

TITLE XXVII. PENAL SANCTIONS IN THE CHURCH*

CHAPTER I. DELICTS AND PENALTIES IN GENERAL

Can. 1401 Since God employs every means to bring back the erring sheep, those who have received from Him the power to loose and to bind are to apply suitable medicine to the sickness of those who have committed delicts, reproving, imploring, and rebuking them with the greatest patience and teaching. Indeed, they are even to impose penalties in order to heal the wounds caused by the delict, such that those who commit delicts are not driven to the depth of despair nor are restraints relaxed unto a dissoluteness of life and contempt of the law.

Can. 1402 §1. The hierarch must initiate a procedure to impose penalties when justice cannot be sufficiently restored through reprimand, entreaty, or rebuke, when the offender must be led to penance and self-correction, and when scandal and damage must be repaired.

§2. Any contrary custom being reprobated, a canonical penalty must be imposed through a penal trial as prescribed in cann. 1468-1482, with due regard for the coercive power of the judge in the cases expressed by law.

§3. If, however, in the judgment of the authority mentioned in §4, there are grave causes that preclude a penal trial and the proofs concerning the delict are certain, the delict can be punished, having observed can. 1291, by an extra-judicial decree according to the norm of cann. 1486 and 1487, provided it does not involve a privation of office, title, or insignia, a suspension for more than one year, demotion to a lower grade, deposition, or major excommunication.

§4. This decree can be issued, besides by the Apostolic See, within the limits of their competence, by the patriarch, major archbishop, eparchial bishop, and the major superior of an institute of

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consecrated life who has ordinary power of governance, all others being excluded.

Can. 1403 §1. Even when it is a question of delicts that carry an obligatory penalty by law, the hierarch, after having heard the promoter of justice, can abstain from a penal process and even abstain totally from imposing penalties, provided that, in the judgment of the hierarch himself, all these conditions simultaneously concur: the offender, not yet brought to trial and moved by sincere repentance, has confessed his delict to the hierarch in the external forum and has appropriately provided for the reparation of the scandal and harm.

§2. However, the hierarch cannot do this if it involves a delict that carries a penalty whose remission is reserved to a higher authority until he has obtained permission from that authority.

Can. 1404 §1. In the matter of penalties, the more benign interpretation is to be made.

§2. It is not permitted to extend a penalty from one person to another or from one case to another, although an equal or even more serious reason is present.

Can. 1405 §1. A person who has legislative power can also issue penal laws insofar as they are truly necessary to provide more suitably for ecclesiastical discipline as well as strengthen with an appropriate penalty a divine law or an ecclesiastical law issued by a higher authority, observing the limits of his competence by reason of territory or persons.

§2. Particular law can add other penalties to those already established by common law for some delict; however, this is not to be done except for a very serious reason. However, if common law establishes an indeterminate or facultative penalty, particular law can establish a determined or obligatory one in its place.

§3. Patriarchs and eparchial bishops are to take care that, insofar as it is possible, penal laws of particular law are uniform in the same territory.

Can. 1406 §1. Insofar as one can impose precepts according to the prescripts of cann. 1510-1520, one can, after a thorough consideration of the matter and with the utmost moderation, threaten determined penalties by precept, with the exception of those enumerated in can.

1402, §3. The patriarch, however, can threaten even these penalties by precept with the consent of the permanent synod.

§2. A warning containing the threat of penalties by which the hierarch enforces a non-penal law in individual cases is equivalent to a penal precept.

Can. 1407 §1. If, in the judgment of the hierarch who can impose the penalty, the nature of the delict permits it, the penalty cannot be imposed unless the offender has been warned at least once beforehand to desist from the delict and has been given a suitable time for repentance.

§2. An offender who has sincerely repented of the delict and has also made suitable reparation for the scandal and damage, or at least has seriously promised to do so, must be considered to have desisted from the delict.

§3. If warnings or reproaches have been given to someone in vain, the hierarch is to issue a penal precept in which he precisely orders what must be done or what must be avoided.

§4. However, the penal warning mentioned in can. 1406, §2 suffices for being able to impose a penalty.

Can. 1408 A penalty does not bind the guilty party until after it has been imposed by a sentence or decree, without prejudice to the right of the Roman Pontiff or an ecumenical council to establish otherwise.

Can. 1409 §1. In the application of penal law, even if the law uses perceptive words, the judge can, according to his or her own conscience and prudence:

1° defer the imposition of the penalty to a more opportune time if it is foreseen that greater evils will result from an overly hasty punishment of the offender, unless the need to repair scandal is pressing;

2° abstain from imposing a penalty or impose a lighter penalty if the offender has reformed and has appropriately provided for the reparation of the scandal and damage, or if the offender has been or, it is foreseen, will be punished sufficiently by civil authority;

3° moderate the penalties within equitable limits if the offender has committed several delicts and the sum of the penalties appears excessive;

4° suspend the obligation of observing the penalty if it is the first offense of one who has been commended heretofore by an entirely upright life, provided the reparation of the scandal is not pressing. The suspended penalty ceases absolutely if the offender does not commit an offense again within the time determined by the judge; otherwise, the offender is to be punished more severely as the one guilty of both delicts unless in the interim the penal action for the first delict has been extinguished.

§2. If a penalty is indeterminate and the law does not provide otherwise, the judge in determining the penalties is to choose those which are proportionate to the scandal that was caused and to the gravity of the damage; however, he cannot impose the penalties enumerated in can. 1402, §3.

Can. 1410 The imposition of penalties on a cleric must preserve for him what is necessary for his adequate support, unless it is a question of deposition. In this case, the hierarch is to take care that, if the deposed cleric is truly in need because of the punishment, he is provided for in the best possible way, but excluding the conferral of an office, ministry, or function, and always safeguarding his rights arising from insurance and social security as well as health insurance for him and for his family if he is married.

Can. 1411 No penalty can be imposed after a penal action has been extinguished.

Can. 1412 §1. One who is bound by a law or precept is also subject to the penalty attached to it.

§2. If a law is changed after a delict has been committed, the law more favorable to the accused is to be applied.

§3. However, if a later law abolishes a law or at least the penalty, the penalty immediately ceases irrespective of the manner in which it had been imposed.

§4. Unless other provision is expressly made in common law, a penalty binds the offender everywhere, even when the authority of the one who imposed the penalty has lapsed.

Can. 1413 §1. A person who has not completed the fourteenth year of age is not subject to a penalty.

§2. However, a person who has committed a delict between the fourteenth and eighteenth year of age can be punished only with

penalties that do not include the privation of some good, unless the eparchial bishop or the judge, in special cases, thinks that the reform of that person can be better accomplished in another way.

Can. 1414 §1. Each person is considered innocent until the contrary is proven.

§2. A person is only subject to penalties who has violated a penal law or penal precept, either deliberately or by seriously culpable omission of due diligence or by seriously culpable ignorance of the law or precept.

§3. When an external violation of a penal law or penal precept has occurred, it is presumed that it was deliberately done until the contrary is proven. Concerning other laws or precepts, the same is presumed only if the law or precept is violated again after a penal warning.

Can. 1415 If, according to common practice and canonical doctrine, an extenuating circumstance is present, the judge must temper the penalty established by law or precept, provided, however, there is still a delict. Indeed, according to his judgment, the judge can also abstain from imposing a penalty if he thinks that the reform of the offender as well as reparation of the scandal and damage can be better accomplished in another way.

Can. 1416 §1. If a delict has been committed by a recidivist or by one who is in a state of drunkenness or other disturbance of the mind that is intentionally sought out to perpetrate or excuse the delict, or by one who acts due to willfully stimulated or stoked passion, or if, according to common practice and canonical doctrine, another aggravating circumstance is present, the judge must punish the offender more severely than the law or precept has established, not excluding the penalties enumerated in can. 1402, §3.

§2. In these same cases, if a penalty has been established as facultative, it becomes obligatory.

Can. 1417 Those who conspire together to commit a delict and are not expressly named in a law or precept can be punished with the same penalties as the principal perpetrator or, according to the prudence of the judge, with other penalties of the same or lesser gravity.

Can. 1418 §1. A person who has done or omitted something in order to commit a delict and yet, contrary to his or her intent, did not commit the delict is not bound by the penalty established for a completed delict unless the law or precept provides otherwise.

§2. If the acts or omissions are by their nature conducive to the execution of the delict, however, the perpetrator is to be punished with an appropriate penalty, especially if scandal or some other grave damage resulted; however, the penalty is to be lighter than the one established for a completed delict.

§3. A person who voluntarily ceased from carrying out the delict that had been initiated is freed from any penalty if no damage or scandal has arisen from the attempted offense.

Can. 1419 §1. A person who can dispense from a penal law or exempt from a penal precept can also remit the penalty imposed by virtue of the same law or precept.

§2. Moreover, the power of remitting penalties can also be granted to others by the law or penal precept.

Can. 1420 §1. The following can remit a penalty imposed by virtue of the common law:

1° the hierarch who initiated the penal trial or imposed the penalty by decree;

2° the hierarch of the place where the offender actually resides, but after having consulted the hierarch mentioned in n. 1.

§2. These norms also apply regarding penalties imposed in virtue of particular law or a penal precept, unless the particular law of a Church *sui iuris* provides otherwise.

§3. However, only the Apostolic See can remit a penalty imposed by the Apostolic See, unless the remission of the penalty is delegated to the patriarch or others.

Can. 1421 The remission of a penalty extorted by force, grave fear, or fraud is null by the law itself.

Can. 1422 §1. The remission of a penalty can also be given to an unknowing offender or conditionally.

§2. The remission of a penalty must be given in writing unless a grave cause suggests otherwise.

§3. Care is to be taken that the petition of remission of a penalty or the remission itself is not divulged, except insofar as it is either useful to protect the reputation of the offender or necessary to repair scandal.

Can. 1423 §1. Without prejudice to the right of the Roman Pontiff to reserve to himself or others the remission of any penalty, the synod of bishops of a patriarchal or major archiepiscopal Church can, by a law issued because of serious circumstances, reserve the remission of penalties to the patriarch or major archbishop with respect to his subjects who have a domicile or quasi-domicile within the territorial boundaries of the Church over which he presides. No one else can validly reserve to himself or to others the remission of the penalties established by common law except with the consent of the Apostolic See.

§2. Every reservation must be interpreted strictly.

Can. 1424 §1. The remission of a penalty cannot be granted unless the offender has sincerely repented for the delict committed and has also adequately provided for reparation of the scandal and damage; the offender can be obliged to reparation or restitution by other appropriate penalties.

§2. However, if, in the judgment of that person who is competent to remit the penalty, these conditions have been fulfilled, the remission is not to be denied, insofar as possible considering the nature of the penalty.

Can. 1425 If several penalties bind a person, a remission is valid only for the penalties expressed in it; a general remission, however, takes away all penalties except those that the offender in bad faith kept silent about in the petition.

Can. 1426 §1. Unless another penalty is determined by law, according to the ancient traditions of the Eastern Churches, penalties can be imposed that require some serious work of religion or piety or charity to be performed, such as certain prayers, a pious pilgrimage, a special fast, alms, spiritual retreats.

§2. Other penalties are to be imposed on that person who is not disposed to accept these penalties.

Can. 1427 §1. Without prejudice to particular law, a public rebuke is to occur before a notary or two witnesses or by letter, but in such a

way that the reception and tenor of the letter are established by some document.

§2. Care must be taken that the public rebuke itself does not result in a greater disgrace of the offender than is appropriate.

Can. 1428 If the gravity of the case demands and especially if it concerns recidivists, a hierarch can, in addition to the penalties imposed by sentence in accord with the norm of law, place the offender under supervision in the manner determined by an administrative decree.

Can. 1429 §1. A prohibition can be given:

- 1° against residing in a certain place or territory;
- 2° against exercising, everywhere or in a certain place or territory or outside a certain place or territory, all or some offices, functions, or ministries, or only some tasks attached to offices or functions;
- 3° against placing all or some acts of the power of orders;
- 4° against placing all or some acts of the power of governance;
- 5° against exercising some right or privilege, or using insignia or titles;
- 6° against enjoying active or passive voice in canonical elections, or taking part in ecclesial colleges or councils with the right to vote;
- 7° against wearing an ecclesiastical or religious habit.

§2. An order can be given:

- 1° to reside in a certain place or territory;
- 2° to pay a sum of money for the purposes of the Church, according to the rationale determined by particular law.

§3. A prohibition against residing in a certain place or territory can affect only clerics, religious, or members of a society of common life in the manner of religious; however, the order to reside in a certain place or territory can affect only clerics ascribed to an eparchy, without prejudice to the law of institutes of consecrated life.

§4. To impose an order to reside in a certain place or territory requires the consent of the local hierarch, unless it is a question either of a house of an institute of consecrated life of pontifical or patriarchal

right, in which case the consent of the competent superior is required, or of a house designated for the penance and rehabilitation of clerics of several eparchies.

Can. 1430 §1. Penal privations can affect all or some powers, offices, ministries, functions, rights, privileges, faculties, favors, titles, or insignia, as well as only some tasks attached to offices or functions, that are under the power of the authority that establishes the penalty or of the hierarch who initiated the penal trial or imposed the penalty by decree; the same applies regarding penal transfer to another office.

§2. Privation of the power of sacred orders is not possible, but only a prohibition against exercising all or some of its acts, in accordance with the norm of common law; likewise, privation of academic degrees is not possible.

§3. A privation can also be given:

1° of the faculty of hearing confessions or of preaching;

2° of delegated power of governance;

3° of all or part of ecclesiastical remuneration, as determined according to particular law and without prejudice to the prescript of can. 1410.

Can. 1431 §1. Those punished with a minor excommunication are deprived of the reception of the Divine Eucharist. In addition, they can be excluded from participation in the Divine Liturgy and even from entering a church if divine worship is being publicly celebrated there.

§2. The sentence itself or the decree by which this penalty is imposed must determine the extent of that penalty and, if the case warrants, its duration.

Can. 1432 §1. A suspension can be from either all or some acts of the power of orders or governance, or from either all or some acts or rights connected with an office, ministry, or function; however, the sentence itself or the decree that imposed the penalty is to define the extent of that suspension, unless it is already determined by law.

§2. No one can be suspended except from acts that are under the power of the authority that establishes the penalty or of the hierarch who initiates the penal trial or imposes the suspension by decree.

§3. A suspension never affects the validity of acts nor the right of residence if the offender has any such right by reason of an office, ministry, or function; however, a suspension prohibiting a person from receiving benefits, remuneration, pensions, or any other such thing entails the obligation of making restitution for whatever has been received illegitimately, even if in good faith.

Can. 1433 §1. A cleric demoted to a lower grade is prohibited from exercising those acts of the power of orders and governance that are not consonant with this grade.

§2. However, a cleric deposed from the clerical state is deprived of all offices, ministries, or other functions, ecclesiastical pensions, and any delegated power; he is rendered unqualified for them. He is prohibited from exercising the power of orders and he cannot be promoted to higher sacred orders and is equivalent to lay persons in respect to canonical effects, with due regard for cann. 396 and 725.

Can. 1434 §1. Major excommunication, in addition to all the things mentioned in can. 1431, §1, prohibits the reception of the other sacraments, the administration of the sacraments and sacramentals, the exercise of any offices, ministries, or functions whatsoever, the placing of acts of governance, which, if they are nonetheless placed, are null by the law itself.

§2. A person punished with a major excommunication must be prevented from participating in the Divine Liturgy and in any other public celebrations whatsoever of divine worship.

§3. A person punished with a major excommunication is forbidden to benefit from privileges previously granted to himself or herself. The person cannot acquire validly a dignity, office, ministry, or other function in the Church, or a pension, nor can the person appropriate the benefits attached to them. The person also lacks active and passive voice.

Can. 1435 §1. If a penalty prohibits the reception of the sacraments or sacramentals, the prohibition is suspended as long as the offender is in danger of death.

§2. If the penalty prohibits the administration of sacraments or sacramentals or the placing of an act of governance, the prohibition is suspended whenever it is necessary to care for the Christian faithful in danger of death.

CHAPTER II.
PENALTIES FOR INDIVIDUAL DELICTS

Can. 1436 §1. A person who denies some truth that must be believed by divine and Catholic faith, or who calls it into doubt, or who totally rejects the Christian faith, and does not reconsider, though legitimately warned, is to be punished as a heretic or an apostate with a major excommunication; moreover, a cleric can be punished with other penalties, not excluding deposition.

§2. In addition to these cases, a person who obstinately rejects a teaching that the Roman Pontiff or the College of Bishops, exercising authentic magisterium, have set forth to be held definitively, or who affirms what they have condemned as erroneous, and does not reconsider, though legitimately warned, is to be punished with an appropriate penalty.

§3. A person who takes recourse against an act of the Roman Pontiff to the College of Bishops is to be punished with an appropriate penalty.

Can. 1437 A person who refuses subjection to the supreme authority of the Church or communion with the Christian faithful subject to it and, though legitimately warned, does not obey, is to be punished as a schismatic with a major excommunication.

Can. 1438 A person who deliberately omits the commemoration of the hierarchy in the Divine Liturgy and in the divine praises as prescribed by law, and does not come back to his or her senses, though legitimately warned, is to be punished with an appropriate penalty, not excluding major excommunication.

Can. 1439 Parents or those who take the place of parents who hand their children over to be baptized or educated in a non-Catholic religion are to be punished with an appropriate penalty.

Can. 1440 A person who violates the norms of law concerning participation in sacred rites (*communicatio in sacris*) can be punished with an appropriate penalty.

Can. 1441 A person who employs sacred objects for profane use or for an evil purpose is to be suspended or prohibited from receiving the Divine Eucharist.

Can. 1442 §1. A person who has thrown away the Divine Eucharist or has taken or retained it for a sacrilegious purpose is to be punished

with a major excommunication and, if a cleric, also with other penalties, not excluding deposition.

§2. A person guilty of consecrating both or one of the sacred gifts for a sacrilegious purpose, in the celebration of the Divine Liturgy or outside of it, is to be punished according to the gravity of the delict, not excluding deposition.

Can. 1443 §1. A person is to be punished with an appropriate penalty, not excluding major excommunication:

1° who has simulated the celebration of the Divine Liturgy or the other sacraments;

2° who has attempted the celebration of the Divine Liturgy while not having been promoted to the priestly order;

3° who, aside from the case mentioned in can. 1457, has attempted to impart sacramental absolution or has heard a sacramental confession when being unable to give absolution validly.

§2. A person who has deliberately ministered a sacrament to those who are forbidden from receiving it is to be punished with a suspension, to which other penalties can be added.

Can. 1444 A person who has committed perjury before an ecclesiastical authority or who, though not sworn, has knowingly affirmed a falsehood to a judge under lawful questioning, or has concealed the truth, or who has induced others to commit these delicts, is to be punished with an appropriate penalty.

Can. 1445 §1. A person who has used physical force against a bishop or has caused him some other serious injury is to be punished with an appropriate penalty, not excluding deposition if he is a cleric. However, if the same delict has been committed against a metropolitan, patriarch, or indeed the Roman Pontiff, the offender is to be punished with a major excommunication, whose remission, in the last case, is reserved to the Roman Pontiff himself.

§2. A person who did the same to another cleric, religious, member of a society of common life in the manner of religious, or a lay person in the act of exercising an ecclesiastical function is to be punished with an appropriate penalty.

Can. 1446 §1. A person who does not obey the legitimate order or prohibition of his or her own hierarch and who, after a warning,

persists in disobedience is to be punished as an offender with an appropriate penalty.

§2. A person who has violated the obligation of maintaining the pontifical secret is to be punished with the penalties mentioned in cann. 1429 and 1430.

§3. A person who has not performed the duty of executing an executive sentence or decree by which a penalty is imposed is to be punished with an appropriate penalty, not excluding minor excommunication and suspension.

§4. A person who has neglected to report a delict when bound to do so by canon law is to be punished according to the norm of cann. 1429 and 1430, with other penalties also being added according to the gravity of the delict.

§5. A cleric who has abandoned sacred ministries voluntarily and illicitly for six continuous months with the intention of removing himself from the competent authority of the Church is to be punished according to the gravity of the delict with a suspension or even with the penalties mentioned in cann. 1429 and 1430, and with deposition in more serious cases.

Can. 1447 §1. A person who incites sedition or hatred toward any hierarch or provokes his subjects to disobedience against him is to be punished with an appropriate penalty, not excluding a major excommunication, especially if the delict was committed against a patriarch or indeed against the Roman Pontiff.

§2. A person who has obstructed the freedom of ministry or election or ecclesiastical authority, or the legitimate use of the temporal goods of the Church, or a person who has intimidated an elector or one who exercises power or ministry, is to be punished with an appropriate penalty.

Can. 1448 §1. A person who in a public show or speech, in published writing, or otherwise using the instruments of social communication utters blasphemy, seriously injures good morals, or expresses insults or excites hatred or contempt against religion or the Church is to be punished with an appropriate penalty.

§2. A person who joins an association that plots against the Church is to be punished with an appropriate penalty.