

Canon Law and Spirituality

Stanislav Přibyl

1. Historical context

The contemporary human being resists the idea that a matter as intimate as the spiritual life of an individual could be subjected to any external regimentation. Catholic Christians and the faithful of other Christian confessions are not living in a void and frequently adopt the generally widespread subjectivist view of inner life, remote from the idea of an authority bindingly determining its rules and limits. Pope John Paul II was also aware of this when he, as the lawgiver of the Code of Canon Law, deemed it necessary to state the following principal explanation in the promulgating apostolic constitution ‘*Sacrae disciplinae leges*’:

This being so, it appears sufficiently clear that the Code is in no way intended as a substitute for faith, grace and the charisms in the life of the Church and of the faithful. On the contrary, its purpose is rather to create such an order in the ecclesial society that, while assigning the primacy to faith, grace and the charisms, it at the same time renders easier their organic development in the life both of the ecclesial society and of the individual persons who belong to it.¹

Spiritual life doubtless has an individual, relational and externally ungraspable element determining its character and quality. The space between the human ‘I’ and the divine ‘Thou’ is and remains intimate. This is expressed by the Apostle Paul: ‘it is no longer I who live, but Christ who lives in me; and the life I now live in the flesh I live by faith in the Son of God, who loved me and gave himself for me (Gal 2:20).’² But it was the same Paul who simultaneously took care that the external manifestations of the spiritual life avoid chaos and inordinateness: ‘If, therefore, the whole church assembles and all speak in tongues, and outsiders or unbelievers enter, will they not say that you are mad? (1 Cor 14:23)’ In many places in his letters, Paul stipulates binding rules for ordering diverse spheres of Christian life, including those as ‘spiritual’ as, for example, Eucharistic gatherings (1 Cor 11:17–34).

Very early in the history of the Church, a spiritual life lived in solitude was proven as good, as attested to first by the emergence of eremitism, which soon developed into forms of shared life with firmly given rules. Such monastic (cenobitic) life was founded by the Egyptian ascetic Pachomius (†

1 *Sacrae disciplinae leges*, at: http://w2.vatican.va/content/john-paul-ii/en/apost_constitutions/documents/hf_jp-ii_apc_25011983_sacrae-disciplinae-leges.html.

2 ‘Here Paul is speaking in highly personal terms, and yet on behalf of all the faithful. This distinctive and effective expression of the relationship to Christ is certainly based on his personal experience with Christ, starting with the encounter with the Risen at Damascus. In this way Paul shows how he understood faith in Christ and its effects in the lives of the faithful.’ Ladislav TICHÝ, *List Galatským*, Praha: Centrum biblických studií AV ČR a UK v Praze, 2016, p. 52.

ca. 346). One of the meanings of this new and, in the history of world Christianity, well-established form of spiritual striving was certainly minimising the opportunities to individual failure. They were to be corrected by community life subjected to common rules and regulations.³

The classic work by Thomas à Kempis 'The Imitation of Christ' (*De imitatione Christi libri quatuor*) gives evidence that the contemplative Middle Ages also could not imagine spiritual improvement without steadily relying on a strict observation of monastic rules:

How do so many other religious who are confined in cloistered discipline get along? They seldom go out, they live in contemplation, their food is poor, their clothing coarse, they work hard, they speak but little, keep long vigils, rise early, pray much, read frequently, and subject themselves to all sorts of discipline.⁴

The Protestant Reformation rejected the monastic way of life, emphasising the lay element and marital life. The Augsburg Confession refers not only to Paul's biblical text, but also to a prestigious canon law authority of the Middle Ages, the *Decretum Gratiani*:

Monks used to gather together to learn. Now they pretend that it is a type of life established to earn grace and righteousness. They preach that it is a perfect way of life, and they put it far above all other kinds of life established by God. [...] The command of God is, 'Since there is so much immorality, each man should have his own wife' (1 Cor 7:2). [...] Even church law teaches that vows are not binding when someone who has authority (such as a bishop or pope) releases that person from his vow. In the same way, God's commands must overrule vows that are contrary to his Word.⁵

The Council of Trent, on the other hand, strove to create a creditable legal framework for the renewal of monastic life. The decree *Eadem sacrosancta* published at the Council's 25th session (1563) states:

Forasmuch as the holy Synod is not ignorant how much splendour and utility accrue to the Church of God, from monasteries piously instituted and rightly administered; It has, – to the end that the ancient and regular discipline may be the more easily and promptly restored, where it has fallen away, and may be the more firmly maintained, where it has been preserved, – thought it necessary to enjoin, as by this decree It doth enjoin, that all Regulars, as well men, as women, shall order and regulate their lives in accordance with the requirements of the rule which they have professed.⁶

It needs to be emphasised that the Council published the decree at a time when the reform work of the most important and spiritually most fruitful representatives of the Catholic monastic renewal, for example, Ignatius of Loyola, Theresa of Ávila, Phillip Neri, and their numerous contemporaries and followers, was already spreading. Old orders were being renewed and new orders as well as new forms of monastic life were arising.

3 'The requirement of equality of all monks excluded individual ascetic fervour and various bizarre ascetic feats. [...] The authority requiring something is now the order and the superior over it. There is no dispensing ever from this for any monk, not even the most perfect one.' Karl Suso FRANK, *Dějiny křesťanského mnišství*, Praha: Benediktinské arcidiecéze sv. Vojtěcha & sv. Markéty, 2003, pp. 30–31.

4 Thomas à Kempis, *The Imitation of Christ*, Christian Classics Ethereal Library, pp. 49–50, at: http://www.documentacatholicaomnia.eu/03d/1380-1471,_Kempis,_Thomas,_The_Imitation_Of_Christ,_EN.pdf.

5 The Augsburg Confession of 1530, art. 27, About Monastic Vows, no. 16, 19 and 23, in: *The Unaltered Augsburg Confession A.D. 1530*, translation and historical notes by Glen L. Thompson, Milwaukee, Wisconsin: Northwestern Publishing House, p. 25, at: <http://www.stpls.com/uploads/4/4/8/0/44802893/augsburg-confession.pdf>.

6 *The Council of Trent*, The canons and decrees of the sacred and oecumenical Council of Trent, ed. and trans. J. Waterworth, London: Dolman, 1848, p. 237, at: <http://history.hanover.edu/texts/trent/ct25.html>.

Clearly, in order for the Catholic reform to take strong root it was necessary not only to renew discipline in monastic and priestly life, but also to provide an opportunity for lay persons to apply themselves to the spiritual life and receive guidance appropriate to their state. Orthodox Christianity took a different path, since it is – unlike Western Christianity – so intensively formed by monastic ascetic spirituality that it lacks motivation for formally distinguishing between spiritualities of the individual Christian ‘states.’⁷ The Catholic milieu, on the other hand, did react to the one-sided Protestant emphasis on the lay element. There is probably no more important handbook having a centuries-long impact on the spiritual life of lay persons than the ‘Introduction to the Devout Life’ (also *Filothea*) by Francis de Sales.⁸ This famous and numerous times published book, as well as later instructions for spiritual life intended for the broad masses of Catholic faithful, could have for many of them represented a freely accepted ‘order’ of private spiritual life, but, of course, observing the ways of spiritual experience and prayer practices recommended in them could not be grasped in terms of canon law.

The spiritual exercises by Ignatius of Loyola had a different ‘fate’ than the private inspiration of the work of Francis de Sales for personal piety. In 1538, they were approved by Pope Paul III and the subsequent development soon showed that they are a suitable instrument of spiritual life, which can also be applied in the form of imposing a legal obligation. The Code of Canon Law of 1917 obliges eight categories of faithful to take part in spiritual exercises, which do not include lay persons not aspiring to the monastic or clerical form of life. The exercises were then transformed into a legally imposed obligation for seminarians, newly ordained priests, diocesan priests, postulants, novices, regulars, priests and canons.⁹ This historically first code of canon law in the Catholic Church aimed first of all to ‘clear up’ the existing legal norms, of which the most significant part came from the collection *Corpus iuris canonici* containing medieval law. But imposing the obligation of spiritual exercises was already a matter of norms implied by the need for a modern ecclesial reform, which also entered in the Code. Obviously, they had already been tested by time. The new Code of 1983 is somewhat less detailed concerning spiritual exercises and does not contain the possibility to take disciplinary penance ‘by doing spiritual exercises for several days in a pious or religious house.’¹⁰

The obligation to take spiritual exercises at least once a year is certainly an extraordinary and intense transposition or the expressions of a particular monastic spirituality beyond the community in which it originated. The Code of 1983 also introduces spiritual exercises into the life of parishes so that their spirituality would become accessible for lay persons too. It formulates the process as an organisational obligation of parish priests, who are to ‘arrange for those types of preaching which are called spiritual exercises and sacred missions or for other forms of preaching adapted to needs.’¹¹ It also mentions holy missions (*sacrae missiones*), which are an expression of a monastic

7 ‘Monastic life is an inseparable part and is of normative value for all as a certain state of the soul which is internally mastering monastic spirituality. Maintaining purity of heart, mind, virginity and many other spiritual qualities was not a matter of monks alone, but of the other members of the Church as well [...]’. Štefan PRUŽIŇSKÝ, *Pravoslávna duchovnosť. Cesta k spasiteľnej jednote človeka s Bohom II.*, Košice: Univerzita P. J. Šafárika v Košiciach, 1992, p. 85.

8 ‘Introduction to the Devout Life’ was first published in 1609, but the definitive edition, prepared by Francis de Sales himself, was done in 1619. The book is intended for lay persons. Saint Francis de Sales is apparently the first spiritual author to write a treatise on lay spirituality.’ Jordan AUMANN, *Křesťanská spiritualita v katolíckej tradíci*, Praha: Nakladatelství Karolinum, 2000, p. 198.

9 CIC 1917, cc. 1367 § 4; 1001; 126; 541; 571 § 3; 595 § 1, 1°; 465 § 3; 420 § 1, 7° and § 2.

10 CIC 1917, c. 2313 § 1, 5°. Bernard Bolzano (1781–1848) mentions in his autobiography: ‘[...] how the church authorities ordered him to take spiritual exercises during which he was to meditate on his errors, but he was again convinced of his innocence and for this lack of humility was ordered to take further spiritual exercises’, in: Martin C. PUTNA, *Česká katolícká literatúra 1848–1918*, Praha: Torst, 1998, p. 48.

11 CIC 1983, c. 770.

spirituality other than the Jesuit one, namely the pastorally oriented practical approach of the Redemptorist congregation.¹² Canon law still makes allowance for a specific expression of the life of mendicant orders¹³ and provides for their spirituality of attitude to material goods by granting an exception from the general prohibition of asking for contributions towards any ecclesial purpose without the written consent of the ordinary.¹⁴

2. Eastern Christianity and the liturgy of the Church

Eastern Catholic Churches represent specific spiritualities:

for in them, distinguished as they are for their venerable antiquity, there remains conspicuous the tradition that has been handed down from the Apostles through the Fathers and that forms part of the divinely revealed and undivided heritage of the universal Church.¹⁵

The most perspicuous expression of their spiritual life are specific liturgical celebrations, which is why these churches have come to be called 'ritual', i.e., churches celebrating diverse forms of rites which have formed over time in different parts of the Christian East. Moreover, the majority of Eastern Catholic churches have a 'second', opposite form: for example, Catholics of the Byzantine rite find their opposite in the autocephalous Orthodox churches which exist without maintaining unity with Rome and without the leadership of the Pope.

The Code of Canons of (Catholic) Oriental Churches of 1990 does not limit the concept of rite to liturgy: 'A rite is the liturgical, theological, spiritual and disciplinary patrimony, culture and circumstances of history of a distinct people, by which its own manner of living the faith is manifested in each Church *sui iuris*.'¹⁶ But it must be emphasised that liturgy plays a crucial part in forming the spirituality of Eastern Christians.¹⁷ According to the lawgiver, specific spirituality is a conceptual mark of the individual rites, which are divided into five historically formed 'families': 'The rites treated in this code, unless otherwise stated, are those which arise from the Alexandrian, Antiochene, Armenian, Chaldean and Constantinopolitan traditions.'¹⁸ In the Western (Latin) church it is also in some places possible to find distinctive liturgical rites, such as, for example, the Ambrosian rite in the diocese of Milan. These also naturally influence the specific spiritual life of the faithful. But due to the gradual centralisation of the Western church in the course of the first millennium, their 'celebrating' churches are not independent churches having their own law (*sui iuris*); so, these rites are not the cause of establishing autonomous churches, as is the case in the East.¹⁹

12 'The Redemptorists were excellent popular missionaries, estate preachers and confessors who were spreading the new devotion and piety in the spirit of St. Alphonsus, also as authors of missionary books and translators. They are of inestimable significance.' Bohumil ZLÁMAL, *Příručka českých církevních dějin – VI. Doba probuzenského katolicismu (1848–1918)*, Olomouc: Matice cyrilometodějská, 2009, p. 93.

13 'In the stricter sense these are orders for whom owning shared property and receiving regular income was prohibited, i.e., Franciscans, Friars Minor and Capuchins, and who therefore depend on collecting alms for livelihood. Their privilege of collecting alms is still intact, although it now corresponds less to the present situation.' Hans HEIMERL, Helmuth PREE and Bruno PRIMETSHOFER, *Handbuch des Vermögensrechts der katholischen Kirche*, Regensburg: Verlag Friedrich Pustet, 1993, pp. 192–193.

14 CIC 1983, c. 1265.

15 *Orientalium Ecclesiarum* 1.

16 CCEO, c. 28 § 1.

17 'When Eastern Christians worship in this atmosphere rich in mysticism, which brings the glory of the inaccessible divine majesty and holiness closer, they thereby witness to the celebration and sanctification of creation, to the majestic revelation of God who permeates it, exalts it by the transformative light of his divine grace. It is not merely a matter of "receiving sacraments", but the habit of living in a liturgical environment, which surrounds the body and spirit and transforms faith into a concrete vision of spiritual beauty and joy.' Robert F. TAFT, *Život z liturgie. Tradice Východu i Západu*, Olomouc: Refugium Velehrad-Roma, 2008, p. 167.

18 CCEO, c. 28 § 2.

19 'From this point of view it is possible that ritual churches exist which do not have their own law and independent leadership, but do have their own rite – such is, for example, the Italian Ambrosian Church.' Jiří DVOŘÁČEK, *Východní kanonické právo. Úvod do studia*, Praha:

Both valid codes of canon law confirm the right to having their own rite and their own spirituality as one of the basic ‘constitutional’ rights of the faithful: ‘The Christian faithful have the right to worship God according to the prescripts of their own rite approved by the legitimate pastors of the Church and to follow their own form of spiritual life so long as it is consonant with the doctrine of the Church.’²⁰ The right to divine services implies the obligation of the sacred servants to observe the liturgical books approved by the relevant church authorities. ‘Creativity’ beyond the framework of liturgical law is quite contrary to the fundamental principle according to which ‘no other person, even if he be a priest, may add, remove, or change anything in the liturgy on his own authority.’²¹ For the discipline of the contemporary form of liturgy of the Western rite it is incessantly necessary to pay heed to a firm disciplinary framework ensuring that the Roman rite is celebrated according to the liturgical norms:

it is the right of all of Christ’s faithful that the Liturgy, and in particular the celebration of Holy Mass, should truly be as the Church wishes, according to her stipulations as prescribed in the liturgical books and in the other laws and norms. Likewise, the Catholic people have the right that the Sacrifice of the Holy Mass should be celebrated for them in an integral manner, according to the entire doctrine of the Church’s Magisterium. [...] ²²

Some groups of Catholic faithful of the Roman Western rite still prefer to celebrate the liturgy according to the post-Trent Missal of St. Pius V, last revised by John XXIII in 1962. Pope Benedict XVI deemed it suitable to broaden and simplify the access of the faithful to this ‘traditional’ liturgy (*usus antiquior*). From the point of view of canon law, this represents assistance in realising the above stated right to have their own rite and spirituality according to their own choice. To that also corresponds the fact that in his apostolic letter of 2007²³ the Pope does not immediately list the individual normative articles, but first appraises the spiritual wealth of that rite: ‘It is well known that in every century of the Christian era the Church’s Latin liturgy in its various forms has inspired countless saints in their spiritual life, confirmed many peoples in the virtue of religion and enriched their devotion.’²⁴ The instruction *Ecclesia Dei* by the Papal Commission states the mutual interconnection of the two forms of the Roman rite:

The Roman Missal promulgated by Pope Paul VI and the last edition prepared under Pope John XXIII, are two forms of the Roman Liturgy, defined respectively as *ordinaria* and *extraordinaria*: they are two usages of the one Roman Rite, one alongside the other. Both are the expression of the same *lex orandi* of the Church. On account of its venerable and ancient use, the *forma extraordinaria* is to be maintained with appropriate honor.²⁵

While since the sixteenth century the Eastern churches which have returned to full unity with the Apostolic See have been subjected to inappropriate ‘Latinisation’,²⁶ in the era after the Second Va-

Apoštolský exarchát řeckokatolické církve a Institut sv. Kosmy a Damiána, 2014, p. 44.

20 CIC 1983, c. 214; CCEO, c. 17.

21 *Sacrosanctum concilium* 22 § 3.

22 *Redemptionis sacramentum*. On certain matters to be observed or to be avoided regarding the Most Holy Eucharist, instruction of the Congregation for Divine Worship and the Discipline of the Sacrament of 25th March 2004, art. 12, at: http://www.vatican.va/roman_curia/congregations/ccdds/documents/rc_con_ccdds_doc_20040423_redemptionis-sacramentum_en.html.

23 Motu proprio *Summorum pontificum*, at http://w2.vatican.va/content/benedict-xvi/en/motu_proprio/documents/hf_ben-xvi_motu_proprio_20070707_summorum-pontificum.html.

24 *Ibid.*, preface.

25 Pontifical Commission *Ecclesia dei*: Instruction on the Application of the Apostolic Letter *Summorum pontificum* of His Holiness Benedict XVI Given Motu Proprio, 30th April 2011, art. 6, at: http://www.vatican.va/roman_curia/pontifical_commissions/ecclsdei/documents/rc_com_ecclsdei_doc_20110430_istr-universae-ecclesiae_en.html.

26 According to John Faris, the conception that the Latin Church and the Latin rite were superior had particular consequences for

tican Council the opposite tendency has been established. This is happening in a situation when hundreds of millions of faithful worldwide adhere to the Roman rite, while the overall number of faithful in all the Catholic Eastern churches *sui iuris* amounts to not quite thirty million. So, from the point of view of contemporary canon law and a complex pastoral approach the members of these churches have *de facto* become a legally protected minority. Due to difficult life conditions, the Christians from some areas of the Near and Middle East are moving especially to the West, to Europe and North America, and the authentic local churches in their countries of origin are becoming depopulated and are dying out. Under these circumstances the Catholic Church faces the uneasy task of specific pastoral care for these groups of faithful.²⁷ The Code for Catholic Oriental Churches declares a determination to protect these traditional expressions of faith:

The rites of the Eastern Churches, as the patrimony of the entire Church of Christ, in which there is clearly evident the tradition which has come from the Apostles through the Fathers and which affirm the divine unity in diversity of the Catholic faith, are to be religiously preserved and fostered.²⁸

The Code for the Latin Church promises to provide pastoral care for Catholic Eastern Christians so that their spiritual life can be secured and nurtured. For example, it imposes the following obligation on the diocesan bishop: 'If he has faithful of a different rite in his diocese, he is to provide for their spiritual needs either through priests or parishes of the same rite or through an episcopal vicar.'²⁹ In territories where the Roman rite is dominant, other particular churches of Catholic rites are established: 'where in the judgment of the supreme authority of the Church it seems advantageous after the conferences of bishops concerned have been heard, particular churches distinguished by the rite of the faithful or some other similar reason can be erected in the same territory.'³⁰ But to fulfil the duty of participating in the Sunday Eucharistic celebration every Catholic can freely choose any Catholic rite: 'The Christian faithful can participate in the eucharistic sacrifice and receive holy communion in any Catholic rite, [...].'³¹

Developing ecumenical relations with the non-united Eastern churches have led to a declaration of self-restriction on the Catholic side, which does not intend to develop independent missions in the Christian East in the future:

Pastoral activity in the Catholic Church, Latin as well as Oriental, no longer aims at having the faithful of one Church pass over to the other; that is to say, it no longer aims at proselytizing among the Orthodox. It aims at answering the spiritual needs of its own faithful and it has no desire for expansion at the expense of the Orthodox Church.³²

church discipline. Since the Latin rite was superior to the Greek one, it was, for example, forbidden to transfer someone from the Latin Church to the Greek Church, because it would be inconceivable to replace a superior rite with a lower one.' Cf. John FARIS, *The Latin Church sui iuris*, *The Jurist. Studies in Church Law and Ministry*, Vol. LXII, Washington D.C., 2002, pp. 280–293, p. 281.

27 'It is highly probable that as churches in, for example, Nubia, Carthage or Pentapolis have died out, so will some contemporary Christian communities which are losing vitality (at present this danger is imminent, for example, in the Italian-Albanian Catholic Church), while others, which are at present incorporated into some already existing church *sui iuris* but at the same time are not subordinate to its highest representative but directly to the highest ecclesial authority, namely the Apostolic See (for example, the apostolic exarchate in the Czech Republic) may in the future be raised to the status of an independent church *sui iuris* [...].' Miloš SZABO, *Východní křesťanské církve. Stručný přehled sjednocených i nesjednocených církví křesťanského Východu*, Praha: Nakladatelství Karolinum, 2016, pp. 17–18.

28 CCEO, c. 39.

29 CIC 1983, c. 383 § 2.

30 CIC 1983, c. 372 § 2.

31 CIC 1983, c. 923.

32 Joint International Commission for the Theological Dialogue Between the Roman Catholic Church and the Orthodox Church, *Uniatism, Method of Union of the Past, and the Present Search for Full Communion*, art. 22, at: http://www.vatican.va/roman_curia/pontifical_councils/chrstuni/ch_orthodox_docs/rc_pc_chrstuni_doc_19930624_lebanon_en.html.

In this context, it is also necessary to note the fact that some unions of Eastern churches with Rome have also been in existence for centuries and in the meantime their spiritual life has acquired distinctive forms, since Eastern Christianity is not rigid and is also undergoing gradual development.³³

3. Monastic and lay spirituality

The Christian West in the second millennium witnessed an extraordinarily articulated development of the most diverse forms of monastic spiritualities. On the one hand, it is possible to speak of a venerable spiritual wealth, while on the other hand a precarious internal fragmentation of the life of the Church gradually took place. This tendency was expressed as early as by the Fourth Lateran Council (1215), which stated a general prohibition on the founding of new orders: ‘Lest too great a diversity of religious orders lead to grave confusion in the Church of God, we strictly forbid anyone in the future to found a new order, but whoever should wish to enter an order, let him choose one already approved.’³⁴

The development over the next eight hundred years brought in some periods fervent waves of founding further and further orders, societies, congregations and institutes. The Code of Canon Law attempts to reduce this abundant wealth to the highest common denominators with the general regulation for communities professing evangelical counsels, which is broadly structured by division into religious and secular institutes of consecrated life³⁵ and societies of apostolic life.³⁶ Within these three categories the communities are divided into male and female, and further into communities of papal law (exempt) and of diocesan law.³⁷ The Holy See further reserves the right to approve any new ways of consecrated life.³⁸ The classical division into active and contemplative orders is not grounded in the regulations of the present Code in such a schematically established dual form. There is a richer diversification, since the institutes of consecrated life ‘more closely follow Christ who prays, or announces the kingdom of God, or does good to people, or lives with people in the world.’³⁹ Consecrated life is not a ‘flight from the world’ (*fuga mundi*),⁴⁰ but it does take various forms of distance from the world according to the nature and spirituality of the particular form of consecrated life: ‘The public witness to be rendered by religious to Christ and the Church entails a separation from the world proper to the character and purpose of each institute.’⁴¹ The spirituality must further radiate a clear ecclesial dimension and ought not to consist

33 ‘In the West, spiritual schools were distinguished according to religious orders or according to nationalities. In the East, there are no orders; nationalities are distinguished, but nationalism has not afflicted spiritual doctrine. [...] And yet, nothing would be more erroneous than trying to compress Eastern spirituality into a unitary system with the same principles.’ Tomáš ŠPIDLÍK, *Spiritualita křesťanského Východu*, Řím: Křesťanská akademie, 1983, p. 30.

34 *The Canons of the Fourth Lateran Council, 1215*, can. 13, at: <http://sourcebooks.fordham.edu/halsall/basis/latran4.asp>.

35 CIC 1983, cc. 607–730.

36 CIC 1983, cc. 731–746.

37 Exemption originated in the Cluny reform of religious life in 10th–11th century: ‘The monastery, consecrated to the Apostles Peter and Paul, was placed under *libertas Romana*, i.e., under the protection of the Papal see. The Pope did not become the lord or owner of the monastery, but guaranteed its freedom and independence from the demands of worldly and spiritual authorities.’ Drahomír SUCHÁNEK and Václav DRŠKA, *Církevní dějiny. Antika a středověk*, Praha: Grada Publishing, 2013, p. 246.

38 Here, CIC 1983, c. 605 reproduces the Second Vatican Council decree on the adaptation and renewal of religious life *Perfectae caritatis*, 19. ‘It must be emphasised that this norm radically differs from numerous pre-Vatican II proposals, as documented in the synod proceedings of Second Vatican Council, which naively exhorted to opposite efforts, namely to a rigorous ban of further foundations.’ Domingo Javier ANDRÉS, *Il diritto dei religiosi. Commento esgetico al Codice*, Roma: Edurcla, 1996, p. 55.

39 CIC 1983, c. 577.

40 ‘This disengagement “from the world” [...] is no Quietism, nor is it a flight motivated by fear of obstacles, nor an aversion to human society. Quite on the contrary, it is a gathering of forces. If a Christian is to live freely in the world, he must first defeat it in his heart.’ Josef PERNIKÁŘ, Introduction, in: Thomas à KEMPIS, *Následování Krista*, Olomouc, 1990.

41 CIC 1983, c. 607 § 3.

primarily in an individualistic effort at ascetic self-perfection,⁴² since consecrated life ‘belongs to the life and holiness of the Church.’⁴³ All forms of consecrated life ‘offer an extraordinary sacrifice of praise to God, illumine the people of God with the richest fruits of holiness, move it by their example, and extend it with hidden apostolic fruitfulness.’⁴⁴

The Code formulates the basic constitutional structure of the People of God in two basic categories: these are clerics and lay persons, while consecrated persons are not some sort of *tertium quid*, but belong to one of the former – religious sisters and brothers remain as laity, while religious priests have become clerics.⁴⁵ The Code of Canons of Oriental Churches treats religious life in a somewhat different context and divides Christians *de facto* into ‘three peoples’: the clerics ‘are deputed through a gift of the Holy Spirit received in sacred ordination to be ministers of the Church participating in the mission and power of Christ, the Pastor,’⁴⁶ the lay are ‘Christian faithful whose proper and special state is secular and who, living in the world, participate in the mission of the Church,’⁴⁷ while religious ‘renounce the world and totally dedicate themselves to the acquisition of perfect charity in service to the Kingdom of God for the building up of the Church and the salvation of the world as a sign of the foretelling of heavenly glory.’⁴⁸ But this conception does not imply a strict division into a contemplative and active form of consecrated life either. Compared to the task of the laity, for whose specific situation activity is actually a conceptual mark, religious life, while it need not appear to be an expression of ‘fleeing from the world’, certainly is conceived as a choice preferring seclusion, which solely makes it possible to attain a focused spiritual life. Such a spirituality is fully endorsed by hermits, who ‘have given themselves totally into heavenly contemplation and who are totally separated from people and the world.’⁴⁹

The apostolic exhortation *Vita consecrata* by John Paul II of 1996, which resulted from the preceding sessions of the episcopal synod on consecrated life, also inclines towards a ‘triple division’ of the People of God, which does not evoke the very constitutional foundations of the Church, as the Latin Code of Canon Law does, but rather the existence and activity of three different vocations, three ‘states of Christian life’:

The vocations to the lay life, to the ordained ministry and to the consecrated life can be considered paradigmatic, inasmuch as all particular vocations, considered separately or as a whole, are in one way or another derived from them or lead back to them, in accordance with the richness of God’s gift.⁵⁰

In any case, in the way it conceives the states of Christian life *Vita consecrata* is closer to the division of the structure in the Code of Canons of Oriental Churches. The traditional Catholic conception, on the other hand, did not classify consecrated life as such among the states of Christian life.⁵¹

42 ‘Evangelical counsels thus conceived are not an individual measure, nor are they an ascetic means of attaining own salvation, but unite the human being in a new way with the mystery of the Church and the salvatory work of Christ and oblige him to serve the edification of the Church and salvation of the world.’ Bronisław Wenantý ZUBERT, *Řeholní právo. Instituty zasvěceného života a společnosti apoštolského života*, Olomouc: Matice Cyrilometodějská, 1996, p. 20.

43 CIC 1983, c. 207 §2; c. 574 § 1.

44 CIC 1983, c. 674.

45 CIC 1983, c. 207.

46 CCEO, c. 323 § 1.

47 CCEO, c. 399.

48 CCEO, c. 410.

49 CCEO, c. 481.

50 *Vita consecrata* 31.

51 ‘Three states are available to the human being: the unmarried state in the world, the married state and the priestly state. Many vocations are available to him or her. The correct choice of state and vocation determines the happiness in life and also eternal salvation.’ František

It is obvious that Christian Eastern churches know only one type of monastic life, which is not differentiated into numerous orders of diverse observances. In this sense, there is also no reason to call the orders in Byzantine rite churches 'Basilian', because it is *de facto* the only one. Besides the Byzantine tradition these are especially the traditions of the Oriental Orthodox churches of other Eastern rites, which still observe very archaic forms of monastic life,⁵² while union with Rome has made the Eastern Catholic Churches more open to forms of consecrated life which originated exclusively in the Christian West. That is why the Code of Oriental Churches mentions not only monastic orders, but also congregations,⁵³ 'societies of common life in the manner of religious', i.e., analogies to societies of apostolic life,⁵⁴ and also secular institutes.⁵⁵

The Church in the West also developed forms of common life of Christian lay persons. The Code of Canon Law of 1917 schematised their legal grounding into three basic forms: secular third orders (*terti Ordines*), brotherhoods (*confraternitates*), and pious unions (*piae uniones*).⁵⁶ A legally grounded privilege shows that, in the Catholic Church in the West, Eucharistic devotion has long been deemed to be the foremost form of spiritual life for lay Christians as well: 'If there is a procession in which the Most Blessed Sacrament is carried, the Brotherhood of the Most Blessed Sacrament precedes even the arch-brotherhoods.'⁵⁷

While at the time when the Code of 1917 was valid, Catholic laity lived their piety associated in various sodalities and Marian groups, which were governed by the legal norms stated above. One of the new phenomena that have appeared around the Second Vatican Council is diverse ecclesial movements (*movimenti*) and other similar groups of faithful cultivating specific forms of spirituality. Both clerics and laity take part in their life and many of them reinforce their ecclesial identity by making use of the possibilities of canon law grounding in various forms of Christian societies.⁵⁸ Among the inexhaustible number of spiritualities, the so-called charismatic renewal has asserted itself in the Catholic Church since the 1960s, which has, often rather eclectically, brought elements taken over from the practice of Pentecostal Christianity of North America into the Catholic Church. Catholic charismatic renewal ought to strive to harmonise this specific spirituality, which lays emphasis on spiritual and bodily healing, with the traditional Catholic conception, especially in the sphere of sacramental life.⁵⁹ Nonetheless, the actual activity of some groups may be inordinate, which is why the Church expresses a determination to make use of disciplinary means to regulate their practice:

Confusion between such free non-liturgical prayer meetings and liturgical celebrations properly so-called is to be carefully avoided. Anything resembling hysteria, artificiality, theatricality or sensationalism, above all on the part of those who are in charge of such gatherings, must not take place.⁶⁰

TOMÁŠEK, *Katolický katechismus*, Praha: Česká katolická charita, 1968, p. 123.

52 'The Ethiopian monastic tradition is a living museum of primitive Christianity. [...] As with Byzantine monasteries, Ethiopian monasteries also at first glance give the impression of a uniformness of spiritual life. The strong emphasis on liturgical and prayer life, which in the Western monastic tradition was later gradually replaced with specialising in a certain activity, constitutes the core of the Ethiopian monastic tradition.' Václav JEŽEK, *Křesťanská tradice v Etiopii*, Kypr: Askas leukósia, 2013, pp. 62–63.

53 CCEO, cc. 504–553.

54 CCEO, cc. 554–562.

55 CCEO, cc. 563–572.

56 CIC 1917, c. 700.

57 CIC 1917, c. 701 § 2.

58 CIC 1983, cc. 298–329.

59 'The sacraments do not want to conjure up a healthy world for us. They are neither a drug, nor magic. [...] But as personal encounters with the Saviour in the midst of his Church the sacraments can decisively contribute to the healing of individuals in a yet unhealed world.' Michael MARSCH, *Uzdravování skrze svátosti*, Praha: Portál, 1992, p. 20.

60 Congregation for the Doctrine of the Faith, Instruction on Prayers for Healing, 1st September 2000, section II. Disciplinary Norms, art.

For more than fifty years the Catholic Church has also been actively involved in the ecumenical movement, which also influences the spirituality of many faithful.⁶¹ In this sphere, canon law states not only possibilities, but also limits, as evinced, for example, by the very limited possibility of sacramental intercommunion, especially with Christians from churches of the Protestant Reformation:

If the danger of death is present or if, in the judgment of the diocesan bishop or conference of bishops, some other grave necessity urges it, Catholic ministers administer these same sacraments licitly also to other Christians not having full communion with the Catholic Church, who cannot approach a minister of their own community and who seek such on their own accord, provided that they manifest Catholic faith in respect to these sacraments and are properly disposed.⁶²

‘Eucharistic hospitality’ (*eucharistische Gastfreundschaft*) is a highly sensitive issue also for the Orthodox, which is why it is not appropriate to think of it as necessary and topical,⁶³ even if other forms of spiritual enrichment and rapprochement may be quite diverse.

4. Sacramental spirituality

Canon law of the Catholic Church differs from civil law in that it distinguishes between the validity (*validitas*) and licitness (*liceitas*) of legal acts. Not meeting the conditions of licitness does not on its own cause invalidity. This is clear for example in the basic regulation of the Code of Canon Law concerning the Eucharistic minister: ‘The minister who is able to confect the sacrament of the Eucharist in the person of Christ is a validly ordained priest alone (*sacerdos valide ordinatus*). A priest not impeded by canon law celebrates the Eucharist licitly (*licite*) [...]’⁶⁴

But validity and licitness are merely the prerequisite of legally relevant acting in the Church. Since legal acts are frequently at the same time spiritual acts, the Code introduces the category of spiritual utility (*utilitas*), or fruitfulness (*fructuositas*), so that, for example, in the sphere of marital law it obliges the shepherds to ‘a fruitful liturgical celebration of marriage which is to show that the spouses signify and share in the mystery of the unity and fruitful love between Christ and the Church.’⁶⁵ But the elements of validity and licitness cannot be artificially placed in an opposition against the spiritual essence of celebrating marriage, since they are a necessary prerequisite of the marriage taking place within the order established by the Church, within which it brings spiritual utility to the prospective spouses and their personal spirituality.⁶⁶

5 §§ 2,3, at: http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20001123_istruzione_en.html.

61 ‘Some aspects of the Christian mystery have often been posed in a clearer light in other churches or ecclesial communities. The Holy Spirit has enriched in a special way their reading and contemplation of the Bible, various forms of public divine service and personal piety as well as diverse expressions of Christian witness and holiness of life.’ Walter KASPER, *Duchovní ekumenismus. Praktické podněty k jeho uskutečňování*, Kostelní Vydří: Karmelitánské nakladatelství, 2008, p. 14.

62 CIC 1983, c. 844 § 4.

63 ‘From the point of view of Orthodox theology, the Eucharist is not a merely individual act, separated from the rest of the life in the Church. Thoughtful members of the Orthodox Church can in no way imagine the Eucharist separated from the fullness of their Church, i.e., that someone who is a stranger in this sense could receive the Body and Blood of Christ in it without fully accepting the community celebrating the mystery and without a full obligation to it, especially with respect to the faith of the Church, which is and will remain unchangeable. In other words, there is no separation between the Church and the Eucharist. Who wants to have one must take also the other.’ Štefan PRUŽINSKÝ, *Aby všeci jedno boli. Pravoslávie a ekumenizmus*, Prešov: Metropolitná rada Pravoslávnej cirkvi na Slovensku, 1997, p. 279.

64 CIC 1983, c. 900 § 1 and 2.

65 CIC 1983, c. 1063 3°.

66 ‘The sacramental dimension is a great, unmerited vocation for Christians, but at the same time a highly demanding task. [...] In this way, the entire marriage liturgy becomes a place of joyful and grateful celebration of God’s entire plan, when in realising it God evaluates the

A proper legal regulation is also required by an act as spiritual and intimate as celebrating the sacrament of reconciliation. Only at first glance it appears to be paradoxical that precisely this sacrament requires the establishment of an extraordinarily complex legal framework.⁶⁷ Here it is also not possible to contrast the spiritual and legal dimension of the sacrament, since what is at stake is primarily the assurance of protection for the penitent, which cannot be attained without firmly grounded disciplinary means; but at the same time it is incorrect if the penitents themselves lapse into a rigid juridicism.⁶⁸ The contemporary legal norm no longer speaks of the confessor's jurisdiction, but of his faculty (*facultas*), because he is active in a specific inner forum, namely the sphere of conscience (*forum internum*). While this faculty is a prerequisite of the confession's validity, canon law itself urges confessors to take an approach stimulating spiritual utility for the penitents: 'In hearing confessions the priest is to remember that he is equally a judge and a physician and has been established by God as a minister of divine justice and mercy, so that he has regard for the divine honor and the salvation of souls.'⁶⁹

The lawgiver conceives celebrating the Eucharist in a similar fashion. First of all, the condition of validity is clearly stipulated: 'The minister who is able to confect the sacrament of the Eucharist in the person of Christ is a validly ordained priest alone.'⁷⁰ But the aspect of spiritual utility is not lacking and in the case of this particular sacrament takes on a marked community dimension: 'The Eucharistic celebration is to be organized in such a way that all those participating receive from it the many fruits for which Christ the Lord instituted the Eucharistic sacrifice.'⁷¹

The fundamental role of the Eucharist in the life of the Church is to be clearly articulated already in the education of future clerics: 'The Eucharistic celebration is to be the centre of the entire life of a seminary in such a way that, sharing in the very love of Christ, the students daily draw strength of spirit for apostolic work and for their spiritual life especially from this richest of sources.'⁷² A personal relationship to the Eucharistic mystery is one of the manifestations of an authentic priestly vocation, without which observing all legal and liturgical norms would be meaningless.⁷³

Eucharistic spirituality is not exhausted by liturgical celebration and communion, since in the second millennium various forms of Eucharistic devotion outside the Mass developed in the Christian West, especially Eucharistic adoration and processions. Here it is also not exaggerated to speak of a spiritual dimension, which is the main bearer of the need for an appropriate legal regulation.⁷⁴ The first Code of Canon Law confirmed diverse forms of such devotions:

realities of creation as "good", but only after creating the human being male and female does God see his creation as "very good" (Gen 1:31). František KUNETKA, *Matrimoniální obřady římské liturgie v proměnách a konstantách dějinného vývoje*, in: Walerian BUGEL et al., *Obřady manželství v různých liturgických tradicích*, Olomouc: Univerzita Palackého, 2013, 75–95, p. 95.

67 CIC 1983, cc. 959–991.

68 'A personal understanding of sin and the sacrament of reconciliation while observing the legal framework established by the Church requires much more than a legalistic attitude. Personally, experiencing confession does not involve merely several acts, albeit performed with sincerity and involvement, but rather the decision to heal the reality violated by sin with a new principal act [...]' Józef AUGUSTYN, *Sviatosť zmerenia. Inšpirácia nielen pre zpovedníkov*, Trnava: Spolok svätého Vojtecha, 2015, p. 16.

69 CIC 1983, c. 978 § 1.

70 CIC 1983, c. 900 § 1.

71 CIC 1983, c. 899 § 3.

72 CIC 1983, c. 246 § 1.

73 'I again ask you seminarians: is daily participation in the Holy Mass the heart of your day? If it makes you scared, if you do not participate regularly, if you are passive and fretful, or if it is a merely marginal part of your day and not its focal point – it is a sign that you are not called to priesthood.' Timothy M. DOLAN, *Kněží pro třetí tisíciletí*, Brno: Kartuziánské nakladatelství, 2016, p. 221.

74 'The medieval change in direction brought about certain losses. But on the other hand, it enabled a wonderful deepening of spiritual life. It showed the greatness of the mystery given at the Last Supper and made it possible to experience it in a new and full way. How many saints – especially the ones marked by love for the neighbour – were nourished by this experience and were guided towards the Lord! We must not lose this wealth!' Joseph RATZINGER (BENEDICT XVI), *Duch liturgie*, Brno: Barrister & Principal, 2006, p. 80.

In churches and chapels in which it is permitted to keep the Most Holy Eucharist, it is possible to hold a private exposition or reposition for any pertinent reason without the permission of the Ordinary; a public exposition or with a monstrance on the solemnity of the Body and Blood of Christ and in the course of its octave in all churches during Holy Mass and at vespers; at other times only for a pertinent and grave reason, especially public, and with the permission of the local Ordinary, even though the church belongs to an exempt religious institute.⁷⁵

The Code of 1983 expresses continuity in this matter:

It is recommended that in these churches and oratories an annual solemn exposition of the Most Blessed Sacrament be held for an appropriate period of time, even if not continuous, so that the local community more profoundly meditates on and adores the eucharistic mystery. Such an exposition is to be held, however, only if a suitable gathering of the faithful is foreseen and the established norms are observed. [...] When it can be done in the judgment of the diocesan bishop, a procession through the public streets is to be held as a public witness of veneration toward the Most Holy Eucharist, especially on the solemnity of the Body and Blood of Christ.⁷⁶

Conclusion

Since the Church is human and divine at the same time, the external expressions of the spiritual experience of the faithful can at the same time in many aspects be grasped and regulated by canon law. This happens at both the collective and individual level. The Church is ‘constituted and organised in this world as a society’⁷⁷ and the general principle *ubi societas ibi ius* holds in it. Furthermore, not only the Church as a whole is a visible society, but so are the most diverse forms of ecclesial association of the faithful. Especially the consecrated way of life best performs its function in the Church when its *regula* is observed, not merely an abstractly conceived ‘spirit’, but also the corresponding ‘letter’. To individual groups of the faithful and the faithful as individuals, the legal regulation grants the right to have their own rite and spirituality according to their own personal spiritual choice, but only on one fundamental condition: ‘as it is consonant with the doctrine of the Church.’⁷⁸ The liturgical and sacramental acts of the faithful are not only expressions of their spiritual life, but at the same time legally regulated acts. Here, canon law protects a unitary discipline, which constitutes an atmosphere of predictability and stability, which certainly bears witness to experiencing personal spirituality much more than chaos and wilfulness.

75 CIC 1917, c. 1274 §1.

76 CIC 1983, c. 942 and c. 944 §1.

77 CIC 1983, c. 204 § 2.

78 CIC 1983, c. 214.

Canon Law and Spirituality

Abstract

The paper aims to show the usefulness of canon law for the spiritual life of the faithful and refutes the deep-seated notion that law deadens or inhibits spirituality. First, it proceeds historically and gives examples of ecclesial discipline, which have proven to be of substantial help in experiencing spirituality, especially the consecrated way of life. It then points out the ritual richness of the Oriental churches as well as problems associated with the liturgy of the Christian West and cites legal means ensuring that liturgical practice is carried out to the spiritual benefit of the faithful. It then analyses in detail diverse forms of consecrated life and the way in which they are conceived by canon law. Then it goes on to investigate lay societies, new movements in the Church and ecumenism. In the sacramental discipline of the Church, canon law is expressed not only as an assurance of the validity and licitness of legal acts, but especially as a prerequisite of the spiritual utility of sacramental life for the faithful.

Keywords: canon law, spirituality, consecrated life, liturgy, sacraments

Author contact

Assoc. Prof. JUDr. Stanislav Příbyl, Ph.D., JCD

University of South Bohemia in České Budějovice

Faculty of Theology, Department of Theological Disciplines

Kněžská 8, 370 01 České Budějovice

pribyl@tf.jcu.cz