



## **INCULTURATION AND EVANGELIZATION IN THE CATHOLIC CANON LAW**

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**ZUSAMMENFASSUNG:** Zu den Bereichen, in denen das römisch-katholische Kirchenrecht mit dem Recht anderer Konfessionen in Berührung kommt, gehören Evangelisierung und Inkulturation. Das Kirchenrecht verlangt ausdrücklich, bei der Verkündigung des Evangeliums die Vielfalt der Kulturen zu berücksichtigen. Wenn das Kirchenrecht ferner verbietet, jemanden zur Annahme des Glaubens zu zwingen, stimmt es mit internationalen Garantien der Religionsfreiheit überein. Da sich alle christlichen Gemeinschaften um die Verbreitung des Glaubens bemühen, ist es sinnvoll, wenn sie gemeinsame Richtlinien entwickeln, welche die gute Praxis von ungebührlichem Proselytismus unterscheiden. Derartige Verhaltenskodizes gibt es bereits und sie könnten eine Vorform für ein interkonfessionelles Kirchenrecht darstellen.

**SCHLAGWÖRTER:** Römisch-katholisches Kirchenrecht, Inkulturation, Evangelisierung, Recht und Kultur, Religionsfreiheit, interkonfessionelle Dokumente.

**RESUMEN:** Se ocupa el autor de la relación entre el derecho y la cultura desde diferentes ángulos, contemplándolos en la perspectiva del Derecho canónico de la Iglesia católica, teniendo en cuenta que ésta no es bloque exclusivista y monolítico, que además cuenta con un Código de Derecho Canónico, vigente, de 1983, y paralelamente para las Iglesias orientales con un Código de los Cánones de las Iglesias orientales que fue promulgado por Juan Pablo II el 18 de octubre de 1990, comenzando a estar vigente a partir del primero de octubre de 1991, texto que afecta a un total de veintiuna Iglesias orientales católicas que están unidas a la sede petrina de Roma. Algo que se observa es que tanto en el Código de 1983, como en el Código de 1990, el número de cánones son mucho más reducidos que en el anterior Código de 1917. Además, la reducción de cánones referidos al Derecho penal experimentada en el texto del Código de Derecho Canónico de 1983 trajo consigo una ulterior reintroducción de normas que penalizaban las conductas perversas de algunos clérigos con ocasión de los casos de pederastia descubiertos y puestos de relieve. Se ha de hacer la observación que la pederastia llevada a cabo por clérigos no llega ni al 3% de la que en EE.UU. llevan a cabo los profesores de Gimnasia.

**PALABRAS CLAVE:** Derecho canónico de la Iglesia Romana, Inculturación, Evangelización, Contracultura laica, Derecho y Cultura, Libertad religiosa,

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Documentos interconfesionales, Derecho canónico de la Iglesias orientales,  
Derecho procesal canónico.

### 1. Introduction

The relationship between law and culture can be seen from many different angles. In this article, it will be viewed from the perspective of the Catholic Canon Law.

In accordance with the doctrine of the Roman Catholic Church, this church is not restricted to a specific culture. On the contrary, it is open to all cultures and is able to transcend boundaries. This in turn affects its legal system. It has to implement the principle of subsidiarity<sup>1</sup> in order for local specificities to be taken into consideration. The Catholic Church is not a monolithic block. Rather it consists of several autonomous churches. The biggest amongst them is the Western Church, also designated as the "Latin Church". In addition, there are a further 22 Eastern Catholic Churches, that follow their own rites and traditions and are connected to specific cultures. Accordingly, there is a code for the Latin Church, the "Code of Canon Law"<sup>2</sup> and a code for the Eastern Churches, the "Code of Canons of the Eastern Churches"<sup>3</sup>. Both codes of Canon Law only provide a framework, which for instance, is then fleshed out by the legislation passed by the bishops for each one of the particular churches<sup>4</sup>. Thus, the cultural diversity within the Catholic Church is reflected in the highly differentiated legal system. Furthermore, some regulations exist, such as those applying to ethnic and linguistic minorities, that provide for their own individual pastoral structure<sup>5</sup>.

An important area, for which the codes of Canon Law of the Catholic Church give clear explicit instructions, concerns the respect of cultural diversity regarding the proclamation of the Gospel, which is also called "Evangelisation". It is above all the mission to preach the Gospel to all nations that brings the church in contact with different cultures. Therefore, only this area is being examined in this article. Missionary work was often misunderstood as destroying foreign cultures and imposing one's own. Yet, the Catholic Church has learnt its lesson from past mistakes and the Second Vatican Council has highlighted that the propagation of faith should not result in a destruction of cultures, rather it should raise up and perfect all that is good within the cultures of the people. This process is called Inculturation<sup>6</sup>. Pope Francis explains it as follows: "The ultimate aim should be that the Gospel, as preached in categories

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<sup>1</sup> No. 5 of the guidelines for the revision of the code of canon law (in: *Communicationes* 1 [1969], p. 78) and No. 6 of the guidelines for the revision of eastern canon law (in: *Nuntia* 1 [1973], pp. 20-33).

<sup>2</sup> Codex iuris canonici (CIC), 25<sup>th</sup> Jan. 1983, in: AAS 75 II (1983), pp. 1-317.

<sup>3</sup> Codex canonum ecclesiarum orientalium (CCEO), 1<sup>st</sup> Oct. 1990, in: AAS 83 (1990), pp. 1045-1364.

<sup>4</sup> Cf. Helmuth Pree, "Il ruolo dell'interpretazione dello ius commune nell'identificare lo spazio a disposizione delle legislazioni particolari: un CCEO rigido o flessibile?" in: *Eastern canon law*, 2 (2013), pp. 177-200.

<sup>5</sup> Cf. c. 518 CIC and c. 280 § 1 CCEO.

<sup>6</sup> Dogmatic Constitution on the Church: Lumen Gentium (21<sup>st</sup> Nov. 1964), in: AAS 57 (1965), pp. 5-75, Art. 17.

proper to each culture, will create a new synthesis with that particular culture”<sup>7</sup>. So, how is the relationship between Evangelisation and Inculturation regulated in the Catholic Canon Law?

## 2. Inculturation

The present-day codes of Canon Law do not use the term Inculturation. A proposed draft of the CCEO contained the term, but it was finally paraphrased in order to avoid any neologism, that could potentially become a source of misunderstanding in a legal text<sup>8</sup>. However, Inculturation is present in both codes of Canon Law. C. 787 §1 CIC emphasises that those not believing in Christ should be enabled to understand the message of the Gospel, in a way that is appropriate to their own temperament and culture<sup>9</sup>. A compact programme of inculturation is to be found in c. 584 § 2 CCEO<sup>10</sup>: “The evangelization of the nations should be so done that, preserving the integrity of faith and morals, the Gospel can be expressed in the culture of individual peoples; namely, in catechetics, their own liturgical rites, in sacred art, in particular law, and, in short, the whole ecclesial life”.

The c. 592 § 1 CCEO states: “In missionary territories particular care has to be taken to promote forms of apostolate for the lay persons; to promote institutes of consecrated life through methods suited to their characteristics and culture”. Furthermore, the notion of Inculturation is expressed in c. 601 of the CCEO<sup>11</sup>. That the CCEO puts a stronger emphasis on the aspect of Inculturation than the CIC does, is due to the fact that amongst the Eastern Catholic churches a wide cultural diversity is already present<sup>12</sup>. A special norm of the church, namely the General Directory for Catechesis, clearly uses the term “Inculturation” and specifies each of the tasks associated with inculturation<sup>13</sup>.

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<sup>7</sup> Pope Francis: Adhortatio apostolica: *Evangelii gaudium* (24<sup>th</sup> Nov. 2013), in: AAS 105 (2013), pp. 1119-1137, No. 129.

<sup>8</sup> *Nuntia* 11 (1980), p. 56. Cf. George Nedungatt: *Evangelization of Peoples* (cc. 584-594), in: idem (ed.), *A guide to the Eastern Code. A commentary on the code of canons of the Eastern Churches* (Kanonika 10), Roma 2002, pp. 403-430, at p. 409.

<sup>9</sup> Some canonists put this canon in connection with inculturation. Cf. Luigi Sabbarese: *Cultura, lingua e rito: aspetti canonici*, in: *Euntes Docete* 56 (2003), pp. 91-116, at p. 93; Dimitri Salachas: *L’azione missionaria nella legislazione della Chiesa*, in: *Euntes Docete*, 54 (2001), pp. 7-71, at p. 28; Crescenzo Sepe: *Il diritto missionario della Chiesa: evangelizzazione e dialogo interreligioso*, in: Fumagalli Carulli, Ombretta, *Il governo universale della Chiesa e i diritti della persona*, Milano 2003, pp. 335-347, at p. 342.

<sup>10</sup> Cf. Sunny Kokkaravalayil: *The Eastern Catholic Churches in Evangelisation: Commentary on CCEO c. 585*, in: *Ius missionale*, 5 (2011), pp. 29-59, at p. 55; Dimitros Salachas: *Dialogo: interreligioso e inculturazione del vangelo nell’azione missionaria della Chiesa*, in: *Euntes Docete*, 56 (2003), pp. 47-64, at p. 55.

<sup>11</sup> “Each Church has the task, which is to be accomplished in the first place by the patriarchs and the bishops in a manner adapted to each age and culture, of answering the perennial questions concerning the meaning of life and having examined the signs of the times in the light of the gospel [...]”.

<sup>12</sup> Cf. Sabbarese, *Cultura* (endnote 13), p. 92.

<sup>13</sup> Congregation for the Clergy: *General Directory for Catechesis* (15<sup>th</sup> Aug. 1997), Libreria editrice Vaticana, Città del Vaticano 1997, No. 203: “– to know in depth the culture of persons and the extent of its penetration into their lives;  
– to recognize a cultural dimension in the Gospel itself, while affirming, on the one hand, that this does not spring from some human cultural humus, and recognizing, on the other, that the

The inculturation process has legal implications<sup>14</sup>. Thus, it has found its place in the Church codes for a good reason. The starting point is the right to live according to one's own cultural identity. The Congregation for the Doctrine of the Faith has stressed that every human being has a right to culture which is only assured if cultural freedom is respected<sup>15</sup>. The Bishops' Synod of 1971 arrived at the main conclusion that no people should be prevented from growing according to their own cultural specificity<sup>16</sup>. The joint declaration given on the occasion of the peace prayer of Assisi on 24<sup>th</sup> January 2002 deserves special attention. It was specifically at the invitation of Pope John Paul II that representatives of several world religions made the declaration together and therefore, it represents a certain consensus between them. According to this declaration, everyone has the right to live a decent life in accordance with their own cultural identity<sup>17</sup>. Each individual (non-Christian) culture represents an entity that deserves legal protection, and is to be respected by those proclaiming the gospel. Furthermore, c. 584 § 2 of the CCEO clearly stipulates that the Canon law itself is also an expression of Inculturation. This is the case, when the particular law takes into account local and regional customs<sup>18</sup>.

### 3. Freedom in the adoption of faith

While the above mentioned legal norms deal directly with inculturation, there are nevertheless other norms, that indirectly take into consideration the cultural background of those who adopt the faith. Those are the norms that protect the freedom of those adopting faith. In accordance with both c. 748 § 2 CIC, and c. 586 CCEO, it is forbidden to use force against anybody when proclaiming the gospel. However, both regulations diverge on some points. According to the regulation of the CIC, nobody has the right to force a person to adopt the Catholic faith against their will<sup>19</sup>. The meaning of this right is emphasised both

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Gospel cannot be isolated from the cultures in which it was initially inserted and in which it has found expression through the centuries;

– to proclaim the profound change, the conversion, which the Gospel, as a 'transforming and regenerating' force works in culture;

– to witness to the transcendence and the non-exhaustion of the Gospel with regard to culture, while at the same time discerning those seeds of the Gospel which may be present in culture;

– to promote a new expression of the Gospel in accordance with evangelized culture, looking to a language of the faith which is the common patrimony of the faithful and thus a fundamental element of communion;

– to maintain integrally the content of the faith and ensure that the doctrinal formulations of tradition are explained and illustrated, while taking into account the cultural and historical circumstances of those being instructed, and to avoid defacing or falsifying the contents."

<sup>14</sup> Cf. Andrea D'Auria: Il diritto canonico come strumento di dialogo e di evangelizzazione, in: *Ius missionale*, 5 (2011), pp. 103-155, at pp.138-139.

<sup>15</sup> Congregation for the Doctrine of the Faith: Instruction on Christian freedom and liberation: *Libertatis conscientia* (22<sup>nd</sup> March 1986), in: AAS 79 (1987), pp. 554-599, Art. 92-93.

<sup>16</sup> Synod of Bishops, II. Ordinary General Assembly: *De iustitia in mundo* (30<sup>th</sup> Nov. 1971), in: AAS 63 (1971), pp. 923-942, Art. 64 No. 8 lit. a.

<sup>17</sup> Representatives of the World Religions, Joint declaration: Decalogue of Assisi for Peace (24<sup>th</sup> Jan. 2002), in: *L'Osservatore Romano. Weekly Edition in English*, 10 (2002) 12, No. 4.

<sup>18</sup> Cf. Natale Loda, Il can. 584 del CCEO quale *ianua evangelizationis*, in: *Ius missionale*, 4 (2010), pp. 25-59, at p. 52.

<sup>19</sup> Hasenhütl sees in this not only a rejection of any use of force, but also a positive emphasis that adopting the Catholic faith is only possible through free will. Cf. Franz Hasenhütl: *Zwischen Wahrheitsanspruch und Toleranz. Zur Frage der Religionsfreiheit im katholischen Kirchenrecht*,

by the terms used and the positioning of the norm. The expression "*nemini umquam fas est*" is very strong indeed<sup>20</sup>, because "*fas*" is seldom used in the church's legal language as opposed to the ordinary "*ius*" and is further underlined by the negation of "*nemini umquam*". Also, the norm is no longer to be understood in the context of mission law, contrary to CIC/1917, but has its base in the introductory canons found at the beginning of the third book of the code. Hence, its fundamental importance for the whole teaching function of the Church is herewith highlighted<sup>21</sup>.

However, the regulations of the CCEO are much more detailed. Accordingly, it is strictly forbidden to force any one to join the Church or to be influenced or enticed through improper means. Even here, the wording is strong, especially in the phrase "*severe prohibetur*"<sup>22</sup>. Now, however, the norm has been re-added in the mission law. This does not represent any restriction in its scope of application, but it does somehow diminish its apparent importance. It is striking, that in the CIC, it is the freedom of accepting the Catholic faith that is being protected, whereas for the CCEO, it is the joining of the Church<sup>23</sup>. Since both procedures are related and the freedom of one would be a farce without that of the other, we may deduce that the meaning and purpose of both regulations is the protection of the whole process of becoming a Christian.

Regarding the content, the regulations of the CCEO is more complete than that of the CIC, for it not only forbids the use of force, but also the influencing or enticing through improper means. However, this does not mean that such ways are allowed under the Latin legal system. C. 586 of the CCEO herewith adopts the content of a document from the Second Vatican Council<sup>24</sup>, that is also relevant for the Latin Church. Since the regulation of the CCEO is to be taken into account as a parallel passage according to c. 19 CIC in order to understand the c. 748 § 2 CIC, it can be concluded that in this canon "*coactio*" not only addresses the use of absolute physical force, but also in a much broader sense, the influencing or enticing with improper means.

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in: Johan Hirnsperger / Christian Wessely (eds.), *Wege zum Heil? Religiöse Bekenntnisgemeinschaften in Österreich: Elia Christengemeinde (ECG) und Islamische Alevitische Glaubensgemeinschaft in Österreich (IAGÖ). Mit Beiträgen anderer Religionsgemeinschaften*, Innsbruck 2014, pp. 181-196, at p. 190.

<sup>20</sup> This strong wording can be found for the very first time in c. 748 § 2 schema/1982 instead of the rather neutral "*a nemini unquam ... adduci possunt*" in c. 707 § 2 schema/1980.

<sup>21</sup> Cf. Felix Bernard: Entscheidungsfreiheit im neuen Kirchenrecht, in: *ThPQ*, 133 (1985), pp. 28-40, at p. 32; Peter Erdö: Liberté religieuse dans l'Église. Observations à propos des canons 748, 205 et 209 § 1 CIC, in: *Apollinaris*, 68 (1995), pp. 607-618, at p. 614; Josef Königsmann: Die Mission der katholischen Kirche unter den Bedingungen der Religionsfreiheit. Implikationen der cc. 747 und 748 CIC/1983, in: Ilona Riedel-Spangenberg / Peter Boekholt (eds.), *Iustitia et modestia. Festschrift für Hubert Socha zur Vollendung seines 65. Lebensjahres*, München 1998, pp. 238-248, at p. 244.

<sup>22</sup> The originally intended more expressive "*nefas*" was, in order to avoid any misunderstanding, given up in favour of "*severe prohibetur*", which has also been used in Art. 13 AG (*Nuntia* 17 [1983], p. 11).

<sup>23</sup> At the CIC Reform, a bishops' conference suggested mentioning the joining of the Catholic Church as well (*Communicationes*, 29 [1997], p. 52). At the Reform of the Eastern church law, it was clarified that becoming a church member in this context is equivalent to receiving baptism (*Nuntia*, 17 [1983], p. 11).

<sup>24</sup> Decree on the Mission Activity of the Church: Ad Gentes (7<sup>th</sup> Dec. 1965), in: *AAS* 58 (1966), pp. 947-990. Art. 13 § 3: "The Church strictly forbids forcing anyone to embrace the Faith, or alluring or enticing people by worrisome wiles [...]"

In c. 586 CCEO, a sentence was finally added, that was also missing in the CIC: “All the Christian faithful are to be concerned that the right to religious freedom is vindicated so that no one is driven away from the Church by adverse harassment”. The freedom of religion is hereby mentioned as such, whereas the CIC not only fails to acknowledge the term but in c. 748 § 2, it only deals with one aspect of the freedom of religion, namely the lack of use of force while accepting the faith<sup>25</sup>. However, only one aspect of the freedom of religion is mentioned in the CCEO, namely the rule that nobody is to be prevented from joining the Church<sup>26</sup>.

A special Canon law source concerning the freedom of religion is represented by the Fundamental Agreement of the Holy See with the State of Israel on 30<sup>th</sup> December 1993<sup>27</sup>. Both parties of the treaty have pledged that the freedom of religion and conscience are human rights. The Holy See affirms under Art. 1 § 2 the Catholic Church's commitment to uphold the human right to freedom of religion and conscience, as set forth in the Universal Declaration of Human Rights and in other international instruments to which it is a party. Furthermore, the Holy See affirms the Catholic Church's respect for other religions and their followers. These declarations by the Holy See are based on two documents of the Second Vatican Council, namely the "Declaration on Religious Freedom"<sup>28</sup> and the "Declaration on the Relation of the Church to Non-Christian Religions"<sup>29</sup>.

With regard to the relations between different Christian Denominations Pope Francis declared: “In the call to be evangelizers, all the Churches and Ecclesial Communities discover a privileged setting for closer cooperation. For this to be effective, we need to stop being self-enclosed, exclusive, and bent on imposing a uniformity based on merely human calculations. Our shared commitment to proclaiming the Gospel enables us to overcome proselytism and competition in all their forms. All of us are at the service of the one Gospel!”<sup>30</sup>.

#### 4. Alignment with human rights

When the Church bases its Evangelisation on the freedom of religion, and prohibits the use of force or any other improper means, therefore, its legal norms are compatible with the provisions of international law.

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<sup>25</sup> Cf. James Coriden, c. 748, in: *New Commentary of the Code of Canon Law*, New York 2000, pp. 912-913, at p. 913. José San José Prisco sees c. 748 CIC however in a broader sense as expression of freedom of religion as a basic human right of the person as inspired by *Dignitatis Humanae*. Cf. José San José Prisco: Comentario, in: *Revista española de derecho canónico*, 65 (2008), pp. 297-314, at 313.

<sup>26</sup> Cf. Peter Krämer: Religionsfreiheit und Absolutheitsanspruch der Religionen – aus der Perspektive des Christentums, in: Peter Krämer, Sabine Demel, Libero Gerosa, Alfred Hierold, and Ludger Müller (eds.), *Recht auf Mission contra Religionsfreiheit? Das christliche Europa auf dem Prüfstand*, Berlin 2007, pp. 35-52, at p. 49.

<sup>27</sup> Holy See / State of Israel: Fundamental Agreement (30<sup>th</sup> Dec. 1993), in: AAS 86 (1994), pp. 716-729.

<sup>28</sup> Declaration on Religious Freedom: *Dignitatis humanae* (7<sup>th</sup> Dec. 1965), in: AAS 58 (1966), pp. 929-946.

<sup>29</sup> Declaration on the Relation of the Church to Non-Christian Religions: *Nostra aetate* (18<sup>th</sup> Nov. 1965), in: AAS 58 (1966), pp. 740-744.

<sup>30</sup> Pope Francis: Celebration of Vespers on the Solemnity of the Conversion of Saint Paul the Apostle: Homily (25<sup>th</sup> Jan. 2015), in: AAS 107 (2015), pp. 149-151.

The freedom to change one's faith is clearly mentioned in Art. 18 of the Universal Declaration of Human Rights<sup>31</sup>. This clause is no longer part of the Art. 18 of the International Covenant on Civil and Political Rights<sup>32</sup>, and of Art. 1 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief<sup>33</sup>. However, this does not change the fact that this right is implicitly covered, namely in the phrase "a religion by personal choice", because whoever is unable to change their religion, effectively has this religion imposed on them. Thus the UN Human Rights Committee very clearly interprets Art. 18 of the Covenant as a right to change one's religion<sup>34</sup>. Furthermore, Art. 8 of the Declaration categorically rejects that a regulation be construed as restricting or derogating from any right defined in the Universal Declaration of Human Rights<sup>35</sup>. With regard to Europe, the freedom of the individual to change one's religion is specifically mentioned in Art. 9 of the European Convention on Human Rights<sup>36</sup>.

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<sup>31</sup> UN General Assembly, Res. 217/III: Universal Declaration of Human Rights (10<sup>th</sup> Dec. 1948): "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance".

<sup>32</sup> International Covenant on Civil and Political Rights (19<sup>th</sup> Dec. 1966), in: *UN Treaty Series* 999, p. 171. Art. 18 § 1: "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching".

<sup>33</sup> UN General Assembly, Res. 36/55: Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (25<sup>th</sup> Nov. 1981). Art. 1 § 1: "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching".

<sup>34</sup> Human Rights Committee, CCPR/C/21/Rev.1/Add.4: General Comment No. 22: The right to freedom of thought, conscience and religion (Art. 18) (30<sup>th</sup> July 1993). No. 5: "The Committee observes that the freedom to 'have or to adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief [...]".

<sup>35</sup> With regard to Art. 18 of the Covenant Ucko states: "There can be no question about the right to communicate one's faith. And no one shall be coerced to maintain his/her religion or belief. No one should "impair" the right to change religion; yes, the state has an obligation to actively ensure the right to change religion or belief. Included in the freedom of expression is also a right to seek and to receive information. The freedom of assembly and the freedom of association are important expressions of the UN declarations. But, those who rightly quote the right to change religion and the right to persuade others to change often forget that the UN declarations also talk about the right to maintain one's religion or belief. No one shall be coerced to change his or her religion or belief. The right to religious freedom is actually limited by other human rights. In addition, one person's religious freedom may be limited by the religious freedom of another. Thus one interesting field for exploration is the interaction between the freedom to propagate religion on the one hand and the freedom to practice one's religion without interference on the other. The CCPR has a clause on the right to privacy in article 17, which, for instance, will protect the home from forced invasion by people seeking your conversion." Cfr. Hans Ucko: Religious Conversions. Towards an Ethical Code of Conduct for Religious Conversions, in: *Current Dialogue* 50 (2008), at: <http://www.oikoumene.org/en/programmes/interreligiousdialogue/current-dialogue/magazine/no-50-february-2008/towards-an-ethical-code-of-conduct-for-religious-conversions.html>.

<sup>36</sup> Convention for the Protection of Human Rights and Fundamental Freedoms (4<sup>th</sup> Nov. 1950), in: *ETS* No. 5, Art. 9 § 1: "Everyone has the right to freedom of thought, conscience and

The freedom of changing one's religion encompasses the freedom to spread the faith i.e. for missionary activities. A true possibility to change means that you have to be in touch with other religions and obtain some information about them<sup>37</sup>. Hence propagation of the faith is not only part of exercising one's religion, but also the prerequisite for the protected change of religion as in Art. 9 of ECHR<sup>38</sup>. That results clearly from the judgment *Kokkinakis* of the European Court of Human Rights, that had to investigate the Greek ban to lure away orthodox believers. Some Jehovah witnesses, who contested this regulation, were given prison sentences. However, the above-mentioned judgment found that this was a violation of the freedom of religion<sup>39</sup>.

However, not every form of proselytising is allowed, because the freedom to choose a religion, means not only the right to change one's religion, but also to be able to keep it. Here is an illustration of how the individual elements of the freedom to choose a religion can seem contradictory and thus a balanced judgement is called for. That was what the Court tried to do regarding the case of *Larissis*<sup>40</sup>. The setting for this case was also in Greece. Yet, on this occasion, a military officer was abusing his dominant position towards the soldiers under his command, in order to recruit some new members. The Court held that the freedom of religion would not be breached if the Greek state banned such practices. Proselytism is not allowed to exert any unjust pressure or to abuse any personal relationship of dependence<sup>41</sup>.

##### 5. Interconfessional and interreligious documents

Through the Evangelisation, the Church exercises one aspect of the freedom of religion, guaranteed by international law. The individual States may ban any improper means of proselytising. The Catholic Church already prohibits such ways in its own legal system. So the Canon Law is compatible with the secular law.

What then are these improper means? In order to answer this question, some Codes of Conduct have recently been created. What is so special about these codes is that they have been endorsed jointly, not only by the Catholic Church alone, but also by several Christian denominations and even non-Christian religions. It may be, that the members of these communities are themselves the actors in the propagation of the faith, but they can also be the recipients of the others' propagation. That is the reason why common standards

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religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance".

<sup>37</sup> Cf. Paul Taylor: *Freedom of Religion. UN and European Human Rights Law and Practice*, Cambridge 2005, p. 49.

<sup>38</sup> Cf. Stephan Korinek: Strafbarkeit von Glaubenswerbung (Proselytismus). Art. 7 und 9 MRK, in: *JBl*, 1998 (120), pp. 573-576, at p. 576.

<sup>39</sup> ECHR, No. 14307/88, *Kokkinakis / Greece* (25<sup>th</sup> May 1993), § 31. The Court in § 48 quotes a report drawn up in 1956 under the auspices of the World Council of Churches. According to this report, improper proselytism may take the form of activities offering material or social advantages with a view to gaining new members for a Church or exerting improper pressure on people in distress or in need.

<sup>40</sup> ECHR, No. 23372/94, 26377/94, *Larissis / Greece* (24<sup>th</sup> Feb. 1998), § 45.

<sup>41</sup> Paul Taylor is of the opinion that the Court should also have ruled in favour of a breach of the basic human right, as the rights of other people cannot be restricted as long as no use of force has been exerted. Cf. Taylor, *Freedom* (endnote 39), p. 69 and p. 72.

have been established on the basis of the reciprocity principle, in order to determine which practices are allowed and which ones are to be rejected.

Now is the time to mention two Codes of Conduct, in which the Catholic Church has officially participated. The "Inter Faith Network for the United Kingdom" created such a document in 1993<sup>42</sup>. The Catholic Church has been involved with this network through the "Committee for Relations with Other Religions" of the Catholic Bishops' Conference of England and Wales. Moreover, numerous organisations from other denominations and religions also take part. However, the territorial scope of this document is limited.

On the contrary, the Recommendations for Conduct: "Christian Witness in a Multi-Religious World" is a world-wide recognised document. It was issued on 28<sup>th</sup> June 2011 by the Pontifical Council for Interreligious Dialogue, by the World Council of Churches and by the World Evangelical Alliance<sup>43</sup>. Only Christian denominations have joined the agreement, but it has been worked on alongside other religious communities and, in the future, it could be broadened to include them<sup>44</sup>. The really interesting feature about it is the fact that the theme of Inculturation was directly mentioned with regard to Evangelisation:

A basis for Christian witness No. 4: "Christian witness in a pluralistic world includes engaging in dialogue with people of different religions and cultures (cf. Acts 17: 22-28)."

Principle No. 9: "Respect for all people. Christians recognize that the gospel both challenges and enriches cultures. Even when the gospel challenges certain aspects of cultures, Christians are called to respect all people. Christians are also called to discern elements in their own cultures that are challenged by the gospel".

Ucko describes the motivation of this project as follows: "Our intention with this project is to assess the reality of conversion in relations with people of different faiths. The project should then through intra-Christian conversations lead us to conversations with Pentecostals and Evangelicals about conversion? How do we understand together what it means to live and witness in a

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<sup>42</sup> Inter Faith Network for the United Kingdom, *Building Good Relations with People of Different Faiths and Beliefs* (1993), see at: [http://www.interfaith.org.uk/publications/all-publications/doc\\_download/2-building-good-relations-code](http://www.interfaith.org.uk/publications/all-publications/doc_download/2-building-good-relations-code).

<sup>43</sup> World Council of Churches / Pontifical Council for Interreligious Dialogue / World Evangelical Alliance, *Christian Witness in a Multi-Religious World. Recommendations for Conduct* (28<sup>th</sup> June 2011), see at: [http://www.oikoumene.org/fileadmin/files/wcc-main/2011pdfs/ChristianWitness\\_recommendations.pdf](http://www.oikoumene.org/fileadmin/files/wcc-main/2011pdfs/ChristianWitness_recommendations.pdf).

<sup>44</sup> Cf. Christoph Gellner: Zeugnis, Einladung, Bekehrung, in: *SKZ*, 179 (2011), pp. 521-522; Aysun Yaşar: Beobachtungsbericht zum Forum: Mission / Da'wa und Konversion, in: Hansjörg Schmid / Ayşe Başol-Gürdal / Anja Middlebeck-Varwick / Bülent Ucar (eds.), *Zeugnis, Einladung, Bekehrung, Mission in Christentum und Islam*, Regensburg 2011, pp. 241-245, at p. 244. Schirmacher and Johnson state: "The need is for Christians (Protestants, Roman Catholics, Evangelicals, and Orthodox) to first develop similar codes of conduct among themselves (relating to the other branches of the Christian tradition) to which they bind themselves and which they also apply in their relations with other religions. If Christians are unable to find peaceful ways of doing mission among themselves in a way that respects both the human dignity and the spiritual needs of others, how could it be found in relation to other religions? But if Christians can write good moral codes, this process should encourage other world religions to write similar codes, and these codes could contribute to global standards, which would promote the peaceful freedom of religion". cf. Thomas Schirmacher / Thomas Johnson: *Why Evangelicals need a code of ethics for mission*, in: *International Journal for Religious Freedom*, 3 (2010) 1, pp. 23-37.

religiously plural world? Can we arrive at a code of conduct on the issue of conversion? This should be the end result, where we try to respond to the multifaith reality and the theological concerns we have explored<sup>45</sup>.

Even if the Codes of Conduct do not include any legal norms, strictly speaking, they are not without any legal relevance. They fulfill a similar role to the so-called *soft law* in international law. They contain a voluntary system of self-regulation, which has been jointly agreed upon by all sides<sup>46</sup>. Their practical impact should not be underestimated. On one hand, the members of the respective communities are being encouraged to abide by it, and potential violations become obvious<sup>47</sup>. On the other hand, a positive signal is being sent, because it shows the public and particularly the States, that missionary activities do not entail communities battling with each other or people being unfairly treated<sup>48</sup>.

## 6. Conclusions

The following four points are a brief summary of the relationship between Law and Culture within the Catholic Canon Law and especially of how they are connected to the norms prevailing in Evangelisation: 1. Catholic Canon Law allows for quite a high level of cultural diversity and thus becomes a tool for the management of cultural diversity. 2. It requires inculturation as an evangelisation method and demands that the diverse cultures be respected. 3. As a religious legal system of the Catholic Church, it is compatible with international law as a form of secular law (complementarity between religious and secular law). 4. In addition to international law, some kind of interreligious law is being developed, to which the diverse religious communities are able to pledge themselves. Hence the respect of cultures has become a principle of Evangelisation.

Thus, the Canon law is, on the one hand, part of a culture and on the other hand, it allows peaceful co-existence of diverse cultures and promotes respect for all cultures.

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<sup>45</sup> Ucko, Conversion, endnote 39.

<sup>46</sup> Cf. Christian Troll / Thomas Schirmmacher: Der innerchristliche Ethikkodex für Mission. Eine Einführung, in: *Materialdienst EZW*, 74 (2011) pp. 293-299, at p. 295; Thomas Schirmmacher, Thomas: „Mit Sanftmut und Ehrerbietung“: Warum die Mission von der Ethik bestimmt sein muss – Eine evangelikale Perspektive hinsichtlich einer Ethik des christlichen Zeugnisses, in: Klaus Müller (ed.), *Menschenrechte – Freiheit – Mission*, Nürnberg 2010, pp. 97-119, at p. 111.

<sup>47</sup> Even if the leaders of the communities that signed the agreement are not able to legally enforce them internally, Schirmmacher maintains that there will be enough pressure for those involved in missionary work. Cf. Sanftmut Schirmmacher (endnote 48), p. 111.

<sup>48</sup> Cf. Troll / Schirmmacher, *Ethikkodex* (endnote 48), p. 295.