Canon Law 101

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Topics Covered
In This Presentation

The history of Canon Law
The system of canonical jurisprudence
Canon lawyers and tribunals
Research in the canonical system
Deficiencies in the canonical system
Questions from the audience
What is Canon Law

A code of individual “canons” (statutes) which governs the operations of the Catholic Church, and the relationship between the institutional church and its faithful.

Individual codes of Canon Law exist for the Roman and Eastern Catholic churches.

The Orthodox Church also has a canon law tradition.
From the advent of Christianity tension has existed between faith and law.

No legal system existed during the first three centuries of the church.

The words of the Gospels and writings of church fathers were applied to questions of daily life.

Local leaders of the church oversaw their jurisdictions largely independently.
4th Through 11th centuries
The first “canons” or statutes were produced by church councils “concilia” beginning in the 4th century.

These decisions were produced by councils which were called as a means solving large questions associated with the practice of the Christian faith.

These early canons often did not hold force in the aria beyond that where the council occurred.

In the 11th century, popes began issuing “decretal letters,” documents written in answer to specific questions sent to them. As the century progressed, these letters and previous canons began to hold the force of universal law.
The Contributions of Gratian

We know little about Gratian other than that he was a priest in Bologna at the beginning of the 11th century.

He created a private collection of the canons of councils which had taken place over the previous 700 years, and indexed the canons.

This collection was then copied and expanded upon by others, a process which began the codification of the numerous canons which had been promulgated.

Gratian based his collected canons upon the work of Justinian in ancient Rome, with Justinian’s work having been rediscovered around this time.

Gratian also began the first school for training canonists.
The “Pio Benedictine” Code of Canon Law

- Initiated by Pope Pius X to bring order to the canonical system.
- The project stretched into the papacy of his successor, Benedict XV.
- All of the canons issued by church councils, papal decretal letters and other judicial pronouncements were examined in order that contradictions between them could be eliminated, those which no longer were relevant could be discarded, and the remaining canons could be systematically indexed.
- Came into force in May of 1917
The Code of Canon Law of 1983

- This is the current code of Canon Law in force in the Roman Catholic Church.
- Its preparation was ordered by Pope John Paul II.
- It took into account changes in the church and society which had occurred since the publication of the previous code of canon law and the Second Vatican Council.
- It came into force in 1983.
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How Does the Canonical Process Work?

- **Individuals bring cases to diocesan or archdiocesan tribunals.**
- **Church Leaders initiate cases against members of the clergy or laity before diocesan or archdiocesan tribunals.**
- **Administrative acts are undertaken by church leaders which are appealable by those impacted by the actions.**
A canon lawyer is an individual who can argue on behalf of a party in a canonical case. They may represent their client during administrative or judicial proceedings involving the canon law system. Most canon lawyers work for the institutional church.
What is a Tribunal?

- A tribunal in the canonical sense is a court in which canonical cases are heard.
- Tribunals exist at the local level (in dioceses and archdioceses) and at the appellate level (at a regional level within nations and in Rome.)
- Tribunals are composed of judges who hear canonical cases, “promoters of justice” who work to determine the facts of the case for the court, and advocates who are canon lawyers representing the parties involved.
- All court officials must be canon lawyers unless they have been given a dispensation.
Tribunals of Appeal

• Each “ecclesiastical province” has an appellate level tribunal to hear cases which are appealable from local tribunals.

• The Holy See also has several different courts which hear appeals from local tribunals.

• The Roman Rota is the court of last resort for most canonical cases.

• Some question can also be appealed to the Supreme Tribunal of the Apostolic Signatura, a tribunal equivalent to the Supreme Court of the Holy See.

• Various departments (dicasteries) of the holy see also have the right to hear canonical appeals of administrative decisions.
Examples of Canonical Cases

• Marriage nullity, up to 98% of cases
• Disputes over the closure of “parishes” and “churches”
• Sexual abuse of minors and adults committed by clergy
• Disputes involving the governance of “religious orders”
How Does One Become a Canon Lawyer?

• One must gain a degree in Canon Law (J.C.L. or J.C.D.) from a recognized school of canon law.

• While there are associations of canon lawyers, there is no body of professional standards which regulates the practice of canon law by those who have obtained degrees.

• Most who hold canon law degrees are clerics or religious who work for the church. Many lay people who hold these degrees also are church employees.
Research in Canon Law

- Each year the Roman Rota releases a compilation of its decisions.
- A commentary has been written on the Code of Canon Law of 1983, addressing each of the canons of the code.
- The decisions of the Supreme Tribunal of the Apostolic Signatura are not published.
- The fact that the decisions of the highest court of the Vatican are not published removes a great body of material from canonical scholarship which would be extremely helpful for canonists seeking to understand the court’s thinking.
Shortcomings in the Canonical System

- Temptation to ignore the system on the part of church leaders.
- Lack of accountability for those church leaders who ignore the requirements of the law.
- Lack of equal rights for the laity to participate in canonical proceedings.
- Lack of accountability for those sitting in judgement of canonical cases.
- Inability to gain redress on the part of those harmed by corrupt jurists.
The Role of the Pope

- As head of the Catholic Church, the Pope has the power to change any provision of the Code of Canon Law at will.
- Pope Francis has taken this step with increasing frequency during his pontificate.
- The entire canonical system runs the risk of becoming nothing more than the enforcement of the arbitrary whims of those who control it, and gaining the scorn of those who find that it does not protect them from abuses.
Final Thoughts

• While possessing the potential to serve as a model for how an international legal system should operate, canon law today lacks basic aspects of fairness and enforcement which would allow it to serve this purpose.

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