

Canon 207 (CIC) and Canon 399 (CCEO): A Comparative Analysis

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Підсумок

Наступна стаття з пера римо-католицької жінки-професора в Колегії св. Францішка в Ілліной, порівнює два канони з нового латинського та східного-католицького права, в яких говориться про церковну ідентичність мирян. Обидва канони базовані на частині про мирян в Догматичній Конституції II-го Ватиканського Собору, *Lumen Gentium*. Автор доказує, що ці канони—з двох окремих джерел, себе взаємно доповнюють: коли латинський канон описує мирянство з ґрунтовною «юридичністю», східний канон підходить до справи в більш «богословсько-духовний» спосіб. Професор Гаґстром підкреслює, що таке взаємне доповнення дуже потрібне якщо, за висловом теперішнього Папи, Католицька Церква має дихати двома легенями—Західньої та Східньої Церков.



October 18, 1990 marked the promulgation of the new *Codex Canonum Ecclesiarum Orientalium* by Pope John Paul II. The common Code for the Eastern Churches was promulgated with the Apostolic Constitution *Sacri*

Canones.¹ This new Code is applicable to all Catholics belonging to the Eastern Rites. Pope Pius XI recognized the need for a codification of a complete canon law for the Eastern Churches in 1927. Developments which occurred in this area over the past 63 years include the Vatican II decree, *Orientalium Ecclesiarum*, which summarized certain key concepts of Eastern canon law, and Pope Paul VI's decision to establish the Pontifical Commission to work on the Eastern Code in 1972. The *Codex Canonum Ecclesiarum Orientalium* is the fruit of these efforts.

Like the 1983 Latin code, the Eastern Code is an attempt to translate the theology of Vatican II into juridical language. The question of how successful this translation from conciliar theology to canonical legislation has been, will, no doubt, be the topic for numerous conferences, articles, and dissertations. In his speech to the Synod of Bishops on October 25, 1990 introducing the new Code, Pope John Paul II suggested that a proper comparative study of both Codes should be encouraged.² This present article is a response to that suggestion.

The aim of this article is to compare and contrast Canon 207 from the Latin Code (CIC) with Canon 399 of the new Eastern Code (CCEO). Both of these canons deal with the concept of the laity. Both canons attempt to define, in some way, the identity of the *christifideles laici*. The theological foundation for these definitions is the understanding of the laity as found in the renewed ecclesiology of *Lumen Gentium*. How does each canon translate the conciliar concept of the laity into juridical form? Do Canons 207 (CIC) and 399 (CCEO) contradict or complement one another? If the eastern and western traditions are the two lungs by which the Body of Christ breathes,³ then do these two canons together facilitate the breath of the Spirit, or do they cause an asphyxiation?

¹ *Acta Apostolicae Sedis* 82 (1990), 1033–1044. English translation in *Code of Canons of the Eastern Churches* (CCEO), Latin–English Edition prepared under the auspices of the Canon Law Society of America (Washington, D.C., 1992), xi–xix.

² *L'Osservatore Romano* [English Edition] No.45 November 5, 1990, p.4.

³ “[...] the Church itself, gathered in the one Spirit breathes as though with two lungs—of the East and of the West—and it burns with the love of Christ in one heart having two ventricles.” Pope John Paul II, *Sacri Canones, Code of Canons of the Eastern Churches* (CCEO), Latin–English Edition, xiv.

Pre-Conciliar Ecclesiology

Studies in ecclesiology over the past twenty-five years have emphasized the dignity and ministry of the laity in the Church. The call of the Second Vatican Council for laity to take up their rightful place in the Church and in the world sounds very different from the tone of the Church's teaching on the laity over the past four hundred years. In the pre-Conciliar era, it was common to paint a picture of the Church which was primarily hierarchical, centered on the structure of the Church and above all on the clergy. This understanding of the Church was dominated by the idea of an unequal society and not by the idea of the Body of Christ or the People of God.

The Fathers of the Second Vatican Council wanted to move away from this understanding of the Church which was becoming established almost exclusively around the clergy, who were the only ones authorized to carry out the Church's mission. In this vision, the laity were being defined by a degree of secularization in their functions which almost placed them outside the Church. This popular vision of the Church was expressed by Monsignor Talbot who, when writing to Cardinal Manning in reaction to Newman's essay on the laity asked: "What is the province of the laity? To hunt, to shoot, to entertain. These matters they understand; but to meddle with ecclesiastical matters they have no right at all..."⁴

Even Papal teaching reflected this view of the Church as an unequal society. At the beginning of the century, in 1906, Pope Pius X wrote in his encyclical *Vehementer nos* that the Church is by essence an unequal society, that is, a society comprising two categories of persons, the pastors and the flock, those who occupy a rank in the different degrees of the hierarchy and the multitude of the faithful. So distinct are these categories that with the pastoral body only rests the necessary right and authority for promoting the end of the society and directing all its members toward that end; the one duty of the multitude is to allow themselves to be led, and, like a docile flock, to follow the pastors.⁵

The "flock" is to allow itself to be led. Its ecclesial responsibility and fidelity to the Church are reduced to the duty imposed upon it of "following

⁴ John Henry Newman, *On Consulting the Faithful In Matters Of Doctrine*, ed., J. Coulson (London: Collins Liturgical Publications, 1961), 41.

⁵ *Vehementer nos*, February 11, 1906, *Acta Sanctae Sedis* 39 (1906), 3-16. English translation from Remi Parent, *A Church of the Baptized*, (Mahwah: Paulist Press, 1987), 15.