

Role of Punitive Correction in Formation: Not to Destroy But to Reform

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Abstract

Punitive corrective measures have an important role in the formation of an individual. The Codes of Canon Law of the Catholic Church present methods of correcting a wrongdoer using her medicinal approach of punishment. Church as a benevolent mother takes care of each individual in his/her pilgrimage here on earth. All the penal laws of the Church are directed towards the integral growth of a person whether he/she is a cleric, religious, or a layperson. The ultimate goal of all the laws of the Church is *Salus animarum* (salvation of souls) – a salvific note of not destroying the individual but of reforming him/her.

Keywords: Formation, Codes of Canon Law, Penal Law, *Salus animarum*, Medicinal approach of law, Model of Good Shepherd, Benevolent Mother

Introduction

Formation is the artwork of the Holy Spirit in an individual. It is based fundamentally on four pillars of the Church. They are scripture, tradition, teachings of the Church, and the Codes of Canon Law. Religious formation is very much attended by the Lawgiver in the sections on religious in both Codes of Canon Law, namely *Code of Canon Law* (CIC) for the Latin Church and *Code of Canons of the Eastern Churches* (CCEO) for the Oriental Catholic Churches. The Codes of Canon Law are intended not to destroy the individual but

to reform and re-integrate him/her into the life of the Church. It is the renewed focus and style after the Second Vatican Council on the formation of religious. The style of the Good Shepherd is to go after the lost sheep and all the superiors in the Church are asked to follow the example of the Good Shepherd and solicitously seek after the individual religious who go astray from the religious and priestly formation. Religious formation is a never-ending process. Therefore, all the laws of the Church are focused on a single purpose, that is the *Salus animarum* (salvation of souls)- the supreme law of the Church (CIC c. 1752). And it is integrally reflected in the section on Institutes of Consecrated Life in CIC and monks and other religious in CCEO. In the formation of an individual, penal law also has a role to play as a corrective measure. Laws of the Church act as one of the practical means intended at maintaining good order in the Church and restore it when the bonds of communion are broken.

The role of punitive corrections plays a great role in molding the individual into a perfect disciple after the model of Christ, the supreme master. This study is a scientific research regarding the role of adequate punitive correction in the proper formation of an individual. Punitive corrections are given to individuals while they are in formation or during their time of ongoing formation in the life of a cleric or religious. Penalties are given according to the guidance of the Church given in the Codes of Canon Law and the constitutions of the religious communities. These measures are intended not to destroy the individual but to reform and to ensure his/her integral growth. Jesus, the supreme formator came to take care of the weak and the faltering. Thus, we are reminded that He came ‘not to crush the bruised reed nor to snuff out the smoldering wick’ (Mt 12: 20).

Formation: Growing in the Art of Self-Giving

Formation, whether clerical or religious is aimed at refining the individual and making him capable of self-giving. The trinitarian existence of God is an excellent example of self-giving. Father gives himself totally to the Son and the Son gives himself totally to the Holy Spirit and the Holy Spirit returns. Thus, the post-synodal apostolic exhortation *Vita Consecrata* teaches that “the consecrated life proclaims what the Father, through the Son and in the Spirit, brings about by His love, His goodness and His beauty” (John Paul II, 1996). This intrinsic trinitarian relationship is an expression of their self-giving of each other. The concept of a religious community emphasizes:

the mutual, direct, and total relationships existing among persons; each of the persons is totally turned toward the other and holds nothing back. Each one places everything in common including his/her own being and having. So, the human community comes from radical communion. Trinity is the model for every community” (Boff, as cited in Mukulath, 2019, p. 25).

This mutual self-giving is found in the first Christian community as depicted in the Acts of the Apostles. It reads: “Now all the believers were together and had everything in common. They would sell their property they had and distribute the proceeds to others according to their need” (Acts. 2: 44-45). This dynamism of self-giving and taking care of others is the original model that is set before the formators. It is explicit in the following words: “The whole community of believers was one in heart and mind. No one claimed private ownership of any possessions, but rather, they shared all things in common.... There was no needy person among them, for those who had owned land or houses sold them and brought the proceeds of the sale. And they laid it at the feet of the apostles and it was distributed according to each one’s need” (Acts. 4: 32, 34). Even in the first Christian community, there were corrective measures to keep the community on the right track. Peter, the Apostle corrected Ananias who deviated from the correct path of sharing his resources for the running of the community (Acts. 5: 3-4). The same fraternal correction is repeatedly seen in the letters of Paul and the early Christian writings. Thus, corrective measures are indispensable in religious and priestly formation.

Formation after the Model of the Good Shepherd

The model of the Good Shepherd is the icon of every formator. The Sacred Scripture presents God as a loving and caring father who does not want the death of the sinners but is pleased when they turn from their sinful ways and lead a virtuous life (Ezekiel.18: 23). Prophet Ezekiel draws the picture of the Good Shepherd in the following words and it is the image for every formator and their superiors: “I will search for the lost and lead back the stray. I will bind up the injured and strengthen the weak, but the fat and the strong will be eliminated. I will be a true shepherd to my flock” (Ezekiel. 34:16). This image is all the more carved out in the New Testament, especially in Luke’s gospel, chapter 15 where the parables of the lost sheep, lost coin, and the prodigal son are narrated. In the parable of the lost sheep, without leaving any room for doubt, Jesus categorically asserts that there would be more

rejoicing in heaven over one sinner who repents than over ninety-nine righteous persons who do not need to repent. Every formator has to grow after the model of Good Shepherd, the supreme formator.

Every legal system has its measures to see that the law is followed by the individuals and those who violate the law are called back to mend their ways. The Church which is at the service of the Lord is primarily focused on ensuring and facilitating the conversion of the offenders rather than punishing them (Grocholewski, 2003). This approach of the Church is clearly expressed in both the Codes of Canon Law of the Church. Though the Church of Christ, is founded on the commandment of love, because of the fallible human nature, this communion among the faithful is often broken by violation of rights and conflicts (Grocholewski, 1986). Using punitive corrective measures whenever necessary to bring back the erring sheep is also the style of the Good Shepherd when He carries the lost sheep on His shoulders. It is because, Jesus, the Good Shepherd wants every lost sheep back in his fold.

Goal of Formation

The goal of religious and priestly formation is the integral development of the human person. To achieve this end, the Church may have to employ corrective measures whenever it is necessary. The law of the Church given in the canons of Codes of Canon Law and the recent legislation by the Supreme authority of the Church clearly indicates the underlying principle of all laws in the Church. They are primarily and principally aimed at the salvation of souls. Thus, all formation programs should be directed towards the overall growth of an individual and the formee should achieve their end, that is, their own salvation and the salvation of others. Jesus during his public ministry made it categorically clear that “the *Sabbath* was made for *man*, not *man* for the *Sabbath*” (*Mark, 2:27*). Therefore, the competent authorities who employ corrective measures must bear in mind that the corrections are not the end but the means. Thus, the Code of Canon Law of the Latin Church presents the supreme law of the Church as the salvation of souls (CIC c. 1752). Though this canon used this expression in the context of the transfer of pastors (parish priests), it is undoubtedly evident that all the canons of CIC are imbued with this spirit. One of the commentaries to CIC, namely *Code of Canon Law Annotated* commenting on this canon states thus:

In order to bring the CIC 1983 to a close, nothing is more appropriate than to remember that canonical equity- the spirit of

the Gospel in dealing with particular subjective situations- can and should be applied in harmony with the supreme law of the Church, which is the salvation of the souls” (Labandeira, 2004, p. 1374).

Though the CCEO does not contain this expression, a cursory glance through its canons makes it obvious to anyone that this principle permeates the Code through the usage of the expressions equity and charity (CCEO c. 1400, 1501, 24 §2, 362 § 1, 490, 548 §2, 503 § 2, 553, 562 § 3).

CIC with its 1752 canons and CCEO with its 1546 canons contains the system of laws that governs the Catholic Church. These laws which cover everything from the structural organization of the Church as the people of God, the teaching of the Faith, the sacramental life of the Church, the administration of the temporal goods of the Church, and even penal and procedural law, will not serve their intended purpose if the ultimate end, namely “the salvation of souls,” is not always kept before our eyes (Paparochi, 2000, p. 1847).

Punitive Measures in Formation and the Pastoral Character of Canon Law

Christ, the pastor gave examples of corrective measures in his teachings as well as in his encounter with many individuals as depicted in the Gospels. For instance, Jesus did not condemn the woman who was caught in adultery and brought before Him but He corrected her and told her not to sin again (John. 8: 11).

The hallmark of the teachings of the Second Vatican Council is its pastoral character. This thrust of the renewed Church is translated in the Codes of Canon Law of the Church. In the codification of both Codes of Canon Law, one of the Guidelines given to the Pontifical Commissions of PCCICR (1969) and PCCICOR (1976) was to update the Codes of Canon Law with the pastoral accent. It reads: “Special care must be taken in the drawing up of laws so that the new Code reflects a concern not only for justice but also for that wise equity which is the fruit of understanding and charity” (Kokkaravalayil, 2009, p. 468). CCEO c. 1401 and CIC c. 1341 dealing with the penal sanctions in the Church present imposition of penalties on a delinquent as the last resort when all the other pastoral means at disposal have been exhausted (Caparros, Thériault, & Thorn, 2004). The pastoral character of the Church laws

applied in formation tames the punitive corrective measures. It implies the application of justice measured with the sweetness of mercy.

Medicinal Character of Punitive Measures in the Laws of the Church

Every individual, whether cleric or religious could be a wounded person. The different levels of formation are oriented towards healing those wounds and building up an integral person. The methods employed to achieve this goal can be nourishment from the word of God, frequent reception of sacraments, proper counseling, spiritual guidance, etc.

The Church law especially the Code of Canons of the Eastern Churches visualizes penalties as medicines that need to be used when the person is spiritually sick by giving him sufficient space and opportunity for repentance and to bring him back to the communion. According to Eastern Canon Law, punishing someone for the violation of a law is the last resort when all the possible means of reconciliation fail. This redemptive thrust of penal law is amply reflected in CCEO c. 1403.¹ This canon speaks of situations where the bishop/hierarchy after having heard the promoter of justice can abstain from a penal process and even abstain totally from imposing penalties even when it is a question of delicts² that carry an obligatory penalty. The bishop/hierarchy can take such a decision if in his judgment, the following conditions simultaneously occur: (i) the offender not yet brought to the trial and (ii) moved by sincere repentance has confessed his delict to the bishop/hierarchy in the external forum and (iii) has appropriately provided for the reparation of the scandal and harm. It indicates a formator that when punitive corrections are carried out in different levels of formation, the formee should be allowed to explain the context of his deviation,

¹ CCEO c. 1403: “§1. Even when it is a question of delicts that carry an obligatory penalty by law, the hierarchy, 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 hierarchy himself, all these conditions simultaneously concur: the offender, not yet brought to trial and moved by sincere repentance, has confessed his delict to the hierarchy in the external forum, and has appropriately provided for the reparation of the scandal and harm.

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

² A delict is an external violation of a law to which a penalty is attached in Church law (CIC c. 1321 §1; CCEO c. 1414 § 1).

why the formator applies the corrective measures, and the possibility to mend his ways.

To keep order and discipline in a society every legal system has its penal measures. Civil law in a society punishes the offender and keeps the legal system and the harmony of the community intact. The primary purpose of the penal law in the Church is not to punish or destroy the offender but to regain him and incorporate him into the community's life and repair the damage caused by his offense. Thus, penalties are applied in the Church as suitable medicine to heal the wounds inflicted on the body of Christ by the delicts of its erring members.

This concept is also found in the latest instruction of the Catholic Church called *Vademecum* (Pope Francis, March 26, 2019) issued by the Congregation for the Doctrine of Faith (CDF) at the Vatican. It was issued in the context of a rising number of sexual allegations against the clerics. *Vademecum*³ is intended at uprooting the problem of sexual abuse of minors and vulnerable adults by clerics. It states that-

should the delict be established with certainty, the Ordinary or his delegate must issue a decree concluding the process and imposing the penalty, penal remedy, or penance that he considers most suitable for the reparation of scandal, the re-establishment of justice, and the amendment of the guilty party” (Congregation for the Doctrine of the Faith, 2020, n. 119).

Thus, it is certain without any doubt that even the penalties imposed in the Church are focused on the three important goals of reparation of scandal, the re-establishment of justice, and the amendment of the guilty party and in no way aimed at isolating or destroying the person. The punitive corrections given in formation too should focus on the attainment of these triple objectives of reparation, re-establishment, and amendment.

Every methodology that is made use of in the formation of a cleric or religious, running through his formative period is intended to make him grow into an integral person with full vigor and vitality. The formator when it comes to a context where he should give punitive corrective measures to his formee must be prudent and should not be unduly hasty.

³ *Vademecum* etymologically denotes a manual to be used. In this context it is used for the instructions of the Holy See to deal with the clerics when they are alleged or proved to have abused minors or vulnerable adults.

Taking into consideration, the pastoral concerns of the Church, the law in some special cases even permits an ecclesiastical judge to postpone the punishment of the offender. This could be done when the hasty application of penalties could create a worse situation, like widespread scandal (Sheehy, Morrissey, Canon Law Society of Great Britain and Ireland, & Canadian Canon Law Society, 1995) or more serious pastoral problems (CCEO c. 1409 §1, 1^o; CIC c. 1344 1^o). A widely recognized commentator of Canon Law, Green, gives a striking example of such a situation that calls forth the exercise of responsible penal discretion according to the conscience and prudence of a judge. He writes: “the faithful in a parish might be scandalized as well as deprived of access to sacramental ministry if their pastor were penalized and there were a shortage of clergy” (Green, 2000, p. 1561). However, it is to be clearly borne in mind that the penalty is only temporarily delayed and when the threat of serious problems passes, the penalty is to be imposed.

Penalties in the Church are oriented towards the reform of the offender and the good of the community injured by the delict. Woestman, another reputed canonist compares the penal measures of the Church with the punishment the loving parents give to their children for their proper education (Woestman, 2000). Thus, a conscientious formator, superior, hierarch, or bishop may punish or correct those under his/her care only when it is required. It is meant for the well-being of the individual and the common good of the community, not to destroy but to reform.

Presenting God as a Good Shepherd “who employs every means to bring back the erring sheep,” CCEO c. 1401 obliges the competent ecclesiastical authorities, “to apply suitable medicine to the sickness of those who have committed delicts, reproofing, imploring and rebuking them with the greatest patience and teaching.” Exhorting the competent authority to apply suitable medicine to the sickness of those who have committed delicts, the law points to the fact that the commission of the delict is due to the sickness of the delinquent who requires medication and healing.

The biblical metaphor of God as the healer forms the basis of the concept of the medicinal character of penal law. Therefore, ^{Fürst}, an authority in canon law writes, “penalty as medicine for the improvement of the offender necessarily demands the assessment and diagnosis of the illness” (Fürst, 1992, p. 792). That is why the law prescribes different grades of medicinal punishments for various delicts according to their nature and gravity. Such punitive measures include provision for doing

fasting, abstinence, almsgiving, penance, asking to do a pilgrimage, to go for a retreat, etc. When all these punitive measures do not produce the desired amendment in the individual, then the Church law may resort to graver punitive measures like deprivation of office and as extreme step even deposition from clerical state or dismissal from the religious state.

The nature of the penalty is directed to heal the wounds caused by the delicts. It should not be too severe to drive the wrongdoer to the depth of despair nor should they be too relaxed. If so, it may lead the individuals to a dissoluteness of life and contempt of the law. Thus, through their coercive power, the competent ecclesiastical authorities enter into the divine plan of bringing back the lost sheep into the sheepfold to save it through appropriate means (de Paolis, 2001).

Penalties are to be imposed as a last resort when all the available means such as fraternal correction or rebuke and other means of pastoral solicitude aimed at repairing the scandal, restoring justice, and reforming the offender fail.⁴ It is to be remembered that “the Church has recourse to penal measures as the last resort to safeguard the rights of the faithful as a service to the communion and to arrive at its final goal, that is *Salus animarum*” (Kokkaravalayil, 2009, p. 435). Thus, the Church is primarily concerned about winning back those who have gone astray from the Church. If at all penalties are imposed, it is done with the intention of reforming the offender and healing the wounds caused by the delict on those who have been directly injured by the delicts (Easton, 2019). All these punitive measures are redemptive and salutary in character.

Canonical Warning. The punitive corrections in the Church law are not intended at alienating the wrongdoer from the life of the Church. They are directed to the reform of the offender and to integrate him/her into the communion of the Christian faithful (Green, 2000). The law in this regard makes it mandatory that every possible effort is made to

⁴ The Code of Canon Law of the Latin Church (CIC) canon 1341 speaks of the most crucial role a bishop/hierarch has to play in dealing with those people who through their gravely harmful acts disturb the social order of the Church. It reads as follows: “The Ordinary is to start a judicial or administrative procedure for the imposition or declaration of penalties only when he perceives that neither by fraternal correction nor reproof, nor by any other method of pastoral care can the scandal be sufficiently repaired, justice restored and the offender reformed.”

attain this end of regaining the lost sheep before penalties are imposed on the offender.

One of such possible efforts required by law is giving at least one warning beforehand. This provision for issuing the formal warning is intended to allow the offender to desist from the delict and give him/her a suitable time for repentance (CCEO c. 1407 §1; CIC c. 1347 §1). The law also gives the competent ecclesiastical authority the guidelines to discern whether the offender has truly desisted from the delict. An offender must be considered to have desisted from the offense if he or she 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 (CCEO c. 1407 §2; CIC c. 1347), e.g. making a public retraction for damaging another's reputation (Green, 2000, p. 1562). The canonical warning is thus one of the means aimed at facilitating the reform of the offender and giving him the possibility to repent. In line with this principle, a formator before applying punitive measures on the formee is to make sure whether sufficient chance was given to the formee to come back to the right track.

Reparation of Harm and Restoration of Justice. Reparation of harm and restoration of justice is vital in the day-to-day life of the Church. The injury caused by the offense of an individual can damage the Church collectively and individually. Therefore, they are to be remedied. The penal law of the Church provides means for remedying the harm done and restoring justice in the Church (Faris, 2002). Punitive measures also serve the purpose of discouraging or deterring the sinful behavior of persons that are detrimental both to the individual and to the community (Woestman, 2000, p. 9). The punitive measures imposed on a wrongdoer can be visualized through the following examples: (i) deposing a cleric who persists in the delict of concubinage or an external sin against chastity causing scandal (CCEO c. 1453§ 1; CIC c. 1395 § 1) serve as a deterrence to such sinful behavior from other clerics; (ii) It can also be a situation, where a cleric who has attempted a forbidden marriage should also be deposed (CCEO c. 1453§ 2); (iii) another example, is a situation where a cleric has offended in other ways against the sixth commandment of the decalogue. If a cleric committed the offense against the sixth commandment of the decalogue by force, or by threats, or in public, or with a minor under the age of 16 years, he is to be punished with just penalties. The punishment for these offenses may go up to dismissal from the clerical state (CIC c. 1395 § 2). All

these remedial measures are directed towards the restoration of the right order and reparation of the harm caused to the community of the Christian faithful.

Reparation of harm and restoration of justice can sometimes be achieved even without applying penalties. In such a situation, the important role is played by the judge. The law gives the judge the freedom to exercise his discretion either to abstain from imposing a penalty altogether or to substitute it with a less serious penalty. The same discretion is given to the judge in cases where the offender has already been punished sufficiently or it is foreseen that he/she will be punished justifiably by the civil authority (CCEO c. 1409 §1, 2^o). In this case too, since the purpose of the penal law has already been achieved, there is no need to burden the person who has undergone just and sufficient punishment for the offense (Sheehy, Morrissey, Canon Law Society of Great Britain and Ireland, & Canadian Canon Law Society, 1995, p. 773). In both these situations, however, it is incumbent on the judge to make sure that what is intended through penalties has been achieved effectively and convincingly.

Church: A Benevolent Mother. The Church like a loving mother does everything possible to protect and regain a person who has gone away from the right path. Punishing a delinquent does not mean that the Church has abandoned him/her. The Codes of Canon Law which provide support to a penalized cleric, speak volumes about the caring and compassionate approach of the Church towards those who have gone astray. The Codes of Canon Law affirm the right of clerics to receive sufficient remuneration to provide for their necessities, taking adequate consideration of the nature of their office and the conditions of time and place (CCEO c. 390 §1; CIC c. 281 §1). Any penalty incurred by a cleric except dismissal from the clerical state does not take away that right (CCEO c. 1410; CIC c. 1350). Though dismissal from the clerical state, involves the extinction of the cleric's strict right to just remuneration and support, the bishop/hierarchy has the duty to ensure that the dismissed cleric is provided for in the best way possible (Sheehy, Morrissey, Canon Law Society of Great Britain and Ireland, & Canadian Canon Law Society, 1995, p. 775), always safeguarding his rights arising from insurance and social security as well as health insurance for him and his family if he is married. This benevolence of the Mother Church is manifest not only in penal law but in every aspect of the Christian life. For example, the mother Church, from

cradle to grave runs all through the stages of a Christian faithful, irrespective of whether he/she is a layperson, cleric, or religious in sanctifying the individual involving in his/her needs at various levels. Punitive measures and justice administered with the sweetness of mercy at multiple levels is another excellent example of the Church as a compassionate and benevolent mother.

Conclusion

The formation of a Christian faith is primarily the work of the Holy Spirit. Every person under formation, whether it is during the training period or during the ongoing formation, is called to become perfect as the heavenly Father is perfect. This path to perfection can be achieved only when each formee is ready to undergo the necessary process of purification and growth. Through the imagery of vine and branches, Jesus indicates the necessity of pruning or punitive measures needed in the integral growth of a person. Jesus draws our attention to the intimate relationship between He and God, the Father, and every Christian faithful. He teaches us that all of us are like branches united to Him and who live by Him. He tells us: "I am the true vine and my father is the vine grower. Any of my branches that do not bear fruit, he breaks off; and every branch that does bear fruit he prunes, that it may bear even more fruit" (John. 15: 1-2). Through this image, He conveys that every person under formation to bear many fruits must be ready to be pruned and to be corrected. This punitive correction and pruning are not meant to destroy but to reform the individual and make him/her more integral. The formation will be effective only if the formators as well as the formee bear in mind the words Jesus, "It is not healthy who need a doctor, but the sick. I have not come to call the righteous, but sinners" (Mark. 2: 17). When a member of the community or a member under formation loses the right track, the formator or the superior of that member with the mind of Jesus has to seek and save the lost (Luke. 19: 10). For aspiring and saving the lost and to maintain order in the body of Christ, remedial measures like issuing canonical warning and application of adequate medicinal penalties to reform the offender, repair the damage caused by the offense, and restore justice may be required. Punitive corrections, though sometimes painful, are directed towards the salvation of souls and constantly transforming the person and making him a most powerful instrument in the hands of the Lord.

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