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From *Societas Inaequalis* to People of God: Theological and Historical Foundations of the Juridic Rights of the Christian Faithful

Pius Barinaadaa Kii, PhD
Department of Religious and Cultural Studies
Rivers State University, Nkpolu-Oroworukwo, Port Harcourt, Nigeria
pius.kii@rsu.edu.ng

Abstract
The 1983 Code of Canon Law's promulgation of an explicit body of rights for all the Christian faithful (canons 208–223) is widely regarded as one of the Second Vatican Council's most significant, if under-appreciated, juridical achievements, yet the theological and historical logic of that achievement is less often reconstructed in a single, continuous argument than assumed. This article undertakes that reconstruction. It shows that the pre-conciliar canonical tradition, culminating in the 1917 Code, construed the Church predominantly as a *societas inaequalis*, a society of unequals divided between a governing and a governed class, according rights and privileges chiefly to clerics and religious while leaving the laity, apart from a single enumerated right to receive the Church's spiritual goods (1917 Code, c. 682), without any comparable codified entitlement of their own. Drawing on historical-theological and canonical-doctrinal method, and situating the analysis within the longer canonistic genealogy of subjective rights that recent historical scholarship has traced back through the medieval decretists rather than to the Enlightenment alone, the article follows this inheritance through the Second Vatican Council's ecclesiology of the People of God, the protracted and ultimately abandoned *Lex Ecclesiae Fundamentalis* project, and the eventual codification of canon 208's assertion of "true equality" in dignity and activity among all the Christian faithful. It further classifies the resulting rights by canonical source, human, ecclesial, ecclesiastical, and communal, and examines the procedural remedies, and their acknowledged limitations, through which those rights are in principle vindicated. Canon 208 is shown to function as a constitutional presupposition conditioning the Code's entire structure of rights and duties, without abolishing the hierarchical diversity Vatican II equally affirmed. Recovering this foundation is a necessary, if not sufficient, precondition for assessing how fully these rights have been implemented in particular churches, a task this article's companion piece undertakes for the Nigerian context.

Keywords: Rights of Christian faithful, Vatican II, People of God, *Lex Ecclesiae Fundamentalis*, *Lumen Gentium*, *Societas Inaequalis*

Introduction

Rights talk, as a mode of discourse, has become pervasive across contemporary legal, political, and social life, and this pervasiveness has gradually extended into the internal juridical life of the Catholic Church itself (Provost, 1986). This article examines a specific and historically significant instance of this development: the emergence, through the Second Vatican Council and its codification in the 1983 Code of Canon Law, of an explicit body of rights belonging to all the Christian faithful by virtue of their baptism, in marked contrast to the hierarchically stratified conception of rights and privileges that had characterised Latin canon law for the preceding eight centuries (Hervada, 1994).

The significance of this transformation is not merely internal to the discipline of canon law. As Valdrini (2024) observes in his survey of the field for the *St Andrews Encyclopaedia of*

Theology, the post-conciliar effort to articulate the rights of the faithful was animated by a deliberate ecclesiological choice to distinguish the Church's own juridical self-understanding from the secular, individual-rights paradigm associated with the modern liberal state, while still taking seriously the demand that ecclesial power be subject to some form of juridical accountability. This tension between avoiding a merely secular transplant of rights-talk and yet providing the faithful with genuine, enforceable juridical standing runs through every stage of the historical development traced in this article, from the pre-conciliar tradition (Section 2) through the conciliar reconceptualization (Section 3) and its codification (Section 4) to the classification of rights by canonical source and their deeper historical genealogy (Section 5) and, more recently, to scholarly reflection on the adequacy of the remedies available when those rights are violated (Beal et al., 2000; Section 5).

A further historiographical caution is in order at the outset. It would be a mistake to read the pre-conciliar absence of an enumerated bill of rights for the laity as evidence that the very concept of a subjective right (*ius*) was foreign to canonical thought before the twentieth century. Tierney's (1997) monumental study of natural rights in medieval and early modern canon law demonstrates that a developed juridical concept of individual right, understood as a power or entitlement inhering in a person rather than merely as an objective standard of what is just, was elaborated by the decretists and decretalists of the twelfth through fifteenth centuries and transmitted, rather than invented, by the later natural-rights tradition usually associated with the Enlightenment. What distinguished the pre-conciliar Latin Church, on this reading, was not the absence of a workable concept of subjective right as such, but the institutional decision not to apply that concept programmatically to the laity's standing within the Church's own public law, a decision this article traces in Section 2.

The article's argument proceeds historically. Section 2 examines the pre-conciliar canonical tradition, in which rights language attached chiefly to clerics and religious while the laity were characterised principally by duties of obedience and reverence, tempered by the single spiritual entitlement canon 682 of the 1917 Code did recognise. Section 3 traces the theological reconceptualisation effected by Vatican II's ecclesiology of the People of God, with particular attention to *Lumen Gentium*'s affirmation of fundamental equality among the baptised notwithstanding the persistence of hierarchical and functional differentiation. Section 4 examines the drafting history through which this theological reconceptualization was codified, including the ultimately abandoned *Lex Ecclesiae Fundamentalis* project, before its substantial incorporation into canons 208–223 of the 1983 Code. Section 5 examines the classification of rights by canonical source, situates canon 208 within the longer medieval genealogy of subjective rights, and examines the adequacy of remedies for their violation and the contested questions that continue to attend canon 208's reception in contemporary pastoral and theological debate, and Section 6 concludes with reflections on the theological significance of this transformation and its relevance to the Nigerian context.

A brief methodological note is in order before proceeding. This article's method is historical-theological and canonical-doctrinal rather than empirical or sociological: it reconstructs the development of a body of positive law and the theological reasoning that shaped it, drawing on the conciliar texts themselves, the promulgated Code, the apostolic constitution by which it was promulgated, the drafting history preserved in *Communicationes*, and the substantial secondary literature of canonical commentary that has accumulated since 1983 (Beal et al., 2000; Coriden, 2004; Green, 1986; Hervada, 1994; Kašný, 2004; Provost, 1986; Örsy, 2009; Tierney, 1997; Valdrini, 2024). It does not purport to measure, through survey or field research, the extent to which the rights described are in fact known, exercised, or vindicated by the ordinary faithful in any particular diocese; that empirical task, as noted above, belongs to this article's companion study.

This historical-doctrinal method continues a broader research trajectory, pursued by the present author across both canon law and Igbo cultural-religious studies, of situating universal ecclesial norms and categories against the particular cultural and communal settings in which they

are received (see, e.g., Nwadialor & Eze, 2021, on Igbo ritual symbolism, and Eze & Kii, 2025a, 2025b, 2026, on interreligious dialogue, bioethics, and normative ethics in the Nigerian church).

The Pre-Conciliar Tradition: The Church as Societas Inaequalis

Gratian's twelfth-century *Decretum* asserted a foundational distinction between two types of Christians, clergy and laity, a distinction subsequent canonical and theological authors elaborated into a fuller theory of the Church as a *societas inaequalis*, divided between a *coetus ducens* (a leading or governing group) and a *coetus ductus* (a led or governed group) (Coriden, 2004; Hervada, 1994). This construction remained the standard canonical and theological position until the Second Vatican Council, and it found concrete codification in the 1917 Code of Canon Law, whose Book II discussed the rights and privileges of clerics (canons 118–123) and the obligations and privileges of religious (canons 592–631) using explicitly the vocabulary of privilege rather than right (Code of Canon Law, 1917).

The corresponding treatment of the laity was markedly more sparse. The 1917 Code addressed the laity chiefly in canons 682–725, a section that exhorted the laity to show reverence toward clerics according to their rank and responsibilities and specified that real damage inflicted upon a cleric constituted the canonical crime of sacrilege (Code of Canon Law, 1917; Coriden, 2004). It would, however, overstate the asymmetry to describe this section as articulating no right whatsoever: canon 682 of the 1917 Code did accord the laity one enumerated entitlement, the right to receive from the clergy, according to the norms of ecclesiastical discipline, the spiritual goods and helps necessary for salvation. This single right, the direct antecedent of canon 213 of the 1983 Code, stands as the sole counterpart in the old law to the extensive catalogue of rights and privileges the same Code accorded clerics and religious (Coriden, 2004). The imbalance this comparison reveals, one right for the laity as against an entire apparatus of rights and privileges for clerics and religious, is in a sense more theologically significant than a bare absence would have been, since it shows that the drafters of 1917 possessed and were willing to use the juridical category of a lay right; they simply declined to develop it any further.

This asymmetry is not, this article emphasises, merely a historical curiosity; it reflects a coherent, if theologically contestable, ecclesiology in which the hierarchical structure of the Church was understood to exhaust its constitutional character, leaving little conceptual space for rights belonging to the baptised as such, independent of clerical or religious status (Hervada, 1994). Hervada (1994) traces this construction to a broader medieval and early-modern canonical tendency to model the Church's internal constitution on that of a hierarchically ordered civil society, in which the governed owed obedience and the governing owed, at most, pastoral solicitude rather than enforceable duties correlative to any juridical right held by the governed.

The specific canonical vocabulary of the 1917 Code bears out this asymmetry with some precision. Where canons 118 to 123 spoke of the "rights and privileges" (*iura et privilegia*) of clerics, matters such as precedence, exemption from certain civil burdens, and the right to specific forms of ecclesiastical support, the corresponding canons on the laity employed no equivalent, comprehensive juridical category (Code of Canon Law, 1917; Coriden, 2004). The laity appeared in the 1917 Code's systematic architecture chiefly as the objects of the Church's sacramental and pastoral ministry, rather than as juridical subjects capable of asserting a broad range of claims against ecclesiastical authority. Coriden (2004) observes that this is not merely an omission attributable to oversight; the 1917 Code's compilers worked within a canonical tradition, descending from Gratian through the medieval decretalists, in which the systematic extension of a right (*ius*) held by an inferior against a superior within a hierarchically constituted society had not been carried through for the laity as a class, notwithstanding the Church's simultaneous and much older tradition, rooted in Roman law, of according rights to individuals within civil legal relationships.

This last qualification deserves emphasis in light of Tierney's (1997) reconstruction of the medieval canonistic contribution to the very idea of a subjective right. Tierney shows that twelfth- and thirteenth-century decretists, commenting on Gratian's *Decretum*, had already developed a

vocabulary of *ius* as a power or faculty (*facultas*) belonging to a person, applied variously to property, to self-defence, and, significantly, to the individual's standing before ecclesiastical authority; this conceptual apparatus was elaborated further by the fourteenth- and fifteenth-century canonists and eventually passed, largely intact, into the early modern natural-rights tradition. The historical puzzle this raises for the present study is therefore not why the Church lacked the conceptual resources to articulate a right of the laity, since Tierney's account shows those resources were available within the canonical tradition itself from an early date, but why the 1917 codifiers, working within a living tradition that already possessed a sophisticated theory of subjective right, chose to apply it so narrowly to the laity's own standing. It is against this background, and not merely against a supposed conceptual poverty, that the significance of the Second Vatican Council's ecclesiological development must be measured.

Vatican II's Ecclesiology of the People of God

Vatican II did not undertake a systematic theoretical treatment of rights as such, and issued no single document devoted to the question of rights within the Church (Provost, 1986). Its significance for this question lies instead in its broader ecclesiological reconceptualization, articulated chiefly in the Dogmatic Constitution on the Church, *Lumen Gentium*, which described the Church as the People of God, the community of all the baptised, while simultaneously affirming, rather than abolishing, the Church's hierarchical structure (Second Vatican Council, 1964). The critical theological move, for present purposes, is *Lumen Gentium*'s explicit assertion that despite the diversity by which the Church is governed, and despite the fact that some are, by Christ's will, constituted teachers, dispensers of the mysteries, and shepherds on behalf of others, "all share a true equality with regard to the dignity and to the activity common to all the faithful for the building up of the Body of Christ" (Second Vatican Council, 1964, §32).

This affirmation of equality-within-hierarchy proved constitutionally decisive for the subsequent revision of the Code. In April 1967 the Pontifical Commission for the Revision of the Code of Canon Law placed before the first General Assembly of the Synod of Bishops a set of ten guiding principles to direct the revision, of which the sixth explicitly identified "the fundamental equality of all members of the Christian faithful" together with "the diversity of offices and functions rooted in the hierarchical order of the Church" as the joint basis on which the rights of persons should be defined and safeguarded (Communicationes, 1969; Kašný, 2004). The synod's approval of this principle, language that would find direct expression in canon 208 of the promulgated 1983 Code, marked the first formal commitment of the Church's highest deliberative organs to a codified rights-bearing status for all the baptised, and not merely for clerics and religious (Coriden, 2004; Kašný, 2004).

Gaudium et Spes, the Council's Pastoral Constitution on the Church in the Modern World, further contributed to this trajectory through its treatment of the dignity of conscience, the rights of the laity in the temporal order, and human rights generally, situating the Church's internal juridical development within the broader mid-twentieth-century global reckoning with human rights, decolonisation, and civil rights that formed *Gaudium et Spes*'s own historical backdrop (Second Vatican Council, 1965a). *Dignitatis Humanae*, the Council's Declaration on Religious Freedom, reinforced this trajectory from a complementary angle, grounding the dignity and freedom of the human person in the natural order itself rather than merely in ecclesiastical concession, a grounding that canonists have since read as lending theological weight to the classification of certain rights of the faithful as properly human rather than merely ecclesiastical in character (Second Vatican Council, 1965b; see Section 5 below).

Valdrini (2024) helpfully situates this conciliar development within a longer twentieth-century movement of canonical thought that sought to distinguish canon law's foundations from those of secular jurisprudence, while still insisting that the Church's own internal order be governed by justice (*iustitia et caritas*) rather than by discretionary hierarchical will alone. On this reading, canon 208's affirmation of equality is not an accidental borrowing from Enlightenment rights

discourse but the juridical expression of a specifically theological claim about the constitutive effects of baptism, a claim that, as Section 2 above suggested, also had deeper roots within the canonical tradition's own prior handling of subjective right than a simple contrast between conciliar renewal and pre-conciliar silence would suggest.

This theological claim is reinforced elsewhere in *Lumen Gentium*, notably in its teaching on the common priesthood of the faithful, by which all the baptised, and not the ordained alone, are said to participate in Christ's priestly, prophetic, and kingly office, each according to their proper condition (Second Vatican Council, 1964). It is this same baptismal participation, rather than any separate grant of ecclesiastical office, that canon 204 of the 1983 Code invokes in its opening definition of the Christian faithful, and upon which canon 208's assertion of equality directly builds (Code of Canon Law, 1983; Coriden, 2004). Coriden (2004) argues that the constitutional sequencing here is deliberate: by placing canon 204's definition of the Christian faithful and canon 208's assertion of equality prior to any canon addressing the specific offices of bishop, priest, or religious, the 1983 Code signals that baptismal incorporation, rather than clerical or hierarchical status, constitutes the foundational juridical category of the Church's public law, with the distinct offices treated in subsequent books representing particular modes of exercising a mission that is, in its root, common to all the baptised.

It should be noted, however, that this reading of canon 208 as constitutionally foundational is not entirely uncontested within canonical scholarship. Some commentators have observed that the practical weight actually accorded to canon 208 in later disputes, for example disputes over the proper scope of lay participation in parish and diocesan consultative bodies, or over the limits of the canon 212 right to make one's views known to the Church's pastors, has often been more modest than the canon's placement at the head of Book II might suggest, since canon 223 explicitly subordinates the exercise of these rights to the common good and to legitimate ecclesiastical authority's power to regulate them (Code of Canon Law, 1983). The tension between the constitutional prominence given to canon 208 in its textual placement and the qualifications attached to its practical exercise throughout canons 209–223 is a recurring theme in the canonical commentary literature and is taken up further in Section 5 below.

From Lex Ecclesiae Fundamentalis to Canons 208–223

The process of translating this conciliar ecclesiology into positive canon law proved protracted and, in one significant respect, incomplete. Pope John Paul II himself described the resulting Code, in the apostolic constitution by which he promulgated it, as "a great effort to translate" conciliar ecclesiology "into canonical language," while acknowledging that a perfect translation of the conciliar image of the Church into canonical language was not fully attainable (John Paul II, 1983). The rights of the Christian faithful were initially developed within the ambitious project of a *Lex Ecclesiae Fundamentalis* (LEF), envisioned as a kind of fundamental or constitutional law applicable to the whole Catholic Church, Latin and Eastern alike, which occupied theological and canonical experts from 1967 until 1981, when the project was ultimately not promulgated as a separate instrument (Green, 1986; Provost, 1986; Coriden, 2004). Its substantive content concerning the rights and obligations of the faithful was, however, substantially absorbed into the revised Code, appearing as canons 208–223 in Book II's opening section on the People of God, a placement canonical commentators have argued carries constitutional significance in itself, given its position at the very outset of the Code's central book, prior even to the more specific treatments of the laity, clergy, and religious (Coriden, 2004; Beal et al., 2000).

Canon 208 states the foundational principle: "In virtue of their rebirth in Christ there exists among all the Christian faithful a true equality with regard to dignity and activity whereby all cooperate in the building up of the Body of Christ in accord with each one's own condition and function" (Code of Canon Law, 1983, c. 208). This article emphasises, following canonical commentary, that this equality is sacramentally grounded in baptism rather than merely juridically stipulated, and that it does not entail uniformity of function or role; the canon simultaneously

affirms equality in dignity and diversity in condition and function, holding together what earlier canonical tradition had tended to treat as a single hierarchical axis (Hervada, 1994; Beal et al., 2000). Canons 209 through 223 then enumerate a substantial list of specific obligations and rights, the obligation to preserve ecclesial communion, the right and duty to evangelise, the right to petition church authorities and to express opinion freely within appropriate limits, the right to the means of sanctification, the right of association and assembly, the right to Christian education, the right to a good reputation and privacy, and the right to legal vindication and due process, among others, representing, for the first time in the history of Latin canon law, an integrated statement of rights belonging to the faithful as such, rather than to clerics or religious by virtue of office alone (Code of Canon Law, 1983; Coriden, 2004).

It is worth noting, following Provost (1986), that the abandonment of the LEF as a distinct, quasi-constitutional instrument was not a purely technical or procedural decision. Several conciliar and post-conciliar bishops expressed concern that a formal "fundamental law," modelled visibly on the constitutional documents of modern states, might import into the Church's self-understanding a juridical framework foreign to its sacramental and communal nature, or might inadvertently subordinate the Church's own internal governance to standards of judicial review borrowed uncritically from civil legal systems. The compromise ultimately reached, distributing the LEF's substantive content across the ordinary Code rather than enacting it as a separate constitutional text, preserved the substance of the rights while avoiding the symbolically freighted step of a formal ecclesiastical constitution, a compromise Coriden (2004) reads as itself a distinctively canonical, rather than merely secular-constitutional, solution to the problem the LEF project had been designed to address.

The drafting history of canons 208–223 themselves also repays closer attention. Provost (1986) documents that successive schemata circulated among the Pontifical Commission for the Revision of the Code of Canon Law between 1977 and 1980 progressively expanded the list of specific rights beyond what the earlier LEF drafts had contained, incorporating, for instance, an explicit right to a good reputation and to privacy (eventually canon 220) and a more fully articulated right to legal vindication before a competent ecclesiastical forum, including the right not to be punished canonically except in accordance with the law (eventually reflected in canon 221 and in the Code's penal and procedural books). These later additions reflected, in Provost's (1986) analysis, a growing recognition among the drafters that a purely theological affirmation of baptismal equality would remain juridically incomplete without accompanying procedural guarantees, a concern that anticipates the discussion of remedies for the violation of rights taken up in Section 5 below.

Green (1986), reviewing the revised Code shortly after its promulgation, offered a more critical assessment of how faithfully this drafting history was carried through to the final text. He observed that despite the promise of the pneumatic-charismatic principle underlying the revision, the law as promulgated still tends to overemphasise the obligations and underemphasise the sacramentally grounded rights of believers, for instance in its consistent practice of listing obligations before rights in canons 209–223, and frequently conditions the formulation of rights so that their limitations appear essential to the rights themselves rather than merely to the manner of their exercise. On this reading, the Commission's failure to articulate an explicit right to exercise personal charisms, notwithstanding *Apostolicam Actuositatem*'s emphasis on the charismatic foundation of lay apostolate, left the law's account of lay rights less securely grounded in baptismal participation than the conciliar sources themselves would have supported (Green, 1986).

It is also worth recording that the ten guiding principles for the Code's revision, adopted by the 1967 Synod of Bishops and referenced earlier in Section 3, did not achieve unanimous or uncontested application throughout the drafting process. Some consultors involved in the revision expressed concern, chronicled in the commentary literature, that an overly explicit and justiciable statement of the rights of the faithful risked encouraging an adversarial, litigious posture between the faithful and their pastors, in tension with the *communio* ecclesiology that *Lumen Gentium* had

been at pains to articulate (Coriden, 2004; Kašný, 2004). The final text of canons 208–223, and in particular the qualifying language of canon 223 concerning the common good and the regulatory authority of ecclesiastical office, reflects an attempt to hold these two concerns, the vindication of genuine rights and the preservation of a communal, non-adversarial ecclesial culture, in balance, an attempt whose practical success remains, as Örsy (2009) suggests, a matter for ongoing assessment rather than settled achievement.

Classifying the Rights: Human, Ecclesial, Ecclesiastical, and Communal

Canonical commentary, following James Coriden's influential taxonomy, usefully distinguishes rights of the Christian faithful according to their source (Coriden, 2004). Human rights, in this taxonomy, derive from the nature and dignity of the human person as such, life, liberty, privacy, freedom of conscience and expression, and are not lost upon baptism but are explicitly acknowledged and, in some instances, reinforced by the Church's own law (Coriden, 2004; Second Vatican Council, 1965b). Ecclesial rights accrue specifically from baptismal incorporation into the Church, access to the sacraments, the right to Christian formation, the right to marry within the Church (Coriden, 2004). Ecclesiastical rights attach to the holding of ecclesiastical office, the pastor's stability in office, the bishop's authority to erect parishes, and thus belong to a functionally differentiated subset of the faithful rather than to all equally (Coriden, 2004; Beal et al., 2000). Communal rights, finally, belong to members of specific ecclesially recognised communities or associations, such as institutes of consecrated life or associations of the faithful, and are governed by the particular law or statutes of those bodies (Coriden, 2004; Code of Canon Law, 1983). This taxonomy usefully clarifies that the "equality" canon 208 proclaims operates at the level of fundamental dignity and mission, not at the level of every specific right, many of which remain, appropriately, condition-dependent.

The taxonomy can be illustrated with particular canons. Canon 213's right of the faithful to be assisted by their pastors "from the spiritual riches of the Church, especially by the word of God and the sacraments" is properly classified as an ecclesial right, flowing directly from baptismal incorporation rather than from any prior status, and stands, as Section 2 noted, in direct historical continuity with canon 682 of the 1917 Code, the sole lay right the older law recognised (Code of Canon Law, 1983, c. 213; Coriden, 2004). Canon 220's protection of a good reputation and of privacy, by contrast, is more naturally classified as a human right recognised, and given specifically canonical remedies, by the Church's own law, since it restates in ecclesiastical form a protection that natural justice and, in most jurisdictions, civil law already accord to persons as such (Coriden, 2004; Second Vatican Council, 1965b). Canon 221, providing that the faithful have the right to vindicate and defend their rights in a competent ecclesiastical forum, and not to be punished with canonical penalties except in accordance with the law, sits at the intersection of these categories: it is the canon that operationalises, procedurally, the substantive rights enumerated elsewhere in the same title, and its adequacy or inadequacy in practice is precisely the question Beal et al. (2000) raise in connection with the administrative recourse procedure of canons 1732–1739.

The human-rights category itself, life, liberty, privacy, freedom of conscience, is not a purely theoretical placeholder within this taxonomy; it is the category most directly tested by contested bioethical questions in which the Church's own moral teaching and the civil law of a given jurisdiction may diverge. The present author's own prior work with Kii on the interreligious and bioethical dimensions of abortion and euthanasia in the Nigerian context (Eze & Kii, 2025b) illustrates how the abstract classification offered here is worked out in practice: the right to life and the right of conscience are there treated as human rights the Church's law recognises rather than creates, a treatment consonant with the classification proposed in this section, while their pastoral application remains sensitive to the interreligious environment in which the Nigerian Church exercises its teaching office.

The Medieval Canonistic Genealogy of Subjective Rights

The classification offered above, useful as it is for organising the substantive content of canons 208–223, can obscure a historiographical point worth making explicit. Tierney's (1997) history of the idea of natural rights argues, against an older historiographical consensus that traced subjective rights to seventeenth-century natural-law theorists or to Enlightenment political philosophy, that the conceptual architecture of a right as a power or entitlement inhering in an individual person was substantially the achievement of the medieval canonists, beginning with twelfth-century commentators on Gratian and elaborated by successive generations of decretalists through the fifteenth century. On this account, when the drafters of canon 208 grounded the equality of the Christian faithful in baptism and described it in terms of a right cooperated in "accord with each one's own condition and function," they were not importing an alien, secular category into canon law for the first time, but redirecting toward the laity a juridical vocabulary of subjective right that had been developed within, and had never entirely left, the canonical tradition itself.

This genealogy carries an interpretive consequence for how canon 208 is best understood. If the concept of a right as such long antedated its extension to the laity as a class, then the theological novelty of Vatican II and of the 1983 Code lies less in the invention of a new juridical category than in a deliberate ecclesiological decision, described in Section 3 above, to apply an existing and well-understood category more inclusively than the pre-conciliar tradition had chosen to do. This reading is consistent with, rather than opposed to, Valdrini's (2024) contention that canon 208 expresses a specifically theological claim about the effects of baptism; the theological claim and the juridical vocabulary in which it is expressed are, on Tierney's account, both native to canon law's own long development rather than borrowed wholesale from either Enlightenment liberalism or twentieth-century conciliar aggiornamento alone.

Remedies for the Violation of Rights

The theoretical elegance of this classification does not, however, resolve the further and more practical question of what remedies exist when a right so classified is in fact violated. Beal et al. (2000), in their extensive commentary on the 1983 Code, note that the drafters supplemented the substantive rights of canons 208–223 with a specific procedural mechanism, administrative hierarchical recourse, governed by canons 1732 to 1739, by which a member of the faithful who believes an administrative act has caused, or threatens to cause, unjust injury may seek redress from a higher ecclesiastical authority. This mechanism, while genuinely new to the 1983 Code as a codified procedure, was not without earlier analogue in the Church's practice; commentators trace functionally similar remedies to at least the fourth century, even though they lacked the systematic procedural form given to them in 1983 (Beal et al., 2000). The existence of this remedy is theologically significant in its own right, since a right proclaimed in canon 208 without any corresponding procedural avenue for its vindication would risk remaining, in Örsy's (2009) phrase, a merely aspirational or exhortatory statement rather than a genuinely juridical one.

Green (1986) offers a more pointed assessment of this same procedural question. He notes that the Code Commission's own seventh guiding principle for the revision had explicitly identified the inadequacy of administrative recourse under the 1917 Code and had called for the establishment of administrative tribunals throughout the Church, staffed independently of the ordinary hierarchical chain, to hear complaints against allegedly arbitrary exercises of ecclesiastical administrative power (Green, 1986; Communicationes, 1969). Despite extensive drafting work on such tribunals during the 1970s, and a 1981 plenary vote in their favour, the proposal was dropped during the final papal consultation before promulgation, leaving episcopal conferences with only discretionary authority to establish such bodies and leaving the ordinary faithful, in practice, dependent on hierarchical recourse to the same administrative structure whose decision is being challenged (Green, 1986). Örsy (2009), reflecting on the broader reception of the Council within canonical structures, similarly cautions that the practical vindication of the rights of the faithful depends as much on the willingness of local ordinaries and tribunals to make active use of the procedural avenues that do exist as on the substantive elegance of the canons themselves, an observation with direct relevance

for any empirical assessment, such as this article's companion piece undertakes, of how fully these rights have been realised in a given particular church.

Contested Questions in the Reception of Canon 208

No account of canon 208's significance would be complete without acknowledging that its precise practical implications remain the subject of continuing scholarly and pastoral debate, rather than settled consensus. Canonists broadly agree on the historical narrative traced in Sections 2 through 4 of this article: that the pre-conciliar tradition accorded rights chiefly to clerics and religious, that Vatican II reconceived the Church as the People of God united in fundamental baptismal equality, and that this reconception found positive-law expression in canons 208–223 (Coriden, 2004; Hervada, 1994; Beal et al., 2000). There is considerably less consensus, however, on how far this baptismal equality should be understood to extend into questions of governance, consultation, and access to specific ecclesiastical offices and ministries, questions that intersect with, but are analytically distinct from, the doctrinal question of who may validly receive holy orders. Some canonists and theologians read canon 208's affirmation of equality as licensing an expansive programme of structural reform, expanding the consultative and, in some proposals, decision-making role of the laity in diocesan and parish governance, a reading that has gained renewed prominence in the context of the Synod on Synodality convoked by Pope Francis. Others caution that canon 208 must be read together with canon 129 and related canons on the exercise of the power of governance, which the Code continues to reserve, in its ordinary exercise, to those who have received sacred orders, and argue that conflating baptismal equality of dignity with equality of governing function risks obscuring a distinction *Lumen Gentium* itself was careful to preserve (Second Vatican Council, 1964; Coriden, 2004).

This article does not attempt to adjudicate this ongoing debate, which properly belongs to constructive and pastoral theology as much as to historical-canonical scholarship. What the historical account offered here does establish, however, is that both sides of this contemporary debate are, in an important sense, arguing about the correct interpretation of a genuine and historically significant juridical achievement, rather than about whether that achievement occurred. The pre-conciliar Church's *societas inaequalis* model, whatever its own theological coherence, simply did not extend to the laity the juridical or conceptual resources that would have made the present debate intelligible in its current form; it is precisely because canon 208 introduced "true equality" as an operative constitutional category, applying to the laity a category the canonical tradition had long possessed, that its scope and limits have become a live question for the contemporary Church, in a way that would have been unintelligible within the framework of the 1917 Code (Code of Canon Law, 1917; Coriden, 2004; Tierney, 1997).

Conclusion

The transformation traced in this article, from a canonical tradition that construed the Church substantially as a society of unequals, according rights and privileges chiefly to clerics and religious while extending to the laity only the single spiritual entitlement of canon 682, to a Code that opens its central book with an explicit affirmation of fundamental equality among all the baptised, represents one of the more theologically and juridically significant, if insufficiently appreciated, achievements of the Second Vatican Council's reception into positive law (Coriden, 2004; Hervada, 1994). This transformation was neither instantaneous nor uncontested: the abandoned *Lex Ecclesiae Fundamentalis* project illustrates the difficulty of achieving full conciliar consensus on a formal constitutional statement, even as its substantive content found a home within the ordinary Code (Provost, 1986; Green, 1986).

Two further observations, drawn from the discussion in Section 5, deserve emphasis in closing. First, the distinction between substantive right and procedural remedy that Beal et al. (2000) and Green (1986) each draw out in their respective commentaries on canons 1732–1739 and on the abandoned administrative-tribunal proposal suggests that any assessment of how fully canon 208's promise of equality has been realised in a given particular church cannot rest on textual analysis of

canons 208–223 alone; it must also examine whether the administrative recourse mechanisms designed to vindicate those rights are, in practice, accessible to and used by the ordinary faithful. Second, Tierney's (1997) demonstration that the conceptual resources for a lay bill of rights long predated their conciliar deployment suggests that the theological significance of canon 208 traced in Sections 2 through 4 of this article, however historically and doctrinally well-founded, is only the first half of a complete account; the second half is empirical and institutional, concerning the actual practice of particular churches, a task the present authors have begun to pursue elsewhere in the specifically Nigerian context of ecclesial dialogue and shared ethical formation (Eze & Kii, 2025a, 2025b, 2026).

Understanding this historical and theological foundation is, accordingly, a necessary but not sufficient precondition for assessing, as this article's companion piece undertakes, how fully these codified rights have been realised in the concrete pastoral life of particular churches such as the Catholic Church in Nigeria, where the interaction between the universal law traced here and the particular legal, cultural, and ecclesial conditions of local dioceses raises questions that a purely doctrinal-historical study such as this one can identify but cannot, by itself, resolve.

The value of undertaking this historical-doctrinal groundwork before proceeding to any particular-church assessment should not be underestimated. Without a clear account of what canon 208 actually establishes as a matter of universal law, equality of dignity grounded in baptism, coexisting with rather than abolishing hierarchical and functional diversity, resting on a juridical concept of right with roots deep in the canonical tradition itself, and accompanied by both substantive rights and, in principle, procedural remedies for their vindication, any subsequent empirical study risks measuring particular-church practice against either an inflated standard the text does not in fact set, or a deflated one that overlooks genuine juridical entitlements the Code does confer. It is precisely this risk of measuring practice against the wrong theological and juridical baseline that the historical reconstruction offered in this article is intended to forestall.

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