

THE CODE OF CANON LAW AND THE SECOND VATICAN COUNCIL DOCUMENT: AN IGWEBUIKE PERSPECTIVE

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Abstract

The 1883 code effectuates and perfects the renewal of Christian life introduced by the Second Vatican Council. It puts into juridical formulae the principles of the council. This piece, through the underlying principle of Igwebuike philosophy, highlights the complementary relationship between these two essential documents of the Church. Igwebuike is employed here not only as a philosophy but as a methodology of research. It is employed as a transcendent complementary comprehensive systematic quest to penetrate the structure and dynamics of reality ultimately for the purpose of giving honest answers to fundamental questions or opinions to questions that arise within the arena of asking questions and questioning answers, and selfless enlightenment. In this search for truth, Igwebuike is, therefore, understood as an integrated systematic framework that strives beyond all forms of particularities, peculiarities, paradoxes and contradictions, and espouses the path of complementation, therefore, showing how realities can relate to one another in a mutually harmonized non-absolutistic mode. This piece discovers that there is a very strong connection between the Code of Canon Law and the Second Vatican Council Document, and that the two when studied together can be very enriching.

Keywords: Vatican II, Code of Canon Law,
Complimentarity, Igwebuike,
Methodology

Introduction

Stability is an essential quality of any good legal system, because a community's laws are an expression of its identity, and there is no identity without permanency. In a religious community where the source of its identity is in the common memory of a divine revelation, the demand for stability is even stronger. Fidelity to the Word of God and the teachings of the Church becomes the principal virtue. Yet, any good legal system must be open and receptive to developments. No community, secular or religious, can be frozen in time and live; absolute stillness means death. This work, therefore, in the spirit of *Igwebuike* is about the respective roles and desirable balance between Canon law and Vatican II.

Vatican I and the Code of 1917

Any process of centralization requires the proliferation of universal laws in order to maintain harmony and promote unity. By the time of the First Vatican Council (1869-1870), the Church's legislative activity had resulted in a considerable confusion. While proclaiming the primacy and infallibility of the Pope, the Council Fathers realized that the Church's legal system needed to be completely revamped. Despite the significant historical attempts to coordinate the Church's laws, there had never been an authoritative or official codification. Even the *Corpus Juris Canonici* was unofficial, scholarly work. Several decades after the close of Vatican I, Pope Pius X attempted to accomplish this task. On March 19, 1904, he announced the establishment of a commission of Cardinals to gather into one authentic collection all the universal canonical legislation of the Latinrite Church. This monumental task took thirteen years. Much of the work was done by the Secretary of the Commission, Pietro Cardinal Gasparri. This first Code of Canon Law was promulgated on Pentecost Sunday, May 19, 1918 (Komonchak, 1986).

Vatican I represents the final extrication of the Church from the medieval Christendom notion. With the loss of the Papal States, the Church emerged as entirely spiritual. The Church and State were seen as two separate but complete societies. It is only natural, therefore, that their legal systems should be similar, diverging only by reason of goal and means, but identical in the structures required by the nature of man (e.g., general norms, procedures and penalties).

Vatican II and the 1983 Code

Law is an evolving science and art. It reflects the changing practices and life of a community. It is inevitable that the Church's legal system would once again grow complicated, confusing and unwieldy. Within a relative short period of time, the interpretations clarifying various canons amounted to a printed volume larger than the code itself. The Church's first Codification achieved a great deal of clarity and precluded the massive confusion of former times, but eventually a total revision was necessary. This need for renewal was not simply one of legal technique. On the contrary, changing theological insights and pastoral values in the Church called for a thorough canonical reform of the Church's structures (Komonchak, 1986). Into this situation stepped Pope John XXIII, who ushered in another stage in the revision of canon law, linked to the movement of reform, crystallized in the Second Vatican Council.

Vatican II took an even more significant step towards a separate legal system. It recognized its law on its own model, according to its understanding of itself as a Church. The revised Code still bears some resemblance to civil law, but the similarities are diminished. Thus, the Code is organized differently based on the threefold office of Christ as king, prophet and priest. It considers people of God as a hierarchical communion in which all are commissioned to imitate Christ according to their own "juridic condition." The concrete effects are easily observable: "Governance" is described in General Norms and in Books II, V, VI, VII, "Teaching" is in Book III and "Sanctifying" is Book IV. In addition, penalties are reduced drastically. The second *Codex Juris Canonici* in the history of the Catholics of the Latin rite

was promulgated by Pope John Paul II on January 25, 1983 and entered into effect on November 27, 1983. It contains 1,752 canons divided into seven books.

1983 Code and Vatican II: An Igwebuike Perspective

Igwebuike is an Igbo word. It literally means that there is strength in unity. However, philosophically, it points to the complementary nature of reality. It confronts discontinuity and the compartmentalization of reality. Although this philosophy is captured in an Igbo word, it has a universal taste and obvious in universal experience. It is a universal philosophy that is the incarnation and confirmation of the universal relevance of solidarity and complementarity (Kanu, 2017).

The philosophy of *Igwebuike* is clearly brought to the fore in the interwoven relationship between the 1983 Code and Vatican II. The Constitution, *Sacrae Disciplinae Leges*, in every distinct term notes the incorporation of the New Ecclesiology of Vatican Council II as one of the motivations of the 1983 code. The ecclesiology on which the New Code of Canon Law is based is predominantly that of the Second Vatican Council, for which the Code is rightly called the Code of the Second Vatican Council, to demonstrate the close relationship between the new code and Vatican Council II. A proper understanding of the canons will require close examination of the key features of ecclesiology of the Council as they relate to the canonical system, since the codification mirrors the new ecclesiology (Nwagwu, 2002).

The new code embraces the Council; it solemnly re-proposes fundamental institutions and major innovations and it establishes positive norms for implementing the Councils. There are several examples of conciliar innovations that can be found in the new Code of Canon Law:

The first is the doctrine regarding the episcopate and the relationship between the episcopate and the primate, that is, episcopal collegiality. This is not an entirely new doctrine in the deep consciousness of the Church, but rather a happy discovery. The code firstly, in canons 330-

341, represents this clearly, and secondly, canons 342-348 accompany it with the positive view that constitutes the structure of the Synod of Bishops, allowing effective implementation of the structure of Episcopal collegiality (Olson, 2013).

A second example is the Council's teaching on the laity and, therefore, on the appropriate and active mission of the lay faithful in the life of the Church. Once again, this is not absolutely new, but more rediscovery. In canons 224-231, the revised Code of Canon Law reiterates this teaching through a series of regulations, regarding the diocesan pastoral council or the parochial pastoral council (Olson, 2013), structures that allow the laity to effectively participate in the pastoral decisions of the bishop or the pastor.

More than the mere necessity of updating the Church's legal system, the new code was meant to effectuate and perfect the renewal of Christian life introduced by the Council. The revision of the code was directly sought and requested by the Council itself. The Council Fathers were quite conscious of the canonical revision, which was to follow their deliberations. They left the specification of many disciplinary matters to the subsequent codification process. The code, therefore, became the instrument for carrying out the decisions of the Council. It was subsequently directed towards putting into juridical formulae the principles of the Council (Nwagwu, 2002).

The Commissions for Revision and the consultors who drafted the code referred continuously to the documents of the Council in the course of their work. The canons in their formulations reveal this close and dependant relationship on the Council. They frequently employed the concepts, language and expressions of the conciliar decrees. The code therefore depends on the previous work of the Council; it reflects its ecclesiology, its overall theological vision and manifests its spirit, not because of its content but because of its origin as both the code and the Council originated in a bid to renew Christian life.

In consonance with the creed of *Igwebuike*, much of the post-conciliar legislation implementing the Council's decrees, such as norms on

dispensations, ecumenical marriages, annulment procedures and liturgical discipline, is incorporated into the revised code. This means that the code must be interpreted in the light of the conciliar documents. As Paul VI explained:

Now, however, with changed conditions of things – for life seems to move along with greater speed – we must recognize with due prudence that canon law must be adapted; to the new mentality of the Second Vatican Ecumenical Council from which great contributions are being made to pastoral duties and new needs of the people of God.

To understand the canons properly, therefore, one must seek their meaning in their sources, that is, the documents of the Council. The conciliar teachings rule and guide the interpretation of the canons. It is, therefore, true to say that the Code of Canon Law is the fruit of the Second Vatican Council, the Council's final document. This means that the canons of the Code must be read in the light of the constitutions and decrees of the Council, which gave rise to them (Nwagwu, 2002).

At the 100th anniversary of the 1917 code that took place in 2017, Pope Francis stated that after the Second Vatican Council marked the passage from an ecclesiology modeled on canon law to a canon law conforming to ecclesiology. Canon law “should be the instrument for implementing the vision of the Second Vatican Council.” Pope Francis continued by saying that, the new code should promote, “Collegiality, synodality in the governance of the church; valuing particular churches; the responsibility of all Christian faithful in the mission of the Church... and healthy collaboration between the Church and civil society in its various expressions” (Wooden, 2017).

Conclusion

Like any other piece of legislation or system of jurisprudence, the code is often difficult to decipher and there is a risk of missing some nuance in the text, or of being aware of some underlying legal

principle if the principles of Igwebuike are not adhered to. Therefore, the documents of Second Vatican Council are necessary when exploring the Church's internal legal system. This is a fact every canonist or student of canon law should remember while delving into the code.

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