

 BARRISTERS SOLICITORS TRADEMARK AGENTS	SAINT PAUL UNIVERSITY Faculty of Canon Law Ottawa – June 13, 2023
<h2>Interaction Between Canon Law and Civil Law</h2>	
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(Additional notes are available on the outline for this presentation)	
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<h2>A. WHERE CANON LAW INTERSECTS WITH CIVIL LAW</h2>	
<ol style="list-style-type: none">1. What does Canon Law say about Civil Law?2. What does Civil Law say about Canon Law?3. What are the Three Types of Canon Law?4. What are the Basic Components of Civil Law?	
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5. What Areas of Civil Law Most Frequently Intersect with Canon Law Regarding Religious Institutes?

- Corporate law
- Tax law
- Trust law (common law)
- Charity-specific legislation
- Employment law
- Human rights law

6. When Will the Courts Intervene in Matters of Canon Law?

B. UNDERSTANDING DIFFERENCES IN ORGANIZATIONAL STRUCTURES

1. An Overview of Organizational Structures at Canon Law

2. An Overview of Organizational Structures at Civil Law

- Charitable trusts
- Unincorporated associations
- Corporations

3. Intersection of Public Juridic Persons and Civil Corporations

- 4. Corporate Purposes v. Canonical Mission**
- 5. Official Roles within Public Juridic Persons**
 - Major Superior
 - Council members
 - Treasurers
- 6. Official Roles within Civil Corporations**
 - Board of directors
 - Officers
 - Corporate members
- 7. Issues on Dissolution**

C. REPORTING REQUIREMENTS REGARDING SEXUAL ABUSE

- 1. Reporting Requirements Under Canon Law**
- 2. Reporting Requirements Under Civil Law**
 - Reporting sexual abuse of children
 - Reporting sexual abuse of vulnerable adults
 - Reporting sexual abuse of non-vulnerable adults

D. SELLING PROPERTY

1. Selling Property under Canon Law

- 2014 Guidance
- 2018 Guidance

2. Selling Property under Civil Law

- General and special corporate legislation
- Bylaw requirements
- Income tax considerations
- Possible restrictions in historical deeds

E. TERMINATION OF MEMBERSHIP

1. Voluntary Termination of Membership

- Importance of written acknowledgements
- Need for independent legal advice

2. Involuntary Termination of Membership

- Considerations from the SCC *Wall* decision
- Importance of following procedural rules

F. PROVINCES WITH BOUNDARIES BEYOND CANADA

1. Canon Law Perspective

- Province can have international boundaries
- However, must ensure compliance with civil law requirements

2. Civil Law Perspective

- Canadian corporations cannot gift property to a foreign entity that is not a qualified donee
- Canadian corporations must remain under the control of its board of directors

G. PAYMENTS OUTSIDE OF CANADA

1. Canon Law Perspective

- Canadian religious institutes may be required, from time to time, to make payments outside of Canada to the generalate or provincialate

2. Civil Law Perspective

- Cannot simply make a gift or a grant to a generalate or provincialate outside of Canada

- Options that can be considered in making payments to a generalate or provincialate outside of Canada:
 1. Payment of invoices for goods or services at fair market value or below
 2. Payments for charitable programs under the direction and control of the Canadian charity through appropriate agreements acceptable to the CRA
 3. Recurring payments, such as tithes, membership fees, or “annual tax”, in consideration of ongoing goods and services under a “head body” agreement in excess of the *de minimis* threshold (*i.e.* the lesser of 5% of the expenditures of the charity or \$5,000)

- Recent amendments to the *Income Tax Act* have established an additional regime of “qualifying disbursements” to “grantee organizations” (e.g. non registered charities)
 - Must be done to further the charitable purpose of the transferee charity
 - Must be applied to further that purpose
 - Must maintain documentation to demonstrate the above requirements
 - But, waiting for the final form of Guidance from the CRA

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Disclaimer

This outline is a work in progress, as civil and canonical law are constantly evolving, including the circumstances in which these systems operate. As well, this outline reflects a summary of current legal and canonical issues provided for information purposes only. This presentation is only current as of the date of the summary and does not reflect subsequent changes in the law. The outline is distributed with the understanding that it does not constitute legal advice. Readers are advised to consult with a qualified lawyer and obtain a written opinion concerning the specifics of their particular situation.

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