

Drafting Particular Law for Malta and Gozo: The Operations of the Commission of the Maltese Episcopal Conference (1983-1988)

When Pope John Paul II promulgated the new Code of Canon Law for the Latin Catholic Church on 25 January 1983, he left several matters that required local legislation for appropriate implementation. Some of these matters fell under the jurisdiction of diocesan bishops, while others necessitated the involvement of episcopal conferences or the attention of bishops within an ecclesiastical province. In response, the Maltese Episcopal Conference (MEC) established a special commission tasked with preparing particular legislation for the Church in Malta and Gozo and providing guidance to the local bishops. Following an overview of particular legislation within the Catholic Church, this article will shed light on the operations, diligent efforts, and one notable limitation of the Commission.¹

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¹ The primary source for this study is the minutes of the Commission's meetings (hereafter cited as "Minutes"). The Minutes form part of the "Acts of the Particular Legislation Commission," housed in the Archive of the Maltese Episcopal Conference within the Archbishop's Curia in Floriana, Malta.

Particular Law in the Catholic Church

In the Catholic Church, particular legislation differs from universal law in that the latter applies to the entire Catholic Church worldwide or, at the very least, to a broad group of Catholics across the globe, while the former generally applies to a limited geographic territory or pertains to a specific group of Catholics or certain specific procedures. Universal laws, at times referred to as “general” or “common” laws, are typically promulgated by the Pope in his capacity as the head of the entire Church, by the world’s bishops assembled with the Pope, by the bishops of the Eastern Catholic Churches with the approval of the Pope, or by dicasteries of the Roman Curia acting in the name of the Pope and with his endorsement. Particular laws, on the other hand, are issued by bishops of a particular region, country, or diocese. Particular legislation may also encompass “proper” laws, such as the norms governing a dicastery of the Roman Curia or the rules of an institute of consecrated life, or “special” laws, such as the norms guiding a specific process or procedure, for instance, the election of a new Pope or a cause of canonisation.²

Particular legislation has constituted a fundamental aspect of the Church since its inception. However, the Western Church experienced significant transformations during the Middle Ages, transitioning from a relatively decentralised communion in the patristic era to a structured feudal kingdom and ultimately evolving into a hierarchical system where much authority was centralised in the Pope.³ During the last century, there was a restoration of the role of particular legislation within the life of the Catholic Church.⁴

Following the codification of its laws in 1917, the Church began to recognise that too little attention was being paid to the diversity of the particular churches and the pastoral implications of rigid and strictly uniform laws. In 1931, Pope Pius XI, although primarily referring to civil society, spoke of the principle of subsidiarity.⁵ In subsequent years, Pius XII emphasised the universality of this principle, stating its applicability not only to social life but also to the life of

² On the nature and types of laws in the Catholic Church, see canons 7-20 of the Code of Canon Law.

³ See William W. Bassett, “Subsidiarity, Order and Freedom in the Church,” *CrossCurrents* 20, no.2 (1970): 141–63.

⁴ See Sofia Natalia Markovich, *The Development of the Principle of Subsidiarity in the 1983 Code of Canon Law* (Washington, D.C.: Catholic University of America, 2021).

⁵ See Pope Pius XI, Encyclical Letter *Quadragesimo Anno*, 15 May 1931, *AAS* 23 (1931): 177–228.

the Church and its laity.⁶ Pope John XXIII applied the principle of subsidiarity to the Church in his speech to the Latin American and Caribbean Episcopal Council (CELAM), specifically concerning the relations between CELAM and the Apostolic See.⁷ Later, he explicitly addressed subsidiarity in two encyclicals; however, in these instances, he focused solely on civil society and not on the internal governance of the Church.⁸ The Second Vatican Council (1962-1965) advanced the resurgence of the principle of subsidiarity and emphasised the role of particular legislation within the life of the Church.⁹ The Council acknowledged the necessity of adapting the Church's structures and laws to the diverse local cultures it served, deepened the understanding of particular churches, and underscored the authority of diocesan bishops. Additionally, it advocated for the establishment of new entities, such as episcopal conferences, that directly influence the development of particular legislation.¹⁰

Consequently, particular legislation featured prominently among the ten principles proposed to guide the revision of the 1917 Codex. These principles were drafted by the Pontifical Commission for the Revision of the Code of Canon Law and submitted to Pope Paul VI, who determined that the principles should be reviewed by the 1967 Synod of Bishops.¹¹ The Third Principle, addressing the

⁶ See Pope Pius XII, *Address to the College of Cardinals*, 20 February 1946, *AAS* 38 (1946): 144–51; *Letter to Charles Florit*, 18 July 1947, *AAS* 39 (1947): 446; *Address to the Second World Congress on the Lay Apostolate*, 5 October 1957, *AAS* 49 (1957): 922–39.

⁷ See Pope John XXIII, *Address to Cardinals, Archbishops and Bishops Participants in the Third Meeting of the Latin American Episcopal Council*, 15 November 1958, *AAS* 50 (1958): 997–1005.

⁸ See Pope John XXIII, Encyclical Letter *Mater et Magistra*, 15 May 1961, *AAS* 53 (1961): 401–64; Encyclical Letter *Pacem in Terris*, 11 April 1963, *AAS* 55 (1963): 259–64.

⁹ Vatican II explicitly referred to subsidiarity in the context of international order and in consideration of the right of every person to education. See Second Vatican Council, Pastoral Constitution *Gaudium et Spes*, 7 December 1965, *AAS* 58 (1966): 1025–115, n. 85; Declaration *Gravissimum Educationis*, 28 October 1965, *AAS* 58 (1966): 728–39, n. 3.

¹⁰ See Second Vatican Council, Decree *Christus Dominus*, 28 October 1965, *AAS* 58 (1966): 673–96, nn. 8, 11, 38; Dogmatic Constitution *Lumen Gentium*, 21 November 1964, *AAS* 57 (1965): 5–67, nn. 23, 27. On the use of the principle of subsidiarity during the conciliar deliberations of *Christus Dominus* and *Lumen Gentium*, see Markovich, *The Development*, 39–45.

¹¹ See “Principia quae Codicis Iuris Canonici recognitionem dirigant,” *Communicationes* 1 (1969): 77–85. An English version is available in Jordan F. Hite and Daniel J. Ward, *Readings, Cases, Materials in Canon Law. A Textbook for Ministerial Students* (Collegeville, MN: Liturgical Press, 1990), 84–92. For an overview of the catalysts and reasons behind the Code Commission's decision to include this theme among the guiding principles, see Markovich, *The Development*, 146–69.

pastoral nature of the future Code, advocated for granting greater freedom to Ordinaries, particularly in mission areas, to ensure that the Code would embody a truly pastoral spirit and character. Similarly, the Fourth Principle called for an overhaul of the canonical system for extending faculties to Ordinaries and other superiors. The Fifth Principle, meanwhile, advocated for enhanced power and authority for particular legislation, aiming to foster robust decentralisation and distinctly reflect the unique characteristics of individual churches. It emphasised that the new Code should serve a dual purpose: reinforcing legislative unity in fundamental and major pronouncements of law, while recognising the reasonableness or need of individual institutions to provide for their own advantage. Most of these recommendations were ultimately acknowledged, as noted earlier, with the 1983 Code of Canon Law leaving several issues open for legislation by diocesan bishops, episcopal conferences, or ecclesiastical provinces.¹²

Establishment of the Maltese Commission

In this context, following the promulgation of the new Code of Canon Law on 25 January 1983, the Maltese Episcopal Conference established the Particular Legislation Commission. The Commission had a dual objective: to formulate a particular law for the Church in Malta and Gozo and to provide essential guidance to the local Bishops in this regard.

The Commission's appointed members included Mgr Annetto Depasquale, Mgr Arthur Said Pullicino, Rev. Joseph Borg, OSA, Rev. Dionysius Attard, OCarm., and Rev. George Frendo, OP. At the request of the Bishop of Gozo, Mgr Giovanni Gauci joined the Commission during its third meeting, although the Minutes indicate that Gauci seldom attended the Commission's meetings.¹³ At that time, Depasquale served as Chancellor of the Archdiocese of Malta and Promoter of Justice in the Ecclesiastical Appeal Tribunal, also lecturing in canon law at the Faculty of Theology. He would later assume the roles of Vicar General and Auxiliary Bishop of Malta. Said Pullicino held the position of Judicial Vicar for the Metropolitan Tribunal of the Archdiocese of Malta. Borg, Attard, and Frendo were actively involved in the Regional Appeal Tribunal. Frendo would later serve as Provincial Superior of the Dominicans, and subsequently

¹² For a broad compilation of particular laws issued by episcopal conferences that complement the new Code, see Jose T. Martin de Agar, ed., *Legislazione delle Conferenze Episcopali Complementare al C.I.C.* (Milano: Giuffrè Editore, 1990).

¹³ See the Minutes of 15 October 1983, n.13.

Auxiliary Bishop and Archbishop of Tiranë-Durrës in Albania. Gauci served as the Officialis of the Diocese of Gozo and lectured in canon law at the diocesan seminary.

Five Years of Endeavour

The Commission convened for the first time on 29 September 1983. During this inaugural meeting, Depasquale elucidated the Commission's purpose, following which the other members appointed him and Said Pullicino as the Chair and Secretary of the Commission, respectively. Within the same meeting, Depasquale distributed two lists: one containing those canons from the new Code that called for particular laws by the episcopal conference and another containing canons about particular laws falling within the diocesan bishop's jurisdiction. During his presentation, which extended to the following meeting, Depasquale also emphasised the distinction between those cases where the bishops were obliged to establish particular norms versus cases where they were free to do so.¹⁴

From the outset, it became evident that formulating a particular law for the Church in Malta and Gozo would demand extensive efforts. Consequently, on 4 November 1983, Archbishop Joseph Mercieca, acting in his capacity as the President of the MEC, addressed a letter to Cardinal Sebastiano Baggio, Prefect of the Congregation for Bishops, requesting an extension to prolong the period during which the Commission would work on the preparation of the particular law. It appears that the MEC was not the sole entity making this plea. Four days later, Cardinal Agostino Casaroli, the Secretary of State of the Vatican, wrote to the episcopal conferences worldwide, informing them that the Pope had acknowledged their practical challenges. In the same letter, Casaroli urged the episcopal conferences to promulgate temporary norms on significant matters to prevent a period of *vacatio legis*. In December 1984, the Bishops of Malta and Gozo submitted yet another request for an extension.¹⁵

Meanwhile, on 22 November 1983, five days before the new Code came into effect, the Bishops of Malta and Gozo issued a circular letter informing

¹⁴ See the Minutes of 29 September 1983 and 6 October 1983.

¹⁵ See the Minutes of 3 November 1983, n.39, 10 November 1983, n.45, and 6 December 1984, n.172. See also the letters of Archbishop Mercieca and Cardinal Casaroli in the section "Episcopal Conference: Congregations 1977-1984" at the Archive of the Maltese Episcopal Conference. The letter of Cardinal Casaroli is also available in Martin de Agar, ed., *Legislazione delle Conferenze Episcopali*, 37-38.

the faithful of both dioceses that, until the promulgation of particular norms, matters requiring local legislation would remain as they were. The bishops assured the faithful that they would be duly informed when decisions regarding particular norms were made. The circular letter also highlighted two significant changes in the new Code with potential practical implications for the faithful: the revised age at which the Church considers someone an adult (can. 97 §1), and the possibility of receiving communion twice in the same day (can. 917).¹⁶ A few days later, on 25 and 26 November, Archbishop Joseph Mercieca, in his capacity as diocesan bishop, issued specific instructions for the Archdiocese of Malta concerning the registration of Confirmation (can. 895) and the promulgation and taking effect of particular laws for the Archdiocese (can. 8), respectively. On 9 December 1983, another instruction was given regarding parochial registers in light of canon 535.¹⁷

As previously noted, the Commission convened for the first time on 29 September 1983, and held a total of 141 meetings over a span of five years, concluding its work on 8 October 1988. Within the final three months of 1983, the members held 11 meetings. In 1984, 1985, 1986, and 1987, they convened 33, 36, 32, and 21 times, respectively. In 1988, the Commission met eight times. These meetings were held at the Augustinian Convent in Valletta, each lasting between three and four hours, typically from 9:00 a.m. to 12:45 p.m. or 4:30 p.m. to 8:00 p.m. The minutes of these meetings, recorded in Maltese, span 461 pages and are divided into three volumes. Following each meeting, a copy of the minutes was disseminated to the Bishops to inform them of the Commission's progress.¹⁸ It is noteworthy that the period coinciding with the Commission's operations was marked by considerable turbulence for the Church in Malta and Gozo.¹⁹

¹⁶ See Konferenza Episkopali Maltija, "Ittra Ċirkolari: Il-Kodiċi l-ġdid tal-Liġi Kanonika," *Bullettin tal-Arċidjoċesi u Liturġija tal-Kelma* 40 (1983): 215.

¹⁷ See the different decrees and instructions of Archbishop Mercieca in *Bullettin tal-Arċidjoċesi u Liturġija tal-Kelma* 40 (1983): 216–30.

¹⁸ See the Minutes of 6 October 1983, n.7.

¹⁹ Several challenging incidents are worth mentioning, including the disputes between the State and the Church concerning church schools, hospitals and properties, the attack on the Maltese Diocesan Curia on 28 September 1984, and the expulsion of foreign religious from Malta and of the Faculty of Theology from the University of Malta. See Charles Buttigieg, *Ġużepi Mercieca: Raġġaj għal Kull Staġun* (Malta: Klabb Kotba Maltin, 2017), 195–360.

Draft Preparation

Throughout its five years of operations, the Commission prepared multiple draft norms. Depasquale frequently took the initiative to draft and distribute the initial versions to fellow members for collaborative discussion and revision. He often provided supplementary materials to enrich the deliberations or highlighted pending issues that required the Commission's attention. Practical challenges stemming from the prevailing civil legislation were occasionally addressed, as exemplified when the Commission tackled the registration of adopted children.²⁰

The Commission occasionally delegated other constituted bodies to draft norms on subjects within their purview, which were then forwarded to the Commission for examination.²¹ For instance, in February 1984, Mgr Joseph Lupi, the President of the National Liturgical Commission, was tasked with preparing norms concerning various aspects, including qualifications of aspirants for the ministries of the lectorate and the acolytate, formation for the permanent diaconate, adaptation of the Ordo of Initiation of Adults, location for administering Confession, administration procedures surrounding Baptism, materials used for fixed and mobile altars, participation of the laity in preaching during Mass, the liturgical directory, processions, and common celebrations of the Anointing of the Sick. Simultaneously, the Commission sought the collaboration of Mgr Lawrence Gatt, the Rector of the Seminary of Malta, and Rev. Arthur Vella, SJ., the Rector of the Seminary of Gozo, to draft the Ratio for the Formation to the Priesthood and new Seminary Regulations.²² In June 1984, Rev. Joseph Borg, the Chair of the Commission of the Means of Social Communication, was tasked with preparing norms related to the Church's presence in the media.²³ In April and May 1987, the Commission initiated correspondence with Rev. Ugo Cremona, OP, the Chair of the Ecumenical Commission, concerning norms on prayer and study meetings involving Catholics and Christians from other churches. Concurrently, Rev. Charles Caruana, SJ., the delegate for the Secretariat for Christian Education, along with Rev. George Deguara and Rev. John Attard, delegates of the Bishops of Malta and Gozo for Catechesis, were called upon to commence the formulation of a set of norms regarding Christian education in schools.²⁴

²⁰ See the Minutes of 26 June 1984, n.123.

²¹ See the Minutes of 1 December 1983, n.54.

²² See the Minutes of 11 February 1984, n.74.

²³ See the Minutes of 26 June 1984, n.121.

²⁴ See the Minutes of 11 April 1987, n.429, 16 May 1987, n.432, and 23 May 1987, n.434.

Extensive Consultation

The entities mentioned above were once again consulted after the Commission thoroughly reviewed and refined the drafts received from them. Throughout this process, the Commission also sought the counsel and support of other individuals and bodies. For instance, in February 1984, Depasquale informed the Commission that the draft norms concerning Marriage had been forwarded to the Council of the College of Parish Priests, to all the parish priests individually, and to the Acting Director of the Cana Movement.²⁵ A minor controversy arose in local newspapers two and a half years later regarding the involvement of the Cana Movement in drafting the particular law on Marriage. However, this matter was swiftly resolved.²⁶

Following the Commission's review and revision of the norms related to the academic formation of seminarians, the draft was once again circulated to the rectors of the two seminaries and to Mgr Vincent Borg, the Dean of the Faculty of Theology.²⁷ Likewise, the draft of norms concerning lay preachers underwent further circulation among Rev. George Deguara and Rev. John Attard, who served as respective delegates of the Bishops of Malta and Gozo for Catechesis, Mgr Aloysius Deguara and Rev. Tarcisio Camilleri, delegates of the Bishops for the Laity, and Rev. Valentino Borg and Rev. Frankie Sultana, delegates of the Bishops for the Liturgy.²⁸ In January 1988, Depasquale informed the Commission that the draft principles and guidelines for Christian education in schools were passed to Br Emmanuel Sciberras, FSC, the Delegate for the Secretariat of Education and Culture. He also reported that the draft norms about Extraordinary Ministers of Holy Communion had been reviewed during a meeting of the College of Consultors and discussed in a meeting of the Delegates of the Secretariats and the Officials of the Archdiocese of Malta.²⁹ In September of the same year, Depasquale informed the Commission that the same norms had been deliberated in the Presbyteral Council and the Pastoral Council of the Archdiocese.³⁰

The Commission members frequently engaged in direct discussions with various individuals. For instance, in January 1984, Mgr Innocent Borg, the Head of the Marriages Office of the Archdiocese of Malta, was invited to a meeting

²⁵ See the Minutes of 11 February 1984, n.74.

²⁶ See the Minutes of 13, 20, and 27 September 1986.

²⁷ See the Minutes of 11 October 1986, n.378.

²⁸ See the Minutes of 21 March 1987, n.422.

²⁹ See the Minutes of 23 January 1988, n.467.

³⁰ See the Minutes of 12 September 1988, n.480.

where the Commission continued its analysis of the pre-marriage inquiry form.³¹ In February 1986, Rev. Joseph Borg attended a meeting where guidelines for broadcasting the Holy Mass on television were under examination.³² In March 1984, Said Pullicino participated in a meeting of the College of Parish Priests to discuss the draft norms on marriage.³³ In February of the following year, Said Pullicino met with Mgr Philip Calleja, the Administrative Secretary of the Archdiocese of Malta, to deliberate on the role of parish priests in the administration of material wealth, mainly because of the guidelines of the *Documento di Base* and the pontifical bulls held by some collegiate churches.³⁴

The Acts of the Commission reflect that Depasquale had numerous personal meetings or phone calls related to drafting the particular law. Some examples include his communication with Archbishop Mercieca and Mgr Calleja regarding the reform of the benefices system,³⁵ discussions with Rev. Albert Micallef, OFM., and Mgr Lupi concerning the collection for the Holy Land,³⁶ interactions with the Rector of the Seminary of Malta regarding the role of the Pastoral Director,³⁷ conversations with Rev. Ugo Cremona, OP, regarding ecumenical matters,³⁸ and dialogues with Br Dominic Rosso, FSC, concerning Christian education and spiritual directors in schools.³⁹ Depasquale regularly appraised the Commission of the reactions of the Diocesan Representative Council and the Diocesan Financial Council regarding their work.⁴⁰ Frendo recounts that Depasquale used to consult him personally in matters about consecrated life, such as the representation of the religious in the Presbyteral Council or their participation in the means of social communication.⁴¹

³¹ See the Minutes of 14 January 1984, n.64.

³² See the Minutes of 6 February 1986, n.310.

³³ See the Minutes of 10 March 1984, n.81.

³⁴ See the Minutes of 2 March 1985, n.201.

³⁵ See the Minutes of 27 June 1985, n.245. On Mgr Calleja's role in the reform of the benefices system, see Charles Buttigieg, *Philip Calleja. Għex għall-Bniedem Maqluġh minn Għberuqtu* (Malta: Klabb Kotba Maltin, 2019), 254–256.

³⁶ See the Minutes of 7 December 1985, n.284, and 13 December 1985, n.288.

³⁷ See the Minutes of 15 November 1986, n.391.

³⁸ See the Minutes of 13 June 1987, n.440.

³⁹ See the Minutes of 28 November 1987, n.455.

⁴⁰ See the Minutes of 13 December 1985, n.291.

⁴¹ See George Frendo, "Mons. Depasquale u l-Ħajja Reliġjuza," in *Annetto Depasquale. Wirt Għażiż tal-Knisja f'Malta*, eds Anthony Gouder and Kevin Schembri (Malta: Klabb Kotba Maltin, 2021), 87–89.

On certain occasions, the Commission requested other individuals or bodies to seek specific advice or pertinent material on its behalf. For example, in November 1984, Mgr Joseph Lupi, acting at the Commission's request and in his capacity as Secretary of the MEC, corresponded with all the collegiate chapters of Malta and Gozo to request a copy of their statutes, along with information concerning the practical relations between the collegiate chapter and the parish priest. Furthermore, Lupi sent letters to the religious provincials, the Diocesan Representative Council, and the priests of the Archdiocese of Malta to seek their advice on the draft norms on the contributions to the needs of the Church.⁴² The Bishop of Gozo also discussed these norms with the parish priests of his diocese.⁴³ Similarly, the Diocesan Representative Council forwarded the draft norms regarding the Parish Economic Council to the College of Parish Priests for their feedback.⁴⁴

Throughout their work, the Commission members were curious about how foreign bishops were legislating for their territories. They frequently examined pertinent points from the particular laws that the Italian Episcopal Conference was presenting to the Holy See.⁴⁵ In December 1983, on the initiative of Borg, the Commission reviewed the norms of the Irish Bishops concerning the obligation of penance on Fridays.⁴⁶ In November 1984, the Commission examined the decisions of the episcopal conferences of Brazil and Bolivia concerning the participation of the clergy in social communication.⁴⁷ In another instance, the Commission tasked Mgr Lupi with writing to the German Episcopal Conference to request a copy of their prepared particular legislation. In the same meeting, the members also took note of the responses provided by the Pontifical Commission for the Authentic Interpretation of the Code on certain crucial points.⁴⁸

Sometimes, the members sought informal advice, such as when Attard and Borg approached the members of their respective religious communities to discuss the celebration of Mass on the days of obligation.⁴⁹

⁴² See the Minutes of 21 December 1985, n.293, and 15 March 1986, n.326.

⁴³ See the Minutes of 12 December 1987, n.458.

⁴⁴ See the Minutes of 23 February 1985, n.198.

⁴⁵ See the Minutes of 5 May 1984, n.106, 10 November 1984, n.161, 20 December 1984, n.176, 11 May 1985, n.226, 17 May 1986, n.346, 13 September 1986, n.367, and 30 January 1988, n.470.

⁴⁶ See the Minutes of 10 December 1983, n.58.

⁴⁷ See the Minutes of 24 November 1984, n.169.

⁴⁸ See the Minutes of 13 October 1984, nn.153–155.

⁴⁹ See the Minutes of 3 November 1983, n.38.

Approval and Recognition

When the Commission members deemed certain draft norms ready for presentation, they would submit them to the MEC. Following this step, individuals providing new comments or suggestions on those norms were encouraged to forward their proposals to the Bishops directly.⁵⁰

The MEC conducted a comprehensive review of all drafts prepared by the Commission during a series of meetings held between November 1984 and September 1988. These meetings were usually convened at the Archbishop's Palace in Mdina and Dar Santa Marija in Mellicha, Malta, and at the Bishop's Conservatory in Rabat, Gozo.⁵¹ At these meetings, the Bishops were always joined by Mgr Lupi, serving as the Secretary of the MEC, and Depasquale and Said Pullicino, fulfilling their roles as Chair and Secretary of the Commission. In the event of an emergency arising in an MEC meeting and insufficient time to convene the Commission, Depasquale and Said Pullicino acted on behalf of the Commission, with the members subsequently being informed. As Administrative Secretary of the Archdiocese of Malta, Mgr Calleja attended the meeting of 13 August 1985, when the MEC deliberated on the draft norms concerning acts of administration and the reform of the benefices system.⁵²

The MEC approved most prepared norms in four distinct sets, often with minor adjustments. As will be shown below, some drafts produced by the Commission were set aside for future use or for a decision to be made by the diocesan bishop. Each set of norms approved by the MEC was translated into Italian and was then forwarded to the Apostolic Nuncio, who would submit the norms to the Congregation for Bishops for their recognition. The Congregation was competent to give the 'recognitio' to the norms after consulting with the relevant dicastery of the Roman Curia and the Pontifical Council for Legislative Texts.⁵³ The members of the Commission were actively involved in this process and often drafted the cover letters to be sent to the Congregation.⁵⁴ The Congregation would sometimes reply to the MEC and propose certain

⁵⁰ See the Minutes of 23 May 1987, n.434.

⁵¹ The Minutes indicate that meetings of the MEC took place on 12 and 27-28 November 1984, 17 December 1984, 28 June 1985, 13 August 1985, 29-30 September 1985, 11 November 1985, 27-28 May 1986, 17 November 1987, and 13 September 1988.

⁵² See the Minutes of 31 August 1985, n.248.

⁵³ See Pope Paul VI, Apostolic Constitution *Regimini Ecclesiae Universae*, 15 August 1967, *AAS* 59 (1967): 885-928, art. 50, and Pope John Paul II, Apostolic Constitution *Pastor Bonus*, 28 June 1988, *AAS* 80 (1988): 841-934, art. 82.

⁵⁴ See the Minutes of 20 December 1984, n.176.

amendments or suggestions on the norms sent. For its part, the MEC provided its reactions after consulting with the Commission. Once the laws received recognition, the MEC would promulgate them. The Acts reveal that Depasquale appeared responsible for drafting the promulgation decree.

Promulgation of the First Set of Laws

The first set of particular laws comprised 13 decisions and 65 norms on various matters related to specific canons of the new Code of Canon Law, as elucidated below alongside each point. These laws, after receiving the recognition of the Holy See on 28 October 1985, were promulgated on 1 December 1985 in the first volume of the Acts of the Maltese Episcopal Conference.⁵⁵ All laws, except for the norms about the Presbyteral Council, took effect a month later, on 1 January 1986. The norms about the Presbyteral Council were to take effect later and separately in each diocese after the conclusion of the ongoing session of the Council. In fact, on 17 January 1986, Archbishop Mercieca renewed the statute of the Presbyteral Council of the Archdiocese in Malta – which had been set up in 1967 by his predecessor, Archbishop Michael Gonzi – and decreed that the new statute would come into force immediately after the closure of the current session in June of that year.⁵⁶

The 13 decisions were divided in two: one particular decision on general absolution (can. 961 §2) that featured at the end of the set of norms on the place where the Sacrament of Confession can be celebrated (see below), and a set of 12 other decisions about the following matters: the promulgation and the taking effect of particular legislation of the MEC (can. 455 §3), post-retirement remuneration for parish priests (can. 538 §3), the promise of marriage or engagement (can. 1062 §1), the duties of the College of Consultors (can. 502 §3), regulations for parish registers (can. 535 §1), the age requirements for Confirmation (can. 891), the age requirements for the permanent diaconate and the priesthood (can. 1031 §2), the establishment of a specific rite for Marriage (can. 1120), the determination of holy days of obligation (can. 1246 §2), lay

⁵⁵ See Ġużepi Mercieca, “Digriet,” 20 November 1985, in *Konferenza Episkopali Maltija, Atti tal-Konferenza Episkopali Maltija*, vol.I (Malta, 1985), 3. The particular law for Malta and Gozo, beside being published in volumes I-IV of the Acts of the MEC, also appear in Martin de Agar, ed., *Legislazione delle Conferenze Episcopali*, 403–454.

⁵⁶ See Ġużepi Mercieca, “Digriet tal-Arċisqof u Statut tal-Kunsill Presbiterali,” 17 January 1986, *Bullettin tal-Arċidjoċesi u Liturgija tal-Kelma* 49 (1986): 298–302.

judges in the ecclesiastical tribunals (can. 1421 §2), procedures in legal acts (can. 1714), and appeals against administrative decrees (can. 1733 §2).

The 65 norms also addressed a range of subjects: 12 were associated with the ministries of the lector and the acolyte (can. 230 §1), 17 dealt with the registration of Baptism for adopted individuals (can. 877 §3), two, as an appendix, concerned the registration of the Confirmation of adopted individuals (can. 895), six applied to the Presbyteral Council (can. 496), 18 functioned as a Statute for the College of Consultors (can. 502), five focused on the place where the Sacrament of Confession can be celebrated (can. 964 §2), four concerned the attire of clerics (can. 284) and one concerned fasting and abstinence (cann. 1251 and 1253). It is worth noting that in February 1986, the Commission recognised that certain priests desired greater clarity on the norm on fasting and abstinence. Consequently, the Commission proposed a reformulation of the norm to the Bishops, who concurred with the suggestion and resubmitted it to the Holy See to replace the existing regulation.⁵⁷ The new norm on fasting and abstinence was enacted in the fourth set of particular laws, as elaborated below.

The Second Set: On Marriage

The second set of particular laws pertained to Marriage. It served two objectives: to regulate the preparation and celebration of marriages in Malta and Gozo and to establish rules for marriages between a Catholic party and a non-Catholic party. This set comprised a total of 56 norms and seven forms as appendices to the same norms, addressing the betrothal (can. 1062 §1), the preliminary meeting of those to be married with their respective priest, their examination, and the marriage banns (can. 1067), the minimum age for the lawful celebration of Marriage (can. 1083 §2), and mixed marriages (cann. 1126 and 1127 §2). The second set of laws received the recognition of the Holy See on 28 October 1985 and 19 April 1986, and was promulgated on 1 July 1986 in the second volume of the Acts of the Maltese Episcopal Conference. These laws took effect two months later, on 1 September 1986.⁵⁸

⁵⁷ See the Minutes of 22 February 1986, n.317.

⁵⁸ See Ġużeppe Mercieca, "Digriet," 13 June 1986, in *Konferenza Episkopali Maltija, Atti tal-Konferenza Episkopali Maltija*, vol. II (Malta, 1986), 3.

The Third and Fourth Sets of Laws

Like the first, the third set of particular legislation encompassed various topics. These laws received recognition from the Holy See on 21 February 1987, and were promulgated on 1 January 1988 in the third volume of the Acts of the Maltese Episcopal Conference. They took effect a month later, on 1 February 1988.⁵⁹

Some of the norms in this set were pastoral, while others were administrative: eight on the use of means of social communication and the participation of clerics and religious in radio and television programmes (cann. 772 §2 and 831 §2), five on acts of administration (cann. 1277, 1292 §1, and 1297), seven on the reform of the benefices system (can. 1272), six on the catechumenate and baptism of adults and nine, as an appendix, on the preparation of baptised individuals to enter into full communion with the Catholic Church (cann. 788 §3 and 851), four on the administration of Baptism (can. 854), seven on the postponement of infant Baptism (can. 868 §1, 2), and one on the appointment of parish priests (can. 522). The third volume of the Acts of the Maltese Episcopal Conference also featured six directives issued by the National Liturgical Commission as a follow-up to the norms promulgated by the MEC on the administration of Baptism, specifically baptism by immersion.

The fourth set of particular laws received recognition from the Holy See on 21 March 1988 and was promulgated in the fourth volume of the Acts of the Maltese Episcopal Conference.⁶⁰ It included eighteen norms regarding the permanent diaconate (cann. 236, 276 §2, and 281), one on the interstice between the institution of the lectorate and the acolytate (can. 1035 §1), four on preaching by the laity (can. 766) and nine on how the faithful are to give their support to the Church (cann. 1262 and 1265 §2). Another two norms on fasting and abstinence (cann. 1251 and 1253) replaced the original norm on fasting and abstinence from the first set.

Drafts that Were Used Later

As previously mentioned, certain norms drafted by the Commission were not encompassed within the four sets of particular law. For example, the norms developed for the Charter of Priestly Formation in terms of the requirement of

⁵⁹ See Ġużeppi Mercieca, "Digriet," 28 November 1987, in *Konferenza Episkopali Maltija, Atti tal-Konferenza Episkopali Maltija*, vol. III (Malta, 1988), 3.

⁶⁰ See Ġużeppi Mercieca, "Digriet," 27 September 1988, in *Konferenza Episkopali Maltija, Atti tal-Konferenza Episkopali Maltija*, vol. IV (Malta, 1988), 3.

canon 242 of the new Code were subsequently incorporated into the 'Major Seminary Guidelines and Regulations' issued in August 1990 for the Archbishop's Seminary in Malta. The Commission diligently deliberated on these norms over approximately forty meetings from December 1985 to May 1987.

The norms concerning the Extraordinary Ministers of Holy Communion were likewise not promulgated by the MEC but were left to the discretion of each diocesan bishop. Archbishop Mercieca promulgated these norms for the Archdiocese of Malta on 26 October 1988 after conducting additional consultations with the Presbyteral Council and the Pastoral Council and engaging in discussions with parish priests, priests, and parish councils.⁶¹

Conversely, in October 1987, the members of the Commission noted that official discussions had commenced between the Government of Malta and the Church in Malta regarding Christian education in primary and secondary schools. As a result, they chose to suspend their ongoing work in drafting a set of specific norms in terms of canon 804 §1 and instead prepared and presented a set of general principles and guidelines for the consideration of the MEC. These guidelines would later serve as a valuable reference for the Bishops in formulating norms adapted to the specific circumstances.⁶²

Absence of Lay Persons and Women Religious

Notwithstanding this extensive work, one noticeable limitation of the Commission's operations was the lack of involvement of lay persons and women in religious orders. The Commission itself did not include any lay person or women belonging to religious orders. Besides, it appears that lay persons and female religious persons participated in consultations only when certain norms, such as those related to Extraordinary Ministers of Holy Communion, were discussed within the Diocesan Pastoral Council.

On one hand, the absence of lay persons and female religious persons is not entirely surprising. Indeed, at the time, members of the clergy and male religious still led the diocesan secretariats. Additionally, the norms discussed within the Commission pertained to matters still considered primarily within the purview

⁶¹ See Ġużeppi Mercieca, "Digriet tal-Arcisqof u Normi dwar il-Ministri Straordinarji tat-Tqarbin," 26 October 1988, *Bullettin tal-Arcidjoċesi u Liturġija tal-Kelma* 60 (1988): 96–98.

⁶² See the Minutes of 17 October 1987, n.448. Subsequently, discussions between the Government of Malta and the Church in Malta concerning Christian education in State schools culminated in the signing of an Agreement between the Republic of Malta and the Holy See on 16 November 1989. An Additional Protocol to the Agreement was signed on 18 February 2003. For further details, see *AAS* 90 (1998): 30–41.

of the clergy at that time. To give an example, the first set of particular laws contained a decision regarding canon 1421 §2 of the new Code. The decision stated that the MEC did not currently accept the nomination of lay people as judges in the ecclesiastical tribunals due to the lack of individuals with the necessary qualifications.⁶³ This policy remained unchanged for two decades until 2005, when two women were appointed as the first lay judges in the First Instance of the Metropolitan Tribunal.⁶⁴ However, it is worth noting that the Pastoral Plan of the Archdiocese, drafted between 1980 and 1985, nearly concurrently with the work of the Commission, had highlighted the need for four new judges in the First Instance of the Metropolitan Tribunal.⁶⁵ Moreover, the Universal Church had granted the faculty to lay people to serve as ecclesiastical judges as early as 1971.⁶⁶ It is no wonder that while addressing a meeting for the clergy in 1989, Jesuit priest Arthur Vella observed that the model of the Church in Malta was mainly clerical, focusing on the authority of the bishop and priests, to whom lay people were supposed to remain obedient. Vella added that the Maltese laity were kept passive, although lay persons were allowed to help priests or in religious associations.⁶⁷ Similarly, two years later, diocesan priest René Camilleri emphasised that the laity were not valorised by the local Church and that the clergy must learn to look at the Church through the lens of the laity.⁶⁸

On the other hand, the absence of lay persons and female religious persons does indeed come as a surprise. Firstly, the Commission commenced its work almost two decades following the conclusion of the Second Vatican Council, which brought to light the evolving role and mission of the laity in the Catholic Church.⁶⁹ Moreover, although the leadership of the Church in Malta and Gozo

⁶³ See Konferenza Episkopali Maltija, *Atti tal-Konferenza Episkopali Maltija*, vol. I (Malta, 1985), 5.

⁶⁴ See Supreme Tribunal of the Apostolic Signature, *Decree: Prot. 4865/05 SAT*, 18 March 2005, unpublished. See also Charles Buttigieg, *Ilkoll Ahwa fi Kristu: Ġużepi Mercieca. Memorji* (Malta: Klabb Kotba Maltin, 2014), 231.

⁶⁵ See Arcidjoċesi ta' Malta, *Pjan Pastoral 1986-1991* (Malta, 1985), 103.

⁶⁶ See Pope Paul VI, Apostolic Letter *Causas Matrimoniales*, 28 March 1971, *AAS* 63 (1971): 441–46, V.

⁶⁷ See Arthur Vella, “Il-Knisja f’Malta dawn l-Ahhar Erbghin Sena,” in Segretarjat għall-Kleru, *Lejn Preżenza Ġdida tal-Knisja fis-Socjetà Maltija. Atti tal-Kors tal-Aġġornament tal-Kleru* (Malta: Edizzjoni Istitut Kattoliku, 1989), 10.

⁶⁸ See René Camilleri, “Il-Knisja: Bejn l-Ideal u r-Realità,” in Kummissjoni Ġustizzja u Paċi, *Malta llum ... u Forsi Ghada: Analizi tar-Realta' Soċjali Maltija* (Malta: 1991), 111.

⁶⁹ See Second Vatican Council, Dogmatic Constitution *Lumen Gentium*, 21 November 1964, *AAS* 57 (1965): 5–67; Decree *Apostolicam Actuositatem*, 18 November 1965, *AAS* 58 (1966): 837–64. See also Paul VI, Apostolic Exhortation *Evangelii Nuntiandi*, 8 December 1975, *AAS*

primarily consisted of clergy and members of consecrated life, lay people and lay associations had been actively involved in the Church for decades. Various lay individuals participated in different ecclesial councils, such as the Diocesan Pastoral Council, the Diocesan Council for the Apostolate of the Laity and the various parish councils, established in Malta in 1966, 1969 and 1974, respectively. Additionally, several laypersons served on the working committee, research board, and feedback commission for the new Pastoral Plan for the Archdiocese of Malta for 1986-1991.⁷⁰ This plan resulted in the establishment of the Secretariat for the Laity on 3 December 1986 and the Forum of the Catholic Associations and Movements of the Laity on 19 February 1988, replacing the Office for the Laity and the Diocesan Council for the Apostolate of the Laity, respectively.⁷¹ In 1990, less than two years after the Commission concluded its work, ten lay men and women addressed the annual diocesan in-service course for priests, which was dedicated solely to the theme of the laity.⁷²

Perhaps the most surprising aspect of this matter is that members of the Commission had close connections with the laity and women religious. Frendo, Borg and Attard were religious themselves.⁷³ Additionally, Depasquale, upon completing his studies in Rome, became a leading promoter of the laity within the Archdiocese of Malta, mainly through his collaboration with Rev. Benny Tonna in the Pastoral Research Services. In fact, upon his return to Malta, he assumed the roles of Secretary of the Pastoral Council and Representative of the Archbishop in the Diocesan Council for the Apostolate of the Laity. Depasquale's desire for the Church to give greater importance to the dignity and mission of the laity is evident in a scholarly article he wrote in 1973, where he expressed concern that the 1917 Codex did not adequately recognise this reality. He also

69 (1976): 5–76, n.73. In 1967, on the recommendation of n. 29 of *Apostolicam Actuositatem*, Pope Paul VI instituted the Council of the Laity (see Paul VI, Motu Proprio *Catholicam Christi Ecclesiam*, 6 January 1967, *AAS* 59 (1967): 25–8), which, after 10 years, became the Pontifical Council for the Laity (see Paul VI, Motu Proprio, *Apostolatus Peragendi*, 10 December 1976, *AAS* 68 (1976): 696–700).

⁷⁰ See Arcidjoċesi ta' Malta, *Pjan Pastorali 1986-1991*, 9, 14.

⁷¹ See Ġużepi Mercieca, "Digriet dwar it-Twaqqif tal-Forum tal-Għaqdiet u l-Movimenti tal-Lajċi," 19 February 1988, *Bullettin tal-Arcidjoċesi u Liturġija tal-Kelma* 58 (1988): 383. The original statutes of the Secretariat and the Forum are found in the same volume, on pages 386–9 and 384–6, respectively.

⁷² See Segretarjat għall-Kleru, *Il-Lajċi fil-Knisja u s-Socjetà Maltija tal-Lum*.

⁷³ See for instance, George Frendo, "Ir-Reliġjużi Quddiem l-Isfidi f'Malta tal-Lum," in Konferenza tas-Superjuri Maġġuri Reliġjużi u Ċentru Istituti Reliġjużi, *L-Isfidi tal-Ħajja Reliġjuża* (Malta: KSMR & CIR, 1993), 5–22. See also, George Frendo, "Sintesi tal-Eżortazzjoni Appostolika 'Christifideles Laici,'" *Knisja2000* 8 (July-August 1989): 15–25.

emphasised this theme in other writings and interviews, along with a speech on the Graduation Day of the Faculty of Theology in December 1983, where he highlighted various aspects of the new Code concerning the laity.⁷⁴

Conclusion

In conclusion, despite this limitation, when considering the comprehensive scope of the Commission's operations, one cannot help but marvel at the remarkable and extensive work undertaken between 1983 and 1988. The members of the Commission diligently prepared norms to address all cases where, under the new Code of Canon Law, episcopal conferences were required to issue particular complementary norms. Moreover, the Commission addressed almost all instances where the episcopal conferences could issue particular norms though they were not bound to do so. Through this effort, the members of the Particular Legislation Commission of the Maltese Episcopal Conference demonstrated unwavering dedication and commitment to its task, exemplifying the ethos of service to the Church in Malta and Gozo.

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⁷⁴ See, for instance, Annetto Depasquale, "Towards a 'New Deal' for the Laity in the Church's Legislation," *Melita Theologica* 25, nos.1-2 (1973): 1-12; "What's New in the New Code of Canon law?" *Bulletin tal-Arcidjoċesi u Liturġija tal-Kelma* 40 (1984): 238-44; "The Learning Church," in Theology Students' Association, *The Dove Homing in the Owl's Nest* (Malta, 1989), 139-145. These articles appear also in Gouder and Schembri, *Annetto Depasquale*, 241-252, 253-262, 263-268.