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Church teaching doesn't change, but church laws can

by Cindy Wooden by Catholic News Service

Vatican City — Bishop Juan Ignacio Arrieta has a special briefcase he uses exclusively to carry documentation for a project that would completely revise an entire section of the Catholic church's basic law.

The black case contains a 40-page draft text for a new "Book VI: Sanctions in the Church" section of the Code of Canon Law, as well as the 800-page synthesis of recommended amendments and objections to the proposed changes.

Arrieta, secretary of the Pontifical Council for Legislative Texts, delves into the briefcase at work in his office overlooking St. Peter's Square and at home in the evening.

Like any society, the Catholic church has laws, Arrieta said, and while the tenets of its faith do not change, its laws need to be adapted to the changing situations in which its members try to live out their faith.

While the pontifical council is looking at small adjustments to several sections of the Code of Canon Law, promulgated in 1983, and ways to speed up the process for evaluating the validity of marriages, the section concerning offenses and penalties was judged to be in need of more than a touch up.

The current code was drafted in the 1970s, Arrieta said, "a period that was a bit naive" in regard to the need for a detailed description of offenses, procedures for investigating them and penalties to impose on the guilty. It reflected a feeling that "we are all good," he said, and that "penalties should be applied rarely."

"The Congregation for the Doctrine of the Faith, when Pope Benedict was prefect, was obliged to act as a consequence of the fact that the (church's) penal law was not working," he said.

The naivete of the law became clear with the sexual abuse crisis, Arrieta said. In addition, the sanctions section of the 1983 code was written with such an emphasis on the role of the individual bishop in his local diocese that each bishop bore the full weight of deciding when and how to intervene and what sort of sanction or punishment to impose on the guilty.

The law ended up being too vague and church sanctions were being applied so haphazardly that the church appeared to be divided, he said.

The project to revise the section began in 2008. The draft was completed in 2011 and sent to bishops' conferences and pontifical faculties of canon law, which had a year to respond. The suggestions were organized and synthesized, and now council officials and consultants -- mostly professors of canon law -- meet for an afternoon every two weeks to go through them, line by line.

Arrieta said it will be at least two years before a new draft is ready to present to Pope Francis. As the church's chief legislator, it is the pope who decides whether or not to promulgate it and order that it replace the current law.

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The proposed draft incorporates the Vatican's 2010 updated definition of "delicta graviora" -- Latin for "graver offenses," including clerical sexual abuse of minors, the "attempted ordination of women" and acts committed by priests against the sanctity of the Eucharist and against the sacrament of penance.

The two chief concerns in the new section, as in all church law, he said, are "to safeguard the truth and protect the dignity of persons."

At the same time, the rules are more stringent -- "if someone does this, he must be punished," the bishop said. While it withdraws the discretionary power of the bishop in certain cases, he said, "it is for the good of the bishop."

Another set of modifications to the Code of Canon Law are already on Pope Francis' desk, awaiting his judgment. They deal with areas in which the code for the Latin-rite Catholic majority differs from the Code of Canons of the Eastern Catholic Churches.

Arrieta said in most cases, they are rules for situations that the Latin-rite code never envisioned but that the Eastern code, published in 1990, did. With the large number of Eastern Christians -- Catholic and Orthodox -- who have migrated to predominantly Latin territories in the last 25 years, Latin-rite pastors need guidance, he said.

For example, Eastern Catholics who do not have access to a priest or parish of their rite are free to receive the sacraments in a Latin-rite parish, including baptism and matrimony. The proposed revisions for the code specify that in such situations the parish's sacramental register must include a notation that the people involved belonged to an Eastern Catholic church, he said. In addition, Latin-rite pastors must know that while a Latin-rite marriage is valid in the presence of a deacon, in the Eastern-rite churches a priest must preside.

Many Catholics think canon law is something they need to be concerned about only if their marriage breaks down and they want an annulment.

The annulment process is another area currently under study and scrutiny by the pontifical council, the bishop said. The church's law must uphold church teaching, but do so responding to the concrete situations of the faithful.

"Church law follows the theological reality of things," he said. "It isn't canon law that forbids divorce, the faith does. Canon law then transforms that into juridical language."

So while the council is not trying to find ways to facilitate annulments, "we are trying to identify the bottlenecks that delay" judgments in the annulment process and identify improved procedures, he said.

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