

REFORMED PENAL SANCTIONS IN THE CHURCH (Book VI of CIC): Additions, Omissions and Modifications - A Guide to understanding the changes in the Canons

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Abstract

The reformed Book VI of CIC made it easy for the readers by clearly indicating the additions, omissions and modifications. Pope Francis through his Apostolic Constitution *Pascite Gregem Dei* dated 23 May 2021 effected this revision in Book VI, 'Penal Sanctions in the Church'.¹ One important addition in the book is the responsibility of the head of a Church in safeguarding justice. "The one who is at the head of a Church must safeguard and promote the good of the community itself and of each of Christ's faithful, through pastoral charity, example of life, advice and exhortation and, if necessary, also through the imposition or declaration of penalties, in accordance with the provisions of the law, which are always to be applied with canonical

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¹ The title of the book VI of CIC was until now 'Sanctions in the Church' (*De Sanctionibus in Ecclesia*). When the CCEO was promulgated in 1990 the canonists of the Eastern Churches preferred the title, 'Penal Sanctions in the Church' (*Sanctionibus Poenalibus in Ecclesia*) (CCEO 1401-1487). Now Pope Francis with the amendment through *Pascite Gregem Dei* changed the title of Book VI of CIC as 'Penal Sanctions in the Church' (*Sanctionibus Poenalibus in Ecclesia*) as in CCEO.

equity and having in mind the restoration of justice, the reform of the offender, and the repair of scandal” (can. 1311§2). Subheadings are given to canons to understand easily the meaning and significance of the texts. Wherever available the parallel canon numbers of CCEO are also cited. In the footnotes, the additions, omissions and modifications made in the canons are indicated by underlining them or by striking them off.

Key Words: Penal sanctions, Medicinal and Expiatory Penalties, Offences against sacraments and Offences against Minors, Additions, Omissions, Modifications, Restoration of Justice, Reform the Offender, Repair the Scandal.

Introduction

Pope Francis by the Apostolic Constitution *Pascite gregem Dei* amended Book VI of the Code of Canon Law (CIC), completing a revision initiated by Pope Benedict XVI. The Apostolic Constitution *Pascite gregem Dei* begins with the words of the Apostle Peter, “tend the flock of God, guarding it not by constraint but willingly, as it pleases God” (1 Pet 5: 2). Theologians and canonists expressed the need to revise Book VI ‘Sanctions in the Church,’ of CIC promulgated by John Paul II on 25 January 1983. Benedict XVI launched the revision in 2007 in a spirit of collegiality and cooperation with canon law experts, bishops’ conferences, major superiors of religious institutes, and dicasteries of the Roman Curia. The resulting intense and complex text was submitted to Pope Francis in February 2020.

Throughout the centuries Church has given rules of conduct. They united the People of God in a diocese. Bishops were responsible for making the people of God act according to the rules of conduct. Charity and mercy require a Father to commit himself also to straightening what at times becomes crooked. The negligence of a Pastor in resorting to the penal system may demonstrate that he is not fulfilling his function correctly and faithfully. Charity requires that Pastors have recourse to the penal system as often as necessary, keeping in mind the three aims - the restoration of the demands of justice, the amendment of the offender, and the reparation of scandals.

Book VI of CIC ‘Sanctions in the Church’ has been improved especially with regard to fundamental aspects of delicts such as the right of defence, the statute of limitations for criminal action and a more precise determination of penalties. The amendments offer objective criteria in identifying the most appropriate sanction to be applied in a

concrete case. It reduces authority's discretion, in order to favour ecclesial unity in the application of penalties, especially for offences that cause greater damage and scandal in the community. The Apostolic Constitution *Pascite gregem Dei* is dated 23 May 2021, the Solemnity of Pentecost. Book VI of 1983 is abrogated and the revised Book VI will come into force on 8 December 2021.

Part I: Offences and Punishments in General

Title I: The Punishment of Offences in General (cann. 1311-1312)

Can. 1311: Right of the Church to impose penalties

§1: The Church has its own inherent right to constrain with penal sanctions Christ's faithful who commit offences.

§ 2: Responsibility of the head of a Church²

The one who is at the head of a Church must safeguard and promote the good of the community itself and of each of Christ's faithful, through pastoral charity, the example of life, advice and exhortation and, if necessary, also through the imposition or declaration of penalties, in accordance with the provisions of the law, which are always to be applied with canonical equity and having in mind the restoration of justice, the reform of the offender, and the repair of scandal.

CCEO: can. 1401.

Can. 1312: Medicinal penalties and expiatory penalties

§ 1: The penal sanctions in the Church are:

1° medicinal penalties or censures, which are listed in cann. 1331-1333;

2° expiatory penalties, mentioned in can. 1336.

§ 2: The law may determine other expiatory penalties which deprive a member of Christ's faithful of some spiritual or temporal good, and are consistent with the Church's supernatural purpose.

§ 3: Use is also made of penal remedies and penances, referred to in cann. 1339 and 1340³: the former primarily to prevent offences, the latter rather substitute for or to augment a penalty.

CCEO: no parallel canon.

² Can. 1311 § 2 (addition); CIC 1917 can. 2214§2.

³ Can 1312 § 3: referred to in cann. 1339 and 1340 (addition).

Title II: Penal law and Penal Precept (cann. 1313-1320)

Can. 1313: Change of law or removal of law

§1: If a law is changed after an offence has been committed, the law more favourable to the offender is to be applied.

§ 2: If a later law removes a law, or at least a penalty, the penalty immediately lapses.

CCEO: can. 1412 §§ 2, 3

Can. 1314: *ferendae sententiae* & *latae sententiae* penalties

A penalty is ordinarily *ferendae sententiae*, that is, not binding upon the offender until it has been imposed. It is, however, *latae sententiae* if the law or precept expressly lays this down, so that it is incurred automatically upon the commission of an offence.

CCEO: can. 1408

Can 1315: Power of the legislator⁴

§1: Whoever has power to issue penal laws may also reinforce a divine law with a fitting penalty.

§2: A lower legislator, taking into account can.1317, can also:

1° reinforce with a fitting penalty a law issued by a higher authority, observing the limits of his competence in respect of territory or persons;

2° add other penalties to those laid down for a certain offence in a universal law;

3° determine or make obligatory a penalty which a universal law establishes as indeterminate or discretionary.

§3: The law itself can determine a penalty, or its determination can be left to the prudent decision of a judge.

CCEO: can 1405 §§ 1, 2

⁴ Can 1315 (modified): §1: whoever has legislative (removed) power...; §2 (new); 1°, 2°, 3° (new); §3 - earlier it was §2; §3 of the former book is deleted. '~~particular law also can add other penalties to those established by universal law for some delict; however, this is not to be done except for very grave necessity. If universal law threatens an indeterminate or facultative penalty, particular law can also establish a determinate or obligatory one in its place~~' (removed).

Can. 1316: Uniformity of penal laws

Diocesan Bishops are to take care that as far as possible any penal laws are uniform within the same city or region.

CCEO: can 1405 § 3

Can. 1317: Penalties only when necessary⁵

Penalties are to be established only in so far as they are really necessary for the better maintenance of ecclesiastical discipline. Dismissal from the clerical state, however, cannot be laid down by a lower legislator.

CCEO: can 1405 § 1

Can. 1318: Establishing *latae sententiae* penalties and censures⁶

Latae sententiae penalties are not to be established, except perhaps for some outstanding and malicious offences which may be either more grave by reason of scandal or such that they cannot be effectively punished by *ferendae sententiae* penalties; censures, however, especially ex-communication, are not to be established, except with the greatest moderation, and only for offences of special gravity.

CCEO: no parallel canon

Can. 1319: Imposing precepts⁷

§ 1: To the extent to which one can impose precepts by virtue of the power of governance in the external forum in accordance with the provisions of cann. 48-58, to that extent, can one also by precept threaten to determine penalties, with the exception of perpetual expiatory penalties.

§ 2: If, after the matter has been very carefully considered, a penal precept is to be imposed, what is established in cann. 1317 and 1318 are to be observed.

CCEO: can 1406 §1

Can. 1320: Penalties on religious

In all matters in which they come under the authority of the local Ordinary, religious can be constrained by him with penalties.

⁵ Can. 1317 (modified); 'lower legislator' instead of 'particular law'.

⁶ Can. 1318 (modified); the term 'legislator' is removed.

⁷ Can. 1319 § 1 (modified); '...in accordance with the provisions of cann. 48-58' (addition); § 2 (modified).

Title III: Those who are Liable to Penal Sanctions (cann. 1321-1330)

Can. 1321 § 1: Innocent until proved guilty⁸

Any person is considered innocent until the contrary is proved. No one can be punished unless the commission by him or her of an external violation of a law or precept is gravely imputable by reason of malice or of culpability.

§ 2: Deliberate violation of law; violation due to omission of due diligence

A person who deliberately violated a law or 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.

§ 3: Presumed imputability

Where there has been an external violation, imputability is presumed, unless it appears otherwise.

CCEO: can. 1414

Can. 1322: Those habitually lack the use of reason are incapable of committing an offence

Those who habitually lack the use of reason, even though they appeared sane when they violated a law or precept, are deemed incapable of committing an offence.

CCEO: no parallel canon

Can. 1323: Who are not liable to penalty?

No one is liable to a penalty who, when violating a law or precept:

1° has not completed the sixteenth year of age;

2° was, without fault, ignorant of violating the law or precept; inadvertence and error are equivalent to ignorance;

3° acted under physical force, or under the impetus of a chance occurrence which the person could not foresee or if foreseen could not avoid;

⁸ Can. 1321 § 1 (modified); '...any person is considered innocent until the contrary is proved' (addition).

4° acted under the compulsion of grave fear, even if only relative, or by reason of necessity or grave inconvenience, unless, however, the act is intrinsically evil or tends to be harmful to souls;

5° acted, within the limits of due moderation, in lawful self-defence or defence of another against an unjust aggressor;

6° lacked the use of reason, without prejudice to the provisions of cann. 1324 § 1 n. 2 and 1326 §1 n. 4°;

7° thought, through no personal fault, that someone of the circumstances existed which are mentioned in nn. 4 or 5.

CCEO: can. 1413§1

Can. 1324: Circumstances diminishing or substituting penalty¹⁰

§1: The perpetrator of a violation is not exempted from a penalty, but the penalty prescribed in the law or precept must be diminished, or a penance substituted in its place if the offence was committed by:

1° one who had only an imperfect use of reason;

2° one who was lacking the use of reason because of culpable drunkenness or other mental disturbance of a similar kind, without prejudice to the provision of can. 1326 § 1 n. 4;

3° one who acted in the heat of passion which, while serious, nevertheless did not precede or hinder all mental deliberation and consent of the will, provided that the passion itself had not been deliberately stimulated or nourished;

4° a minor who has completed the sixteenth year of age;

5° one who was compelled by grave fear, even if only relative, or who acted by reason of necessity or grave inconvenience, if the offence is intrinsically evil or tends to be harmful to souls;

6° one who acted in lawful self-defence or defence of another against an unjust aggressor, but did not observe due to moderation;

7° one who acted against another person who was gravely and unjustly provocative;

⁹ Can. 1323, 6°: can. 1326 §1 n. 4 instead of ~~can. 1325~~.

¹⁰ Can. 1324 (modified) §1, 2°: 'without prejudice to the provision of can. 1326 § 1 n. 4' (addition).

8° one who erroneously, but culpably, thought that some one of the circumstances existed which are mentioned in can. 1323 nn. 4 or 5;

9° one who through no personal fault was unaware that a penalty was attached to the law or precept;

10° one who acted without full imputability, provided it remained grave.

§ 2: A judge can do the same if there is any other circumstance present which would reduce the gravity of the offence.

§ 3: In the circumstances mentioned in § 1, the offender is not bound by a *latae sententiae* penalty, but may have lesser penalties or penances imposed for the purposes of repentance or repair of scandal¹¹.

CCEO: can. 1413 § 2, 1415

Can. 1325: Ignorance in committing offences¹²

Crass, supine, or affected ignorance can never be considered in applying the prescripts of cann. 1323 and 1324.

CCEO: no parallel canon

Can. 1326: Inflicting more serious punishments¹³

§1: A judge must inflict a more serious punishment than that prescribed in the law or precept when:

1° a person, after being condemned, or after the penalty has been declared, continues so to offend that obstinate ill will may prudently be concluded from the circumstances;

¹¹ Can. 1324 § 3: 'but may have lesser penalties or penances imposed for the purposes of repentance or repair of scandal' (addition).

¹² Can. 1325 (modified) ~~'...likewise drunkenness or other disturbances of mind cannot be considered if they are sought deliberately in order to commit or excuse a delict, nor can passion which is voluntarily stimulated or fostered'~~ (removed).

¹³ Can. 1326 (modified); A judge 'must' instead of 'may' is used; 4° (addition): 'a person who committed an offence in a state of drunkenness or other mental disturbance, if these were deliberately sought so as to commit the offence or to excuse it, or through passion which was deliberately stimulated or nourished' (this is taken from can. 1325 and added here); § 3 (addition).

2° a person who is established in some position of dignity, or who, in order to commit a crime, has abused a position of authority or an office;

3° a person who, after a penalty for a culpable offence was constituted, foresaw the event but nevertheless omitted to take the precautions to avoid it which any careful person would have taken;

4° a person who committed an offence in a state of drunkenness or other mental disturbance, if these were deliberately sought so as to commit the offence or to excuse it, or through passion which was deliberately stimulated or nourished (taken from can. 1325 and added here).

§ 2: In the cases mentioned in § 1, if the penalty constituted is *latae sententiae*, another penalty or a penance may be added.

§ 3: In the same cases, if the penalty constituted is discretionary, it becomes obligatory.

CCEO: can 1416

Can. 1327: A particular law may determine other excusing, attenuating or aggravating circumstances

A particular law may, either as a general rule or for individual offences, determine other excusing, attenuating or aggravating circumstances, over and above the cases mentioned in cann. 1323-1326. Likewise, circumstances may be determined in a precept which excuse from, attenuate or aggravate the penalty constituted in the precept.

CCEO: no parallel canon

Can. 1328 § 1: Not completed the offence, not bound by penalty

One who in furtherance of an offence did something or failed to do something but then, involuntarily, did not complete the offence, is not bound by the penalty prescribed for the completed offence, unless the law or a precept provides otherwise.

§ 2: Desisted from offence but created scandal, just penalty

If the acts or the omissions of their nature lead to the carrying out of the offence, the person responsible may be subjected to a penance or to a penal remedy, unless he or she had spontaneously desisted from the offence which had been initiated. However, if scandal or other serious harm or danger has resulted, the perpetrator, even though

spontaneously desisting, may be punished by a just penalty, but of a lesser kind than that determined for the completed crime.

CCEO: can. 1418

Can. 1329 §1: Conspiracy, accomplices are subject to the same penalty or of lesser gravity

Where a number of persons conspire together to commit an offence, and accomplices are not expressly mentioned in the law or precept, if *ferendae sententiae* penalties were constituted for the principal offender, then the others are subject to the same penalties or to other penalties of the same or a lesser gravity.

§ 2: *Latae sententiae* penalty for the accomplices

In the case of a *latae sententiae* penalty attached to an offence, accomplices, even though not mentioned in the law or precept, incur the same penalty if, without their assistance, the crime would not have been committed, and if the penalty is of such a nature as to be able to affect them; otherwise, they can be punished with *ferendae sententiae* penalties.

CCEO: can. 1317

Can. 1330: An offence consisting in a declaration or other manifestation

An offence which consists in a declaration or in some other manifestation of will or of doctrine or of knowledge is not to be regarded as effected if no one actually perceives the declaration or manifestation.

CCEO: no parallel canon

Title IV: Penalties and Other Punishments (cann. 1331-1335)

Chapter I: Censures

Can. 1331: Excommunication, Prohibitions of an excommunicated person¹⁴

§1: An excommunicated person is prohibited:

1° from celebrating the Sacrifice of the Eucharist and the other sacraments;

¹⁴ Can. 1331(modified & reorganized); now there are 6 numbers instead of 3 in the former book.

2° from receiving the sacraments;

3° from administering sacramentals and from celebrating the other ceremonies of liturgical worship;

4° from taking an active part in the celebrations listed above;

5° from exercising any ecclesiastical offices, duties, ministries or functions;

6° from performing acts of governance.

§2: If a *ferendae sententiae* ex-communication has been imposed or a *latae sententiae* ex-communication declared, the offender¹⁵:

1° proposing to act in defiance of the provision of §1 nn.1-4 is to be removed, or else the liturgical action is to be suspended unless there is a grave reason to the contrary;

2° invalidly exercises any acts of governance which, in accordance with §1 n.6, are unlawful;

3° is prohibited from benefiting from privileges already granted;

4° does not acquire any remuneration held in virtue of a merely ecclesiastical title;

5° is legally incapable of acquiring offices, duties, ministries, functions, rights, privileges or honorific titles.

CCEO: can. 1434

Can. 1332: Interdict, Prohibitions of interdict¹⁶

§ 1: One who is under interdict is obliged by the prohibitions mentioned in can.1331§ 1 nn.1-4 or from certain other particular rights.

§ 2: A law or precept may however define the interdict in such a way that the offender is prohibited only from certain particular actions mentioned in can. 1331§1 nn.1-4, or from certain other particular rights.

§3: The provision of can. 1331§ 2 n. 1 is to be observed also in the case of interdict.

¹⁵ Can. 1331§2 (modified); 'If a *ferendae sententiae* (addition) excommunication has been imposed or a *latae sententiae* (addition) excommunication declared'...; 4° (addition); 4° from the former book is incorporated in 5°.

¹⁶ Can. 1332 (modified); § 2 (addition); §3 (addition).

CCEO: 1431 § 1

Can. 1333: Suspension, Prohibitions of suspension¹⁷

§ 1: Suspension prohibits:

1° all or some of the acts of the power of order;

2° all or some of the acts of the power of governance;

3° the exercise of all or some of the rights or functions attaching to an office.

§ 2: In a law or a precept it may be prescribed that, after a judgement or decree which impose or declare the penalty, a suspended person cannot validly perform acts of governance.

§ 3: Areas which prohibition does not affect

The prohibition never affects:

1° any offices or power of governance which are not within the control of the Superior who establishes the penalty;

2° a right of residence which the offender may have by virtue of office;

3° the right to administer goods which may belong to an office held by the person suspended, if the penalty is *latae sententiae*.

§ 4: A suspension prohibiting the receipt of benefits, stipends, pensions or other such things, carries with it the obligation of restitution of whatever has been unlawfully received, even though this was in good faith.

CCEO: can. 1432

Can. 1334: Extent of suspension

§ 1: The extent of a suspension, within the limits laid down in the preceding canon, is defined either by the law or precept, or by the judgement or decree whereby the penalty is imposed.

§ 2: A law, but not a precept, can establish a *latae sententiae* suspension without an added determination or limitation; such a penalty has all the effects enumerated in can. 1333 §1.

¹⁷ Can. 1333 (modified); § 1: Suspension '~~which can affect only clerics~~' (removed) prohibits; § 2: or decree (addition).

CCEO: can. 1432 § 1

Can. 1335 § 1: Authority imposing censures and expiatory penalties¹⁸

If the competent authority imposes or declares a censure in a judicial process or by an extra-judicial decree, it can also impose the expiatory penalties it considers necessary to restore justice or repair scandal.

§ 2: Prohibition is suspended in danger of death

If a censure prohibits the celebration of the sacraments or sacramentals or the performing of acts of the power of governance, the prohibition is suspended whenever this is necessary to provide for the faithful who are in danger of death. If a *latae sententiae* censure has not been declared, the prohibition is also suspended whenever one of the faithful requests a sacrament or sacramental or an act of the power of governance; for any just reason it is lawful to make such a request.

CCEO: can. 1435 § 2

Chapter II: Expiatory Penalties (cann. 1336-1338)

Can. 1336: Imposition of expiatory penalties¹⁹

§ 1: Expiatory penalties can affect the offender either forever or for a determined or indeterminate period. Apart from others which the law may perhaps establish, they are those enumerated in §§ 2-5.

§ 2: An order

1° to reside in a certain place or territory;

2° to pay a fine or a sum of money for the Church's purposes, in accordance with the guidelines established by the Episcopal Conference.

¹⁸ Can. 1335 § 1 (addition).

¹⁹ Can. 1336 (modified); expiatory penalties are classified into order, prohibition, deprivation and dismissal from clerical state. § 2, 2°: '...to pay a fine or a sum of money for the Church's purposes, in accordance with the guidelines established by the Episcopal Conference' (addition).

§3: A prohibition²⁰

1° against residing in a certain place or territory;

2° against exercising, everywhere or inside or outside a specified place or territory, all or some offices, duties, ministries or functions, or only certain tasks attaching to offices or duties;

3° against performing all or some acts of the power of order;

4° against performing all or some acts of the power of governance;

5° against exercising any right or privilege or using insignia or titles;

6° against enjoying an active or passive voice in canonical elections or taking part with a right to vote in ecclesial councils or colleges;

7° against wearing an ecclesiastical or religious dress;

§ 4: A deprivation

1° of all or some offices, duties, ministries or functions, or only of certain functions attaching to offices or duties;

2° of the faculty of hearing confessions or of preaching;

3° of a delegated power of governance;

4° of some right or privilege or insignia or title;

5° of all ecclesiastical remuneration or part of it, in accordance with the guidelines, established by the Episcopal Conference, without prejudice to the provision of can. 1350§ 1.

§5: Dismissal from the clerical state

CCEO: can. 1432 §§ 2-3

Can. 1337: Prohibition or order of residence for clerics and religious

§ 1: A prohibition against residing in a certain place or territory can affect both clerics and religious. An order to reside in a certain place can affect secular clerics and, within the limits of their constitutions, religious.

²⁰ Can. 1336 §3, 2°: '...of the faculty of hearing confessions or of preaching' (addition); 3°: 'of a delegated power of governance' (addition); 5°: '...of all ecclesiastical remuneration or part of it, in accordance with the guidelines established by the Episcopal Conference, without prejudice to the provision of can. 1350§ 1' (addition).

§ 2: An order imposing residence in a certain place or territory must have the consent of the Ordinary of that place, unless there is a question of a house set up for penance or rehabilitation of clerics, including extra-diocesans.

CCEO: can. 1429

Can. 1338: Expiatory penalties never affect the following²¹

§ 1: The expiatory penalties enumerated in can. 1336 never affect powers, offices, functions, rights, privileges, faculties, favours, titles or insignia, which are not within the control of the Superior who establishes the penalty.

§ 2: There can be no deprivation of the power of order, but only a prohibition against the exercise of it or of some of its acts; neither can there be a deprivation of academic degrees.

§ 3: The norm laid down for censures in can. 1335 § 2 is to be observed in regard to the prohibitions mentioned in can. 1336 § 3.

§ 4: Only those expiatory penalties enumerated as prohibitions in can. 1336 § 3, or others that may perhaps be established by law or precept, may be *latae sententiae* penalties²².

§ 5: The prohibitions mentioned in can. 1336 § 3 are never under pain of nullity²³.

CCEO: can. 1430

Chapter III: Penal Remedies and Penances (cann. 1339-1340)

Can. 1339: Penal remedies²⁴

§ 1: Warning

When someone is in a proximate occasion of committing an offence or when, after an investigation, there is a serious suspicion that an offence has been committed, the Ordinary either personally or through another can give that person warning.

²¹ Can. 1338 (modified).

²² Can. 1338§ 4 (addition).

²³ Can. 1338§ 5 (addition).

²⁴ Can. 1339 (modified).

§ 2: Correction

In the case of behaviour which gives rise to scandal or serious disturbance of public order, the Ordinary can also correct the person, in a way appropriate to the particular conditions of the person and of what has been done.

§ 3: Proof for the correction and warning

The fact that there has been a warning or a correction must always be proven, at least from some document to be kept in the secret archive of the curia.

§ 4: When no effect, penal precept is given²⁵

If on one or more occasions warnings or corrections have been made to someone to no effect, or if it is not possible to expect them to have any effect, the Ordinary is to issue a penal precept in which he sets out exactly what is to be done or avoided.

§ 5: Vigilance over the offender²⁶

If the gravity of the case so requires, and especially in a case where someone is in danger of relapsing into an offence, the Ordinary is also to subject the offender, over and above the penalties imposed according to the provision of the law or declared by sentence or decree, to a measure of vigilance determined by means of a singular decree.

CCEO: 1429 § 5

Can. 1340: Penance, work of religion, piety or charity

§ 1: A penance, which can be imposed in the external forum, is the performance of some work of religion or piety or charity.

§ 2: A public penance is never to be imposed for an occult transgression.

§ 3: According to his prudent judgement, the Ordinary may add penances to the penal remedy of warning or correction.

CCEO: no parallel canon

²⁵ Can. 1339 §4 (addition).

²⁶ Can. 1339 § 5 (addition).

Title V: The Application of Penalties (cann. 1341-1353)

Can. 1341: When to start a judicial or administrative process?²⁷

The Ordinary must start a judicial or an administrative procedure for the imposition or the declaration of penalties when he perceives that neither by the methods of pastoral care, especially fraternal correction, nor by a warning or correction, can justice be sufficiently restored, the offender reformed, and the scandal repaired.

CCEO: no parallel canon

Can. 1342: Penalty imposed or declared through extra judicial decree

§1: Whenever there are just reasons against the use of a judicial procedure, a penalty can be imposed or declared by means of an extra-judicial decree, observing canon1720, especially in what concerns the right of defence and the moral certainty in the mind of the one issuing the decree, in accordance with the provision of can. 1608. Penal remedies and penances may in any case whatever be applied by a decree²⁸.

§2: Perpetual penalties

Perpetual penalties cannot be imposed or declared by means of a decree; nor can penalties which the law or precept establishing them forbids to be applied by decree.

§3: Judge & Superior

What the law or decree says of a judge in regard to the imposition or declaration of a penalty in a trial is to be applied also to a Superior who imposes or declares a penalty by an extra-judicial decree, unless it is otherwise clear, or unless there is question of provisions which concern only procedural matters.

CCEO: can. 1402 § 2

²⁷ Can. 1341 (modified); '...neither by the methods of pastoral care, especially fraternal correction, nor by a warning or correction, can justice be sufficiently restored, the offender reformed, and the scandal repaired' (modified).

²⁸ Can. 1342 §1 (modified); '...observing canon1720, especially in what concerns the right of defence and the moral certainty in the mind of the one issuing the decree, in accordance with the provision of can. 1608' (addition).

Can.1343: Penalty according to conscience and prudence of the judge²⁹

If a law or precept grants the judge the faculty to apply or not to apply a penalty, he is, without prejudice to the provision of can.1326 § 3, to determine the matter according to his own conscience and prudence, and in accordance with what the restoration of justice, the reform of the offender and the repair of scandal require; in such cases the judge may also, if appropriate, modify the penalty or in its place impose a penance.

CCEO: no parallel canon.

Can. 1344: Defer, abstain or suspend imposition of penalties

Even though the law may use obligatory words, the judge may, according to his own conscience and prudence:

1° defer the imposition of the penalty to a more opportune time, if it is foreseen that greater evils may arise from a too hasty punishment of the offender, unless there is an urgent need to repair scandal³⁰;

2° abstain from imposing the penalty or substitute a milder penalty or a penance, if the offender has repented, as well as having repaired any scandal and harm caused, or if the offender has been or foreseeably will be sufficiently punished by the civil authority;

3° may suspend the obligation of observing an expiatory penalty if the person is a first-offender after a hitherto blameless life, and there is no urgent need to repair scandal; this is, however, to be done in such a way that if the person again commits an offence within a time laid down by the judge, then that person must pay the penalty for both offences unless in the meanwhile the time for prescription of penal action in respect of the former offence has expired.

CCEO: can. 1409 §1, 1°-2°, 4°

²⁹ Can.1343 (modified); '...he is, without prejudice to the provision of can.1326 § 3, to determine the matter according to his own conscience and prudence, and in accordance with what the restoration of justice, the reform of the offender and the repair of scandal require; in such cases the judge may also, if appropriate, modify the penalty or in its place impose a penance' (addition).

³⁰ Can. 1344, 1°: '...unless there is an urgent need to repair scandal' (addition).

Can. 1345: Refraining from imposing penalties³¹

Whenever the offender had only an imperfect use of reason or committed the offence out of necessity or grave fear or in the heat of passion or, without prejudice to the provision of can. 1326 § 1 n. 4, with a mind disturbed by drunkenness or a similar cause, the judge can refrain from inflicting any punishment if he considers that the person's reform may be better accomplished in some other way; the offender, however, must be punished if there is no other way to provide for the restoration of justice and the repair of any scandal that may have been caused.

CCEO: no parallel canon

Can. 1346: Moderation in imposing penalties

§ 1: Ordinarily there are as many penalties as there are offences³².

§ 2: Nevertheless, whenever the offender has committed a number of offences and the sum of penalties which should be imposed seems excessive, it is left to the prudent decision of the judge to moderate the penalties in an equitable fashion, and to place the offender under vigilance³³.

CCEO: can. 1409 §1, 3°

Can. 1347: No censure without warning

§ 1: A censure cannot validly be imposed unless the offender has beforehand received at least one warning to purge the contempt, and has been allowed suitable time to do so.

§ 2: The offender is said to have purged the contempt if he or she has truly repented of the offence and has made suitable reparation for the scandal and harm, or at least seriously promised to make it³⁴.

CCEO: 1407 §§ 1- 2

³¹ Can. 1345 (modified); '...without prejudice to the provision of can. 1326 § 1 n. 4' (addition); '...the offender, however, must be punished if there is no other way to provide for the restoration of justice and the repair of any scandal that may have been caused' (addition).

³² Can. 1346 §1 (addition); '...and to place the offender under vigilance' (addition).

³³ Can. 1346 §2 (modified).

³⁴ Can. 1347 § 2 (modified).

Can. 1348: When the person has been found not guilty of an accusation³⁵

When the person has been found not guilty of an accusation, or where no penalty has been imposed, the Ordinary may provide for the person's welfare and for the common good by opportune warnings or other solicitous means, and even, if the case calls for it, by the use of penal remedies.

CCEO: no parallel canon

Can.1349: When the penalty is indeterminate, the judge can determine³⁶

If a penalty is indeterminate, and if the law does not provide otherwise, the judge in determining the penalties is to choose those which are proportionate to the scandal caused and the gravity of the harm; he is not however to impose graver penalties, unless the seriousness of the case really demands it. He may not impose penalties that are perpetual.

CCEO: can. 1409 § 2

Can. 1350§ 1: Penalties on clerics and worthy support

In imposing penalties on a cleric, except in the case of dismissal from the clerical state, care must always be taken that he does not lack what is necessary for his worthy support.

Can. 1350 § 2: If a person is truly in need because he has been dismissed from the clerical state, the Ordinary is to provide in the best way possible, but not by the conferral of an office, ministry or function³⁷.

CCEO: can. 1410

³⁵ Can. 1348 (modified); 'solicitous means' instead of '~~pastoral care~~'.

³⁶ Can.1349 (modified) ; '...the judge in determining the penalties is to choose those which are proportionate to the scandal caused and the gravity of the harm' (addition).

³⁷ Can. 1350 § 2 (modified);'...but not by the conferral of an office, ministry or function' (addition).

Can. 1351: Penalty binds offender everywhere

A penalty binds an offender everywhere, even when the right of the one who established, imposed or declared it has ceased, unless it is otherwise expressly provided.

CCEO: can. 1412 § 2

Can.1352 §1: Penalty on the reception of sacraments or sacramentals

If a penalty prohibits the reception of the sacraments or sacramentals, the prohibition is suspended for as long as the offender is in danger of death.

§ 2: *Latae sententiae* penalty and grave scandal or loss of good name

The obligation of observing a *latae sententiae* penalty which has not been declared, and is not notorious in the place where the offender actually is, is suspended either in whole or in part to the extent that the offender cannot observe it without the danger of grave scandal or loss of good name.

CCEO: can. 1435 § 2

Can.1353: Appeal or recourse has suspensive effect

An appeal or a recourse against judgements of a court or against decrees which impose or declare any penalty has a suspensive effect.

CCEO: can. 1319; can. 1487 § 2

**Title VI: The Remission of Penalties and the Prescription of Actions
(cann. 1354-1363)³⁸****Can.1354 § 1: Authority to remit penalties**

Besides those who are enumerated in cann. 1355-1356, all who can dispense from a law which is supported by a penalty, or excuse from a precept which threatens a penalty, can also remit the penalty itself.

§ 2: Moreover, a law or precept which establishes a penalty can also grant to others the power of remitting the penalty.

§3: If the Apostolic See has reserved the remission of a penalty to itself or to others, the reservation is to be strictly interpreted.

CCEO: cann. 1419; 1423 § 2

³⁸ The former title was, 'the cessation of Penalties'.

Can.1355 § 1: Remission of penalties not reserved to the Apostolic See³⁹

Provided it is not reserved to the Apostolic See, a penalty established by law which is *ferendae sententiae* and has been imposed, or which is *latae sententiae* and has been declared, can be remitted by the following:

1°: Ordinary who initiated the judicial proceedings

The Ordinary who initiated the judicial proceedings to impose or declare the penalty, or who by a decree, either personally or through another, imposed or declared it;

2°: Ordinary of the place

the Ordinary of the place where the offender actually is, after consulting the Ordinary mentioned in n. 1, unless because of extraordinary circumstances this is impossible.

Can.1355 § 2: Authority to remit *latae sententiae* penalties not reserved to the Apostolic See and has not been declared⁴⁰

Provided it is not reserved to the Apostolic See, a penalty established by law which is *latae sententiae* and has not yet been declared can be remitted by the following:

1° the Ordinary in respect of his subjects;

2° the Ordinary of the place also in respect of those actually in his territory or of those who committed the offence in his territory;

3° any Bishop, but only in the course of sacramental confession.

CCEO: 1420 §§ 1, 3

Can. 1356: Remission of *ferendae* or a *latae sententiae* penalty established in a precept⁴¹

§1: A *ferendae* or a *latae sententiae* penalty established in a precept not issued by the Apostolic See, can be remitted by the following:

1° the author of the precept⁴²;

³⁹ Can.1355 § 1 (modified); *ferendae sententiae* (addition) and *latae sententiae* (addition).

⁴⁰ Can.1355 § 2 (modified & reorganized).

⁴¹ Can. 1356 (modified).

⁴² Can. 1356§1,1° (addition).

2° the Ordinary who initiated the judicial proceedings to impose or declare the penalty, or who by a decree, either personally or through another, imposed or declared it;

3° the Ordinary of the place where the offender actually is.

§2: Before the remission is granted, the author of the precept, or the one who imposed or declared the penalty, is to be consulted, unless because of extraordinary circumstances this is impossible⁴³.

CCEO: can. 1420 §§ 2, 3

Can. 1357: Authority of the confessor to remit a *latae sententiae* censure of excommunication or interdict which is not declared

§1: Without prejudice to the provisions of cann. 508 and 976, a confessor can in the internal sacramental forum remit a *latae sententiae* censure of excommunication or interdict which has not been declared, if it is difficult for the penitent to remain in a state of grave sin for the time necessary for the competent Superior to provide.

§2: Necessity of recourse to the competent superior

In granting the remission, the confessor is to impose upon the penitent, under pain of again incurring the censure, the obligation to have recourse within one month to the competent Superior or to a priest having the requisite faculty, and to abide by his instructions. In the meantime, the confessor is to impose an appropriate penance and, to the extent demanded, to require reparation of scandal and harm. The recourse, however, may be made even through the confessor, without mention of a name.

§3: The same duty of recourse, when the danger has ceased, binds those who in accordance with can. 976 have had remitted an imposed or declared censure or one reserved to the Holy See.

CCEO: no parallel canon

Can. 1358: Purging the contempt and remission of censures

§1: The remission of a censure cannot be granted except to an offender whose contempt has been purged in accordance with can. 1347 § 2.

⁴³ Can. 1356§2: '...or the one who imposed or declared the penalty' (addition).

However, once the contempt has been purged, the remission cannot be refused, without prejudice to the provision of can. 1361§ 4⁴⁴.

§2: The one who remits a censure can make provision in accordance with can. 1348, and can also impose a penance.

CCEO: can. 1424

Can. 1359: Multiple penalties and general remission

If one is bound by a number of penalties, a remission is valid only for those penalties expressed in it. A general remission, however, removes all penalties, except those which in the petition the offender concealed in bad faith.

CCEO: can. 1425

Can. 1360: Remission of a penalty by force, fear or deceit⁴⁵

The remission of a penalty extorted by force or grave fear or deceit is invalid by virtue of the law itself.

CCEO: can. 1421

Can. 1361§1: Remission given in the absence or on condition

A remission can be granted even to a person who is not present, or conditionally.

§2: Remission to be given in writing

A remission in the external forum is to be granted in writing unless a grave reason suggests otherwise.

§3: Petition and Remission not to be made public⁴⁶

The petition for remission or the remission itself is not to be made public, except in so far as this would either be useful for the protection of the good name of the offender or be necessary to repair scandal.

⁴⁴ Can. 1358 §1: '...without prejudice to the provision of can. 1361§ 4 (addition).

⁴⁵ Can.1360 (modified); by force (addition), deceit (addition), is invalid by virtue of the law itself (addition).

⁴⁶ Can. 1361§3 (modified): '~~care is to be taken~~' (removed) that the petition...

§4: Need to repair the harm done for the remission⁴⁷

Remission must not be granted until, in the prudent judgment of the Ordinary, the offender has repaired any harm caused. The offender may be urged to make such reparation or restitution by one of the penalties mentioned in can.1336 §§2-4; the same applies also when the offender is granted remission of censure under can. 1358§ 1.

CCEO: can. 1422

Can. 1362: Prescription of criminal actions

§ 1: A criminal action is extinguished by prescription after three years, except for:

1°: offences reserved to the Congregation for the Doctrine of the Faith, which are subject to special norms;

2°: An action arising from any of the offences mentioned in cann.1376, 1377, 1378, 1393 § 1, 1394, 1395, 1397, or 1398 § 2, which is extinguished after seven years, or one arising from the offences mentioned in can.1398 § 1, which is extinguished after twenty years⁴⁸;

3°: Offences not punished by the universal law, where a particular law has prescribed a different period of prescription.

§ 2: Calculation of prescription⁴⁹

Prescription, unless provided otherwise in law, runs from the day the offence was committed or, if the offence was enduring or habitual, from the day it ceased.

§ 3: Suspension of prescription⁵⁰

When the offender has been summoned in accordance with can. 1723, or informed in the manner provided in can.1507 § 3 of the presentation of the petition of accusation according to can.1721§1, prescription of the criminal action is suspended for three years; once this period has

⁴⁷ Can. 1361§4 (addition).

⁴⁸ Can. 1362§1,2° (modified); '...an action arising from any of the offences mentioned in cann.1376, 1377, 1378, 1393 § 1 (addition), 1394, 1395, 1397, or 1398 § 2, which is extinguished after seven years (modification) (~~five years~~), or one arising from the offences mentioned in can.1398 § 1, which is extinguished after twenty years' (addition).

⁴⁹ Can. 1362§2 (modified); 'Prescription, unless provided otherwise in a law (addition)...

⁵⁰ Can. 1362 § 3 (addition).

expired or the suspension has been interrupted through the cessation of the penal process, time runs once again and is added to the period of prescription which has already elapsed. The same suspension equally applies if, observing can. 1720 n. 1, the procedure is followed for imposing or declaring a penalty by way of an extra-judicial decree.

CCEO: can. 1152 §§ 2, 3

**Part II: Particular Offences and the penalties established for them
(cann. 1364-1398)⁵¹**

**Title I: Offences against Faith and the Unity of the Church (cann.
1364 - 1369)⁵²**

Can. 1364: Apostacy, heresy, schism

§1: An apostate from the faith, a heretic, or a schismatic incurs a *latae sententiae* ex-communication, without provision of can 194 § 1, n. 2; he or she may also be punished with the expiatory penalties mentioned in can. 1336 §§2-4⁵³.

§2: If a long-standing contempt or the gravity of scandal calls for it, other penalties may be added, not excluding dismissal from the clerical state.

CCEO: can. 1436§1, 1437

Can. 1365: Teaching a doctrine condemned by the Roman Pontiff or by an Ecumenical Council⁵⁴

A person who, apart from the case mentioned in canon 1364 § 1, teaches a doctrine condemned by the Roman Pontiff, or by an Ecumenical Council, or obstinately rejects the teaching mentioned in can. 750 § 2 or can.752 and, when warned by the Apostolic See or the Ordinary, does not retract, is to be punished with a censure and deprivation of office; to these sanctions others mentioned in can. 1336 §§ 2-4 may be added.

⁵¹ Former title was, 'Penalties for particular offences.

⁵² Former title was, 'Offences against religion and the unity of the Church'.

⁵³ Can. 1362 § 1 (modified); he or she instead of a cleric may be punished...

⁵⁴ Can. 1365 (modified); Former numer was can. 1371. '...does not retract, is to be punished with a censure and deprivation of office; to these sanctions others mentioned in can. 1336 §§ 2-4 may be added' (addition).

CCEO: can. 1436§2

Can. 1366: Appeal against Roman Pontiff⁵⁵

A person who appeals from an act of the Roman Pontiff to an Ecumenical Council or to the College of Bishops is to be punished with a censure.

CCEO: no parallel canon.

Can. 1367: Baptizing or educating children in non-Catholic religion⁵⁶

Parents or those who take the place of parents who hand over their children to be baptized or educated in a non-Catholic religion are to be punished with a censure or other just penalty.

CCEO: can. 1439

Can. 1368: Blasphemy⁵⁷

A person is to be punished with a just penalty who, at a public event or assembly, or in published writing, or by otherwise using the means of social communication, utters blasphemy, or gravely harms public morals, or rails at or excites hatred of or contempt for religion or the Church.

CCEO: can. 1448 §1

Can. 1369: Profaning sacred objects⁵⁸

A person who profanes a sacred object, moveable or immovable, is to be punished with a just penalty.

CCEO: can. 1441

Title II: Offences against Church Authorities and the Exercise of Duties (cann. 1370 - 1378)⁵⁹

Can. 1370: Physical force against Roman Pontiff, Bishop, Cleric, religious, faithful

§1: A person who uses physical force against the Roman Pontiff incurs a *latae sententiae* ex-communication reserved to the Apostolic See; If the

⁵⁵ Can. 1366 (modified); Former number was can. 1372.

⁵⁶ Can. 1367 (modified); Former number was can. 1366.

⁵⁷ Can. 1368 (modified); Former number was can. 1369.

⁵⁸ Can. 1369 (modified); Former number was can. 1376.

⁵⁹ Former title was, 'Offences against church authorities and the freedom of the church'.

offender is a cleric, another penalty, not excluding dismissal from the clerical state, may be added according to the gravity of the crime.

§2: One who does against a Bishop incurs a *latae sententiae* interdict and if a cleric incurs also a *latae sententiae* suspension.

§3: A person who uses physical force against a cleric or religious or another of Christ's faithful out of contempt for the faith, or the Church or ecclesiastical authority or the ministry is to be punished with a just penalty⁶⁰.

CCEO: can. 1445

Can. 1371: Persisting in disobedience⁶¹

§1: A person, who does not obey the lawful command or prohibition of the Apostolic See or the Ordinary or Superior and, after being warned, persists in disobedience, is to be punished, according to the gravity of the case, with a censure or deprivation of office or with other penalties mentioned in can. 1336, §§ 2-4⁶².

CCEO: can. 1446

Can. 1371§2: Violation of the obligations imposed by a penalty⁶³

A person who violates obligations imposed by a penalty is to be punished with the penalties mentioned in can. 1336 §§ 2-4.

CCEO: can. 1467.

Can. 1371 §3: Perjury⁶⁴

A person who, in asserting or promising something before an ecclesiastical authority, commits perjury, is to be punished with a just penalty.

CCEO: can. 1444

⁶⁰ Can. 1370 §3: A person who uses physical force against a cleric or religious or another of Christ's faithful' (addition).

⁶¹ Can. 1371 (modified); Former number was can. 1371§2.

⁶² Can. 1371§1 (modified); '...persists in disobedience, is to be punished, according to the gravity of the case, with a censure or deprivation of office or with other penalties mentioned in can. 1336, §§ 2-4' (addition).

⁶³ Can. 1371§2 (modified); Former number was can. 1393. '...penalties mentioned in can. 1336 §§ 2-4 instead of just penalty.

⁶⁴ Can. 1371 §3 (modified); Former number was can. 1368.

Can. 1371 §4: Violation of Pontifical secret⁶⁵

A person who violates the obligation of observing the pontifical secret is to be punished with the penalties mentioned in can. 1336 §§ 2-4.

CCEO: no parallel canon

Can. 1371 §5: Failing to execute an executive sentence⁶⁶

A person who fails to observe the duty to execute an executive sentence is to be punished with a just penalty, not excluding a censure.

CCEO: no parallel canon

Can. 1371 §6: Negligence to report an offence⁶⁷

A person who neglects to report an offence, when required to do so by a canonical law, is to be punished according to the provision of can. 1336 §§ 2-4, with the addition of other penalties according to the gravity of the offence.

CCEO: no parallel canon

Can. 1372: Hindering freedom⁶⁸

The following are to be punished according to the provision of can. 1336 §§ 2-4⁶⁹:

1°: Hindering the freedom of ministry

Those who hinder the freedom of the ministry or the exercise of ecclesiastical power, or the lawful use of sacred things or ecclesiastical goods, or who intimidate one who has exercised ecclesiastical power or ministry.

2°: Hindering the freedom of election

Those who hinder the freedom of an election or intimidate an elector or one who is elected.

CCEO: can. 1447§2

⁶⁵ Can. 1371 §4 (addition).

⁶⁶ Can. 1371 §5 (addition).

⁶⁷ Can. 1371 §6 (addition).

⁶⁸ Can. 1372 (modified); Former number was can. 1375.

⁶⁹ Can. 1372: 'The following are to be punished according to the provision of can. 1336 §§ 2-4' instead of just penalty.

Can. 1373: Publicly inciting hatred

A person who publicly incites hatred or animosity against the Apostolic See or the Ordinary because of some act of ecclesiastical office or duty, or who provokes disobedience against them, is to be punished by interdict or other just penalties⁷⁰.

CCEO: can. 1447 §1

Can. 1374: Joining associations against the church

A person who joins an association which plots against the Church is to be punished with a just penalty; one who promotes or takes office in such an association is to be punished with an interdict.

CCEO: can. 1448§2

Can. 1375: Usurpation of ecclesiastical offices⁷¹

§1: Anyone who usurps an ecclesiastical office is to be punished with a just penalty.

§2: The unlawful retention of an office after being deprived of it, or ceasing from it, is equivalent to usurpation.

CCEO: can. 1462.

Can. 1376: Penalties and obligation of repairing the harm⁷²

§1: The following are to be punished with the penalties mentioned in can.1336 §§2-4, without prejudice to the obligation of repairing the harm:

1°: Stealing of ecclesiastical goods

A person who steals ecclesiastical goods or prevents their proceeds from being received;

CCEO: No parallel canon.

2°:Unlawful alienation of ecclesiastical goods

A person who without the prescribed consultation, consent, or permission, or without another requirement imposed by law for

⁷⁰ Can. 1373: '...ecclesiastical office or duty' instead of ~~ecclesiastical authority or ministry~~.

⁷¹ Can. 1375 (modified); Former number was can.1381.

⁷² Can. 1376 (addition); 1° (addition); 2°(addition).

validity or for lawfulness, alienates ecclesiastical goods or carries out an act of administration over them;

§2: The following are to be punished, not excluding by deprivation of office, without prejudice to the obligation of repairing the harm:

1° a person who through grave personal culpability commits the offence mentioned in § 1, n.2;

2° a person who is found to have been otherwise gravely negligent in administering ecclesiastical goods.

CCEO: can. 1449.

Can. 1377 §1: Giving, promising or receiving something to act unlawfully⁷³

A person who gives or promises something so that someone who exercises an office or function in the Church would unlawfully act or fail to act is to be punished according to the provision of can. 1336 §§ 2-4; likewise, the person who accepts such gifts or promises is to be punished according to the gravity of the offence, not excluding by deprivation of office, without prejudice to the obligation of repairing the harm.

CCEO: can. 1463

§ 2: Requesting offerings beyond what is determined

A person who in the exercise of an office or function requests an offering beyond that which has been established, or additional sums, or something for his or her own benefit, is to be punished with an appropriate monetary fine or with other penalties, not excluding deprivation of office, without prejudice to the obligation of repairing the harm.

CCEO: No parallel canon.

Can. 1378: Abuse of ecclesiastical power⁷⁴

§1: A person who, apart from the cases already foreseen by the law, abuses ecclesiastical power, office, or function, is to be punished according to the gravity of the act or the omission, not excluding by

⁷³ Can. 1377 §§ 1, 2 (additions).

⁷⁴ Can. 1378 (modified); Former number was can. 1389§1. '...power or office, without prejudice to the obligation of repairing the harm' (addition).

deprivation of the power or office, without prejudice to the obligation of repairing the harm.

CCEO: can. 1464§1

§2: Culpable negligence in the acts of administration⁷⁵

A person who, through culpable negligence, unlawfully and with harm to another or scandal, performs or omits an act of ecclesiastical power or office or function, is to be punished according to the provision of can. 1336 §§ 2-4, without prejudice to the obligation of repairing the harm.

CCEO: can. 1464 § 2

Title III: Offences against the Sacraments (cann. 1379 - 1389)⁷⁶

Can. 1379: *Latae sententiae* interdict *latae sententiae* suspension

§1: The following incur a *latae sententiae* interdict or, if a cleric, also a *latae sententiae* suspension⁷⁷:

1° Attempting to celebrate Eucharist⁷⁸

A person who, not being an ordained priest, attempts the liturgical celebration of the Eucharistic Sacrifice;

CCEO: can. 1443

2° Attempting to administer sacramental absolution⁷⁹

A person who, apart from the case mentioned in can. 1384, though unable to give valid sacramental absolution, attempts to do so, or hears a sacramental confession.

CCEO: can. 1443

§2: In the cases mentioned in § 1, other penalties, not excluding excommunication, can be added, according to the gravity of the offence⁸⁰

⁷⁵ Can. 1378§2 (modified); Former number was can. 1389 § 2. '...is to be punished according to the provision of can. 1336 §§ 2-4, without prejudice to the obligation of repairing the harm instead of ~~just penalty~~.

⁷⁶ Title III: Offences against the Sacraments is a new title (cann. 1379 - 1389).

⁷⁷ Can. 1379 §1 (modified); Former number was can. 1378 § 2.

⁷⁸ Can. 1379 §1, 1° (modified); Former number was can. 1378 § 2, 1°.

⁷⁹ Can. 1379 §1, 2° (modified); Former number was can.1378§ 2, 2°.

§3: Sacred ordination on a woman⁸¹

Both a person who attempts to confer a sacred order on a woman, and the woman who attempts to receive the sacred order, incur a *latae sententiae* excommunication reserved to the Apostolic See; a cleric, moreover, may be punished by dismissal from the clerical state.

CCEO: No parallel canon.

§ 4: Administering sacraments to prohibited persons⁸²

A person who deliberately administers a sacrament to those who are prohibited from receiving it is to be punished with suspension, to which other penalties mentioned in can. 1336 §§ 2-4 may be added.

CCEO: No parallel canon.

§5: Pretending to administer a sacrament⁸³

A person who, apart from the cases mentioned in can. 1379 §§ 1-4 and can.1384 pretends to administer a sacrament is to be punished with a just penalty.

CCEO: can.1443

Can. 1380: Simony⁸⁴

A person who through simony celebrates or receives a sacrament is to be punished with an interdict or suspension or the penalties mentioned in can. 1336 §§ 2-4.

CCEO: can. 1461

Can. 1381: Prohibited participation⁸⁵

One who is guilty of prohibited participation in religious rites is to be punished with a just penalty.

CCEO: can. 1440

⁸⁰ Can. 1379 § 2 (modified); Former number was can.1378§ 2, 3°.

⁸¹ Can. 1379 § 3 (addition).

⁸² Can. 1379 § 4 (addition).

⁸³ Can. 1379 §5 (modified): Former number was can. 1379.

⁸⁴ Can. 1380 (modified); 'Suspension or the penalties mentioned in can. 1336 §§ 2-4' (addition).

⁸⁵ Can. 1381(modified); Former number was can. 1365.

Can. 1382: Profanation of consecrated species⁸⁶

§1: One who throws away the consecrated species or, for a sacrilegious purpose, takes them away or keeps them, incurs a *latae sententiae* ex-communication reserved to the Apostolic See; a cleric, moreover, may be punished with some other penalty, not excluding dismissal from the clerical state.

CCEO:can.1442

§2: Consecration of sacred species for sacrilegious purposes⁸⁷

A person guilty of consecrating for a sacrilegious purpose one element only or both elements within the Eucharistic celebration or outside it is to be punished according to the gravity of the offence, not excluding by dismissal from the clerical state.

CCEO: No parallel canon.

Can. 1383: Trafficking mass offerings⁸⁸

A person who unlawfully traffics in Mass offerings is to be punished with a censure or with the penalties mentioned in can. 1336 §§ 2-4.

CCEO: No parallel canon.

Can. 1384: Absolution of a partner in a sin against the sixth commandment⁸⁹

A priest who acts against the prescription of can. 977 incurs a *latae sententiae* ex-communication reserved to the Apostolic See.

CCEO: can. 1457

Can. 1385: Solicitation of a penitent to sin against 6th commandment⁹⁰

A priest who in confession, or on the occasion or under the pretext of confession, solicits a penitent to commit a sin against the sixth commandment of the Decalogue, is to be punished, according to the gravity of the offence, with suspension, prohibitions and deprivations; in the more serious cases, he is to be dismissed from the clerical state.

⁸⁶ Can. 1382 § 1 (modified); Former number was can.1367.

⁸⁷ Can. 1382 § 2 (addition).

⁸⁸ Can. 1383 (modified); Former number was can.1385. 'A censure or with the penalties mentioned in can. 1336 §§ 2-4 instead of just penalty.

⁸⁹ Can. 1384 (modified); Former number was can.1378§1.

⁹⁰ Can. 1385 (modified); Former number was can.1387.

CCEO: can. 1458

Can. 1386 § 1: Violation of the seal of confession⁹¹

A confessor who directly violates the sacramental seal incurs a *latae sententiae* ex-communication reserved to the Apostolic See; he who does so only indirectly is to be punished according to the gravity of the offence.

CCEO: can. 1456§1

§ 2: Interpreters in the confessional⁹²

Interpreters and the others mentioned in the can. 983 § 2, those who violate the secret, are to be punished with a just penalty, not excluding ex-communication.

CCEO: can. 1456 § 2

§3: Recording in the sacramental confession and divulging it through social communication⁹³

Without prejudice to the provisions of §§ 1 and 2, any person who by means of any technical device makes a recording of what is said by the priest or by the penitent in a sacramental confession, either real or simulated, or who divulges it through the means of social communication, is to be punished according to the gravity of the offence, not excluding, in the case of a cleric, by dismissal from the clerical state.

CCEO: No parallel canon.

Can. 1387: Consecration of a bishop without pontifical mandate⁹⁴

Both the Bishop who, without a pontifical mandate, consecrates a person a Bishop, and the one who receives the consecration from him, incur a *latae sententiae* ex-communication reserved to the Apostolic See.

CCEO: can. 1459 §1

⁹¹ Can. 1386 § 1 (modified); Former number was can.1388 §1.

⁹² Can. 1386 § 2 (modified); Former number was can.1388 § 2.

⁹³ Can. 1386 3 (addition).

⁹⁴ Can. 1387 (modified); Former number was can.1382.

Can. 1388 § 1: Conferring orders without dimissorial letters⁹⁵

A Bishop who, contrary to the provision of can. 1015, ordained someone else's subject without the lawful dimissorial letters is prohibited from conferring orders for one year. The person who received the order is *ipso facto* suspended from the order received.

CCEO: can. 1459 § 2

§ 2: Receiving orders with a censure or irregularity⁹⁶

A person who comes forward for sacred orders bound by some censure or irregularity which he voluntarily conceals is *ipso facto* suspended from the order received.

CCEO: No parallel canon.

Can. 1389: Other unlawful exercises of the sacred ministry⁹⁷

A person who, apart from the cases mentioned in cann. 1379-1388 unlawfully exercises the office of a priest or another sacred ministry, is to be punished with a just penalty, not excluding a censure.

CCEO: No parallel canon.

**Title IV: Offences against Reputation and the Offence of Falsehood
(cann. 1390-1391)⁹⁸****Can. 1390 § 1: Falsely denouncing a confessor regarding the solicitation to sin against the sixth commandment**

A person who falsely denounces a confessor of the offence mentioned in the can. 1385 to an ecclesiastical superior incurs a *latae sententiae* interdict and, if a cleric, he incurs also a suspension.

CCEO: can. 1454

§ 2: Denouncing calumniously some other offence to an ecclesiastical superior

A person who calumniously denounces some other offence to an ecclesiastical Superior, or otherwise unlawfully injures the good name

⁹⁵ Can. 1388 § 1 (modified); Former number was can.1383.

⁹⁶ Can. 1388 § 2 (addition).

⁹⁷ Can. 1389 (addition).

⁹⁸ Former title was, 'The false accusation'.

of another, is to be punished according to the provision of can. 1336 §§ 2-4 to which moreover a censure may be added⁹⁹.

§ 3: The calumniator must also be compelled to make appropriate amends¹⁰⁰.

CCEO: can. 1452

Can. 1391: Forgery¹⁰¹

The following are to be punished with the penalties mentioned in can 1336 §§ 2-4, according to the gravity of the offence¹⁰².

1° a person who composes a false public ecclesiastical document, or who changes, destroys, or conceals a genuine one, or who uses a false or altered one;

2° a person who in an ecclesiastical matter uses some other false or altered document;

3° a person who, in a public ecclesiastical document, asserts something false.

CCEO: can. 1455

Title V: Offences against Special Obligations (cann. 1392-1396)

Can. 1392: Cleric abandoning sacred ministry for six months continuously¹⁰³

A cleric who voluntarily and unlawfully abandons the sacred ministry, for six months continuously, with the intention of withdrawing himself from the competent Church authority, is to be punished, according to the gravity of the offence, with suspension or additionally with the penalties established in the can. 1336 §§ 2-4, and in the more serious cases may be dismissed from the clerical state.

CCEO: No parallel canon.

⁹⁹ Can. 1390§ 2 (modified); '...is to be punished according to the provision of can. 1336 §§ 2-4 instead of just penalty'.

¹⁰⁰ Can. 1390§ 3 (modified); The calumniator must instead of can.

¹⁰¹ Can. 1391 (modified).

¹⁰² Can. 1391: '...punished with the penalties mentioned in can 1336 §§ 2-4, instead of just penalty'.

¹⁰³ Can. 1392 (addition).

Can. 1393: Cleric or religious engaging in business¹⁰⁴

§ 1: A cleric or religious who engages in trading or business contrary to the provisions of the canons is to be punished with the penalties mentioned in can. 1336 §§ 2-4, according to the gravity of the offence.¹⁰⁵

CCEO: can. 1466

§ 2: Cleric or religious committing offence in financial matters¹⁰⁶

A cleric or religious who, apart from the cases already foreseen by the law, commits an offence in a financial matter, or gravely violates the stipulations contained in can. 285 § 4, is to be punished with the penalties mentioned in can. 1336 §§ 2-4, without prejudice to the obligation of repairing the harm.

CCEO: No parallel canon.

Can. 1394 § 1: A cleric who attempts marriage¹⁰⁷

A cleric who attempts marriage, even if only civilly, incurs a *latae sententiae* suspension without prejudice to the provisions of can. 194 § 1 n. 3 and can. 694 § 1 n. 2. If, after warning, he has not reformed or continues to give scandal, he must be progressively punished by deprivations, or even by dismissal from the clerical state.

CCEO: can.1453 § 2

§ 2: A religious who is not a cleric attempts marriage

Without prejudice to the provisions of can. 694 § 1 n. 2, a religious in perpetual vows who is not a cleric but who attempts marriage, even if only civilly, incurs a *latae sententiae* interdict.

CCEO: can.1453 § 3

Can. 1395 § 1: A cleric living in a concubinage

A cleric living in concubinage other than the case mentioned in can. 1394 and a cleric who continues in some other external sin against the sixth commandment of the Decalogue which causes scandal, is to be punished with suspension. To this, other penalties can progressively be

¹⁰⁴ Can. 1393 (modified); Former number was can. 1392.

¹⁰⁵ Can. 1393§ 1: ‘...punished with the penalties mentioned in can. 1336 §§ 2-4 instead of ~~according to the gravity of the offence~~’.

¹⁰⁶ 1393 § 2 (addition).

¹⁰⁷ Can. 1394 § 1 (modified); can. 694 § 1 n. 2 (addition).

added if after a warning he persists in the offence, until eventually he can be dismissed from the clerical state.

CCEO: can. 1453 §1

§ 2: Cleric offended other ways against 6th commandment¹⁰⁸

A cleric who has offended in other ways against the sixth commandment of the Decalogue, if the offence was committed in public, is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.

§ 3: A cleric by force, threats or abuse of authority commits an offence against the sixth commandment¹⁰⁹

A cleric who by force, threats or abuse of his authority commits an offence against the sixth commandment of the Decalogue or forces someone to perform or submit to sexual acts is to be punished with the same penalty.

CCEO: No parallel canon.

Can. 1396: Violation of the obligation of residence

A person who gravely violates the obligation of residence to which he is bound by reason of an ecclesiastical office is to be punished with a just penalty, not excluding, after a warning, deprivation of the office.

CCEO: No parallel canon.

Title VI: Offences against Human Life, Dignity and Liberty (cann. 1397-1398)¹¹⁰

Can. 1397 §1: Homicide, abduction, imprisonment, mutilation, wounding¹¹¹

One who commits homicide or who by force or by fraud abducts, imprisons, mutilates or gravely wounds a person, is to be punished, according to the gravity of the offence, with the penalties mentioned in can. 1336. In the case of the homicide of one of those persons mentioned in can. 1370 the offender is punished with the penalties prescribed there and also in § 3 of this canon.

¹⁰⁸ Can. 1395 § 2 (modified); '~~...by force or by threats or with a minor under the age of sixteen years~~' is removed.

¹⁰⁹ Can. 1395 § 3 (addition).

¹¹⁰ Former title was, 'Offences against human life and liberty'.

¹¹¹ Can. 1397 §1 (modified); '...and also in § 3 of this canon' (addition).

CCEO: cann. 1450 §1, 1451

§ 2: Actually procuring Abortion¹¹²

A person who actually procures an abortion incurs a *latae sententiae* excommunication.

CCEO: can. 1450§2

§ 3: If clerics are involved in these offences¹¹³

If offences dealt with in this canon are involved, in more serious cases the guilty cleric is to be dismissed from the clerical state.

Can. 1398: Offences committed against minors¹¹⁴

§ 1: Offences committed by clerics

A cleric is to be punished with deprivation of office and with other just penalties, not excluding, where the case calls for it, dismissal from the clerical state if he:

1° commits an offence against the sixth commandment of the Decalogue with a minor or with a person who habitually has an imperfect use of reason or with one to whom the law recognizes equal protection;

2° grooms or induces a minor or a person who habitually has an imperfect use of reason or one to whom the law recognizes equal protection to expose himself or herself pornographically or to take part in pornographic exhibitions, whether real or simulated;

3° immorally acquires, retains, exhibits or distributes, in whatever manner and by whatever technology, pornographic images of minors or of persons who habitually have an imperfect use of reason.

§2: Offences committed by a member of an institute of consecrated life or of a society of apostolic life

A member of an institute of consecrated life or of a society of apostolic life, or any one of the faithful who enjoys a dignity or performs an office or function in the Church, who commits an offence in §1 or in can 1395 § 3 is to be punished according to the provision of can. 1336

¹¹² Can. 1397 § 2 (addition); Former number was can. 1398.

¹¹³ Can. 1397 § 3 (addition).

¹¹⁴ Can. 1398 § 1, 1°, 2°, 3°; § 2 (addition).

§§ 2-4, with the addition of other penalties according to the gravity of the offence.

CCEO: No parallel canon.

Title VII: General Norm

Can. 1399: Besides the cases prescribed in this or in other laws, the external violation of divine or canon law can be punished, and with a just penalty, only when the special gravity of the violation requires it and necessity demands that scandals be prevented or repaired.

Conclusion

The basic principle and aims of penal laws are made clear in the revised text, such as restoration of justice, reform of the offender and reparation of scandal. Great efficacy has been brought into the book. The order is being changed without changing the total number of canons (cann. 1311-1399). Penal laws have been made more adequate to protect the common good. There is no conflict between the application of penalty and observance of charity. Facultative sanctions have been made obligatory. Bishop's responsibility has been increased. There is a need to observe constant vigilance to avoid crimes and to repair damages is stressed. Any person is considered innocent until the contrary is proved. No one can be punished unless the commission by him or her of an external violation of a law or precept is gravely imputable by reason of malice or of culpability (can. 1321). The one who is at the head of a Church must safeguard and promote the good of the community itself and of each of Christ's faithful, through pastoral charity, an example of life, advice and exhortation. The head of a church whenever necessary has to impose penalties which are always to be applied with canonical equity and having in mind the restoration of the demands of justice, the amendment of the offender, and the reparation of scandals.