



CONFERENCE REPORT

Colloquium of Anglican and Roman Catholic Canon Lawyers

Colloquium Report, October 2022

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The Colloquium of Anglican and Roman Catholic Canon Lawyers met—for the twenty-first time in its history, and the first time in person since the pandemic—from 4 to 7 October 2022 at the Venerable English College in Rome. The Colloquium has met at this location in the centre of Rome, just off the Piazza Farnese, for quite some years now, and always receives a warm welcome. The College is the home of Roman Catholic seminarians from dioceses across England and Wales (as well as some from Ireland and the Nordic countries), and their formators. It was very good to be back after so long, and to converse with some of the students and staff in the margins of the Colloquium’s busy schedule of sessions.

As in previous years, papers were offered on five areas—on this occasion under the general topic of ‘Penal Law’—by a Catholic and an Anglican, followed by group discussion. Sessions were chaired by the Reverend Stephen Coleman (Cardiff Law School and Church of England), Professor Norman Doe (Cardiff Law School and Church in Wales), Chancellor Mark Hill KC (Church of England) and the Reverend Dr Robert Ombres OP (Blackfriars, Oxford).

Starting our work with the ‘Purposes of Penal Law’, Dr Helen Costigane SHCJ (St Mary’s University, London) presented the Catholic notion of penal law as oriented towards the reform of the offender, reparation of scandal and restoration of justice in mercy and charity. Ms Charlotte Wright (Cardiff Law School and Church in Wales) presented the penal law of the Anglican Communion as serving the life and mission of the Church, upholding

integrity, providing good order, supporting communion, implementing Christian values, and preventing and resolving conflict.

Turning to 'Offences' in the penal law, the Reverend Russell Dewhurst (Cardiff Law School and Church of England) presented the broad categories of offences in the Church of England: those concerning Doctrine, Ritual and Ceremonial under the Ecclesiastical Jurisdiction Measure 1963, and the grounds of misconduct set out in the Clergy Discipline Measure 2003. The categories of delicts foreseen in Book VI of the Code of Canon Law, updated in 2021, were presented by the Reverend Benjamin Earl OP (Procurator General, Order of Preachers). Both speakers considered the extent to which the penal systems are directed specifically at clergy discipline, or to the discipline of all members.

The Reverend Dr Luke Beckett OSB (Ampleforth Abbey) presented the preliminary investigation, the judicial penal process and the administrative (or extrajudicial) penal process as envisaged by the Catholic Code of Canon Law. The Very Reverend Stephen Farrell (Church of Ireland) presented a paper on the procedures of the Church of England's Clergy Discipline Measure 2003, as well as speaking about the equivalent processes in the Church of Ireland.

The subject of 'Sanctions' was addressed by the Reverend Sion Hughes Carew (Church of England), presenting the 'censures' available under the Ecclesiastical Jurisdiction Measure 1963 (deprivation, deposition, inhibition, suspensions, monition, and rebuke) and the 'penalties' under the Clergy Discipline Measure 2003 (prohibition for life, limited prohibition, removal from office, revocation of licence, injunction, and rebuke). The Reverend Andrew Cole (Diocese of Nottingham) presented the medicinal penalties (also known as 'censures': excommunication, interdict and suspension) and expiatory penalties (order, prohibition, deprivation, and dismissal from the clerical state) present in the Code of Canon Law.

Finally the Reverend James Conn SJ (Superior, Casa Santa Maria, Rome), following on from his 2022 Lyndwood Lecture, presented the lengthy work of reform to penal law in the Catholic Church which resulted in the revised Book VI of the Code of Canon Law, promulgated in 2021. Mr Edward Dobson (Church of England Legal Office) presented the work of penal law reforms in the Church of England, which in contrast is just at the beginning of a long legislative journey.

Members of the Colloquium were also the recipients of very generous hospitality throughout their time in Rome. A scintillating drinks reception on the first evening at the Casa Santa Maria, hosted by the Superior, Fr Conn, allowed members the opportunity to gather together again after three years apart, and to meet some of the clergy from the Pontifical North American College who were pursuing postgraduate studies at the Casa.

A delicious buffet dinner was laid on at The Anglican Centre in Rome by the team of the Centre's Director and Archbishop of Canterbury's Personal Representative to the Holy See, Archbishop Ian Ernest, and his wife Kamla. The Archbishop spoke very powerfully about the work of the Centre, and the significance of ecumenism—both in his own life and ministry, and for our two communions.

His Excellency Christopher Trott, HM Ambassador to the Holy See, hosted a drinks reception at the Residence, a stone's throw from St Peter's Square, where he regaled members with accounts of his previous postings in Sudan and Tuvalu, and underlined the importance of building trust in such roles, something which was standing him in good stead in his new job.

Monsignor Brian Ferme, Prelate Secretary of the Council for the Economy, gave members a tour of sections of the Apostolic Palace in the Vatican, and hosted a workshop session of the Colloquium's deliberations there, at which common principles in penal law were drafted and agreed. The principles are reproduced at the end of this article.

Monsignor David Jaeger OFM, one of the Prelate Auditors of the Apostolic Tribunal of the Roman Rota, welcomed the Colloquium to the Palazzo della Cancelleria, the Rota's base of operations. He explained something of the scope of work of the court as an appellate tribunal, and gave an animated account of its processes.

Immensely grateful thanks are due to all of the above, and their teams, for their hospitality; and especial thanks to Fr Stephen Wang, the new Rector of the Venerable English College, for his generosity in allowing the Colloquium to meet at the College again. It is very good to be able to build on the strong relationships established under his predecessor, Monsignor Philip Whitmore, now Rector of St James's, Spanish Place, and to feel that the Colloquium has a home in Rome.

The study and practice of canon law of the members of the Colloquium has once again been enriched by the opportunity afforded to broaden horizons and share experience from different canonical legal systems. It is very much hoped that our discussions, exchanges and understanding continue to bear fruit for the just development and application of the law in this delicate area, as relevant as ever in both our communions.

AGREED STATEMENT ON PRINCIPLES OF PENAL LAW AND CHURCH DISCIPLINE

Each church has a system of discipline, the administration of which is regulated by norms which deal with the purpose and scope of discipline and processes to enforce it. In each church, bishops are fundamental to governance. Among the more important responsibilities of diocesan bishops are the oversight of conduct

and the discipline of clergy and laity. In this document: (1) the expression 'church' means (a) the Catholic Church and (b) the churches of the Anglican Communion; and (2) 'penal law' includes conduct and discipline.

1. Ecclesial Discipline

1. Each church as an institution has the right and duty to enforce discipline and to resolve conflicts amongst the faithful.
2. The right to exercise discipline has a variety of foundations including divine and spiritual authority.
3. Each church may exercise discipline in relation to both lay and ordained persons to the extent provided by law.
4. The purpose of discipline is to glorify God, to maintain order and justice, to protect the integrity and mission of the church, to safeguard from harm, and to promote the spiritual benefit of its members.
5. Discipline is exercised by competent authority, in particular the diocesan bishop, in accordance with law.

2. The Resolution of Disputes

1. Ecclesiastical disputes may be settled by a variety of formal and informal means including administrative process.
2. A competent authority may settle the matter in a process short of formal judicial process in the manner and to the extent provided by law.
3. Where permitted, anyone with a sufficient interest in the matter may challenge a decision by recourse to the relevant and competent authority.

3. Church Courts and Tribunals

1. Each church may have a system of courts, tribunals or other such bodies to provide for the enforcement of discipline and the formal and judicial resolution of ecclesiastical complaints or disputes.
2. Church courts, tribunals and other such bodies may exist at international, national, regional and/or diocesan or other level to the extent permitted by the relevant law.
3. The establishment, composition and jurisdiction of courts, tribunals or other such bodies are determined by the law applicable to them.
4. Church courts, tribunals and other such bodies must be established by competent authority, administered by qualified personnel, and hierarchically arranged in terms of their original and appellate jurisdiction.
5. Church courts, tribunals and other such bodies exercise such authority over the laity and ordained ministers as is conferred upon them by law.

4. Due Process

1. Where appropriate, complaints or disputes should be resolved amicably, lawfully, justly, and equitably, without recourse to church courts and tribunals.
2. A church court, tribunal or other such body must adjudicate according to law applied with equity.
3. Disciplinary procedures must secure fair, impartial and due process.
4. The parties, particularly the accused, have the right to notice, to be heard, to question evidence, to an unbiased process and hearing, and where appropriate to an appeal.

5. Ecclesiastical Offences and Sanctions

1. Ecclesiastical offences must be clearly defined.
2. A court, tribunal or other such body must give reasons for its decisions.
3. Each church has a right to impose sanctions provided a breach of ecclesiastical discipline has been established.
4. Sanctions should be lawful and just. They may be applied to the laity, clergy and office-holders to the extent provided by law. Their effect is withdrawal from some of the benefits of ecclesial life.
5. Sanctions may be removed.

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