clerics (c. 278) – And other areas that correspond to the freedom of the faithful, i.e., right to have one's own spirituality; right to meet; freedom in temporal affairs. But the ways in which freedom and autonomy appear need to be in harmony with the identity and ministry of clerics.

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