

The *periculum mortis* and the juridical norms of the Catholic Church regarding the Sacraments. Canonical Perspective

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Abstract: In danger of death (*periculum mortis*), the canonical rules laid down under “normal conditions” concerning the reception and service of the Sacraments are often impossible to adhere to. One of the fundamental problems in pastoral life is a lack of juridical knowledge of the “graces, dispensations, exceptions” in canon law in situations of the danger of death, which can be detrimental to the spiritual rights of the faithful. It is, therefore, essential to examine both normatively and pastorally. Canon law seriously takes the danger of death as a matter of its positive norms. The “exegesis method” of canon law will be used in the canon on *periculum mortis*, especially book IV of CIC 1983. In conclusion, it is evident that in the face of the danger of death for every physical person in the Church, the principle: *salus animarum suprema lex* is the only norm that must be observed.

Keywords: *Periculum mortis*, Sacrament, dispensation, salvation of souls

Abstrak: Dalam bahaya mati (*periculum mortis*), aturan-aturan kanonik yang ditetapkan dalam “kondisi normal” terkait dengan penerimaan dan pelayanan Sakramen-sakramen, seringkali tidak mungkin ditaati. Inilah salah satu problem yang nyata dalam hidup berpastoral, bahwa kurangnya pengetahuan yuridis mengenai “kemurahan, dispensasi, kekecualian” dalam hukum kanonik pada situasi bahaya mati, bisa saja merugikan hak spiritual umat beriman. Karenanya penting untuk mengkaji baik secara normatif maupun pastoral bagaimana hukum Gereja memperhitungkan secara serius bahaya mati sebagai salah satu materi dalam norma positifnya. Untuk mendukung kedalaman dalam artikel ini, akan digunakan metode eksegeze hukum kanonik atas seluruh kanon mengenai *periculum mortis* terutama pada buku IV CIC 1983. Dalam kesimpulan, jelas bahwa dihadapan bahaya mati bagi setiap persona fisik dalam Gereja, prinsip: *salus animarum suprema lex* adalah satu-satunya norma yang harus ditaati.

Kata kunci: *Periculum mortis*, Sakramen, dispensasi, keselamatan jiwa-jiwa

Introduction

The danger of death is something very real, something that is inevitable from what is called “life”. Anyone who lives is bound to die. Death as well as life are mysteries. Not because they are incomprehensible to the intellect, but because they are part of the divine mystery that at some point can only be accepted in faith. Just as at birth, we never choose when and where to be born, neither does death. It comes in its mystery. Therefore, naturally, no one can validly determine when someone will die. Or even if it is possible, given the sacredness of the mystery of death, no one has the right to determine when it should come.

In the face of that reality, we can assess at least the moments surrounding death. This is known as the moment of danger of death. The danger of death can still be recognized outwardly, it can be known based on scientific analysis, not always precisely, but it is possible. There are symptoms, there are signs, there are reasonable possibilities that make a person intellectually, psychologically and even spiritually realize that death is approaching. It can be a long period from the time the symptoms or moment of

danger are present, or just a split second before death arrives. This whole sequence is categorized as the danger of death for a human being.

In *Codex Iuris Canonici* (CIC) 1983 the term used to discuss this problem in Latin is *periculum mortis*. *Periculum-periculi* means danger, peril, risk, or something that threatens. Whereas *mortis* comes from the word *mors-mortis* which means death, extinction, disappearance, end. In the previous *Codex* (CIC 1917) another term, namely *articulus mortis*, was also used. The term *articulus* seems to have been used earlier in Church history. It is not always associated with *mortis*, but sometimes is used to describe other words such as *temporis, vitae*, as in the writings of St. Augustine (Montini, in note n. 4, 1998, p. 310). Then the two terms were used interchangeably in ecclesiastical writings.

Canon law regulates juridical norms for its legal subjects mainly in normal situations. Interestingly, however, the fact of the danger of death has always had a place and juridically served as an exception. *Periculum mortis* is not something foreign and has been an integral part of the positive norms of the Church since the beginning. It is the Church's own belief that, the positive juridical ecclesiastical norms insofar as they are held for the discipline of the faithful, in particular situations that endanger the soul, cannot be an obstacle to the faithful receiving spiritual goods, and in this case primarily the Sacraments. It makes sense, therefore, to examine why the *periculum mortis* has a "special" role in canon law.

Why the Sacraments should not be prevented from being received by the faithful in danger of death even if they are impeded by canonical penalties from receiving them, and what is the fundamental reason behind it? To answer these questions we will explore first the final purpose of canon law. Furthermore, as an actual contribution among ministers (clergy) as well as all the faithful, the juridical commentary will be presented systematically on the canons referred to, not only as an intellectual-juridical understanding, but moreover as a pastoral opportunity to be taken if one is faced with such a situation.

Method

The methodology that will be used in this paper is exegesis and canonical analysis. It will systematically explore each canon that addresses the *periculum mortis* situation in each of the norms concerning the Sacraments. Therefore, only the canons in book IV of the CIC 1983 that deal specifically with norms concerning the Sacraments will be referred to. Exegesis and canonical analysis refer to the canonical norm c. 17 which instructs that ecclesiastical laws must be understood in accord with the proper meaning of the words considered in their text and context. It will therefore examine how the term *periculum mortis* has been used in the canonical tradition or its historicity and its actual concept, as well as the juridical reasons why this *periculum mortis* is widely used in norms concerning the Sacraments. As a contextual analysis, the main purpose of the existence of canonical norms in the Church will also be presented. It is absolutely necessary to find out how the fact of the danger of death relates to the final purpose of law in the Catholic Church. To strengthen this research, specifically from a theological perspective, documents related to the Sacraments will be referred to, especially those that are normative-practical in nature.

Result and discussion

The supreme purpose of Canon Law

First of all, it might be good to explore the meaning of some terms regarding canon law. Canon law or in Latin *ius canonicum* in the history of the Church has also been called *ius pontificium*, *ius decretalium*,

ius sacrum and *ius ecclesiasticum*. However, after the Second Vatican Council, the term that is often used is *ius ecclesiale*, this term better expresses the relevance of the law to the mystery of the Church (Ghirlanda, 2013, p. 9). While the term “canon” which is now more popular than *ius ecclesiae*, etymologically it comes from the Greek term, *kanón* which means rule. Since the Council of Nicaea (325) this term has been used to distinguish between ecclesiastical norms and civil norms. Hence, canon law is a set of legal norms, established or enforced by the competent authority of the Catholic Church, by which the Church regulates and carries out its functions and by which the activities of the faithful are regulated, with respect to the purposes appropriate to the Church.

From the very beginning, the Church sought to formulate its legal system according to the purpose of its Founder, Christ himself. *Ius canonicum* is an original patrimony, which does not arise from socio-cultural factors outside the People of God (Pighin, 2021, p. 33). In that sense, canon law exists as a consequence of the existence of the Church as the People of God, a community willed by Christ Himself. Accordingly, canon law never ceases to be a positive norm like any other civil law. Canon law must be an effective instrument so that the mission of the Church, that is the mission of Christ (salvation) can be realized among the faithful (Frias, 2022, p. 55). In this way, canon law system first and foremost has a spiritual purpose. The content of canon law is not just a body of norms or a set of legal principles but a means to realize how that mission might be carried out in order to protect the rights and obligations of all the faithful. These norms serve the needs of the faithful in all the various dynamics of their lives. As a direct consequence, canon law cannot exist without its pastoral dimension.

The principle that has always inspired the Church is in fact the *salus animarum* (salvation of souls) that the current code of canon law, proposes in c. 1752 as the *suprema lex* which perpetuates over time the mission that Christ entrusted to his Church. St. Thomas Aquinas on this point, has taught that: *finis iuris canonici tendit in quietem Ecclesiae et salutem animarum* (cf. ST I-II, q. 95, a.2) which means “the purpose of canon law aims at the peace of the Church and the salvation of souls”, or as formulated in c. 1752: “the salvation of souls is must always be the supreme law in the Church”. It is wonderful that the 1983 CIC concludes with a canon that is both important and fundamental at the same time. As Julián Herranz, ex-President of *Pontificio Consiglio per i Testi Legislativi* (now referred to as *Il Dicastero per i testi legislativi*) stated in 2000 in his conference at the Pontifical University of the Holy Cross that, the immediate or proximate end of canon law seen as an order but also as a science is to compose its norms and institutions in such a way that they are directed to the supreme pastoral goal of the *salus animarum* (PCTL, April 6, 2000).

This principle is the result and expression of the teaching and spirit of the Second Vatican Council. It must be understood as an indispensable instrument for ensuring true regulation of both the individual and social life and all the activities of the Church (Chiappetta, 2011, p. 308). For this reason, canonical norms must be seen as going beyond a mere set of legal norms and obeyed because their existence is for the fulfillment of the mission of the Church. As Pope Francis said that these rules (norms in CIC 1983) be obeyed, for they reflect the faith that we all profess and from which their binding force is drawn; founded upon that faith, they manifest the maternal mercy of the Church, which is ever concerned for the salvation of souls (Pope Francis, *Pascite gregem Dei*, 2021). From that point on, canonical equity cannot exist without consideration regarding the salvation of souls, especially in every particular situation in the live of the faithful.

The concept of periculum mortis

In the entire of CIC 1983, there are 18 times the use of the term *periculo mortis* or *mortis periculo*, 5 times with *periculum mortis* or *mortis periculum* and 1 time with *periculi mortis*. Even though these terms differ in their word placement, as in the Latin structure, they mean the same thing. Of the 24 times the term is used in the entire of CIC 1983, 20 times it is found in book IV “The Sanctifying Function of the Church”, related to the Sacraments.

Canon law never gives a specific definition of the danger of death or *periculum mortis*. From its own nature, it is not the role of Canon Law, to define everything that is regulated in the norm. In canon law, the danger of death is always related to the death of the *persona physica*, or the death of the human body in general. Meanwhile, if it is related to *persona giuridica*, the term used is *extinguitur* or *extinguitur* in Latin (cf. c. 120 §1). *Periculum mortis* in this case does not mean anything other than certain serious situations that threaten a person’s life. Concretely it can be understood in a broad sense.

In the realm of medical disciplines, the definition of death is still often debated. That’s why there is no need for a biological explanation here. Even some countries have a specific standard definition to determine the status of a person’s biological death, for example related to when a person can donate certain organs to the recipient. In some extreme cases, the danger of death that has been categorized by law, can legalize someone to perform euthanasia.

Another term used in Church besides *periculum mortis* is *articulus mortis*. This term is rarely used now. The term *articulus* has been used since the fifth century in the writings of the Church fathers. In the Council also found the use of the term *articulus*, for example in *Acta Et Decreta Concilii Triburiensis* on the theme of *De Iniuria et Contumelia cap. IV* (Cochlaeus, 1525, p. 7). In CIC 1917 it was only used once in c. 468 §2 and it relates to the faculty for priests who assist the infirm, to give the apostolic blessing with the plenary indulgence at the time of death. This term is also found in some liturgical books. In the liturgical book (*Rituale Romanum*, 1952) related to this, the term *articulus mortis* is used also: *Ritus benedictionis apostolicæ cum indulgentia plenaria in articulo mortis*.

The *articulus mortis* refers more to the moment of death or at the time of death as its Latin meaning; decisive moment, critical point (see also, Montini, 1998, p. 310). Therefore, the term *articulus mortis* has in itself a moral certainty, that a person is unlikely to be able to survive, or that the time of death is very near. The possibility of survival are much less than the possibility of death (ahead of the execution of the death penalty or the last stage of cancer). Meanwhile, *periculum mortis*, can be understood as a serious and life-threatening situation or a probable threat in the future, but open to all other possibilities, such as recovering or surviving from the threat.

In *periculum mortis*, the main thing is that the danger is factually present or real and it’s working its effect. There is no need for any precise presumption whether death will come soon or not. Because one might die long after the danger of death occurs. Or people who are medically diagnosed will die soon, yet in some cases can improve and even recover completely. It doesn’t have to be that the danger of death means a very close time before death, much less excludes it from healing or surviving from danger. However, in current canon law, the term used is only *periculum mortis* which logically also implies *articulus mortis*. As also stated by St. Alphonsus Liguori: *ratio quia in hac materia pro eodem accipitur, articulus et periculum* (S. Alphonsi, 1852, p. 382). Both can be accepted as the same thing.

In canon law both have the same relevance (Miragoli, 2015, 279). The existence of these two terms cannot be separated from the fundamental reason why the danger of death exists in the canon law system. Remember that this particular situation is an exception, one where favors and benefits, especially

spiritual ones, are given to the faithful. When the term *periculum mortis* is used in canonical norms, it almost always relates to a dispensation. Dispensation itself is the relaxation of an obligation imposed by law, in a particular case, granted by a legitimate authority for a proper cause (D'Ostilo, 2018, p. 80). Of course this favor needs to be regulated in such a way, and in doubt, the salvation of souls is supreme. The favor referred to here either for the absolution of sins or the remission of canonical punishments and mainly to receive the sacraments validly and licitly. Not surprisingly the term used in the current *codex* is *periculum mortis* which would make more sense and certainly more practical rather than the term *articulus mortis*.

Why should it be more practical, because *periculum mortis* should be easier to understand as a concept, because it is often related to urgent situation. So, priests or lay persons even without certain skills, should be able to easily detect the *periculum mortis* situation and act in accordance with applicable norms. Indeed, medical information from a doctor can help with more certainty whether there is a situation that threatens the patient's life or not. Yet, it is not always accessible that way. In cases where medical services are difficult to find, or impossible to obtain, of course the medical definition of *periculum mortis* is neither necessary nor useful. Consider the case of a heart attack for instance. This includes other situations where a minister of the Sacrament is unsure about the emergency facing his parishioners. That's why to avoid that difficulty, canon law emphasizes that in doubt as to whether a person is in dangerously ill or alive or dead, this sacrament is to be administered (cf. c. 1005).

The *periculum mortis* can be derived from two factors; *ab intrinseco* and *ab extrinseco*. *Ab intrinseco* refers to the various dangers of death that may come from the person himself. Mention here the dangers arising from serious health problems, old age, severe mental or psychological illness, voluntary drugs use causing serious health effects, or critical condition due to attempted self-harm. The danger of death is related to himself whether he wants it (deliberately endangering his soul) or not (a disease that arises naturally in him).

Meanwhile, *ab extrinseco* refers to the various dangers of death that may occur caused by an external event or situation from outside himself and almost certainly something against his will. It could be related to a natural disaster or an accident while driving, being a victim of a fatal crime, undergoing a high-risk medical procedure, living in a war situation, or live in a place where the persecution of the faithful still happens. Presumably there is no need to specify the difference between the two, it is enough to ensure that both intrinsically and extrinsically the danger of death is already threatening a person's life.

Another thing to note is, in case where the description of *periculum mortis* is associated with an exception, it is a subject to strict interpretation according to c. 18, for instance in the case of *absolutio complicis* against the sixth commandment on c. 977. Also, all the dispensations granted by canon law related to the situation of danger of death, only apply to ecclesiastical norms, will never apply to divine law.

Canonical norms regarding the periculum mortis in relation to the sacraments

In general, even most of the canonical norms related to the state of danger of death are found in book IV in the 1983 CIC, that is: *Munus Santificandi*. In short, this IV book deals with canonical norms regarding the sacraments and the other acts of divine worship in the Church. There is no denying that the Sacrament as the efficacious sign of grace, instituted by Christ and entrusted to the Church, by which divine life is dispensed to all, is a spiritual right of the faithful. This is obvious as stated in c. 213 that

the Christian faithful have the right to receive assistance from the sacred pastors out of the spiritual goods of the Church, especially the word of God and the sacraments.

Canon law in this case tries to regulate in such a way that at the moment of danger of death, the faithful should not be disadvantaged because of the obstacles of positive legal norms. Especially considering that the seven sacraments touch all the stages and all the important moments of Christian life, they give birth and increase, healing and mission to the Christian's life of faith (cf. CCC, n. 1210). Outside of book IV, the danger of death related to the functions of sacred ministers, such as priests and chaplains, the rest related to canonical punishment, especially the suspension of the binding force of punishment in the face of the danger of death for the good of the faithful. The suspension concerns all the effects that arise from the penalty, and it lasts as long as the danger of death lasts, and when the situation disappears then the penalty works its effects again (Ghirlanda, 2017, p. 628).

The Sacrament of Baptism

Canon law regulates how the sacrament of baptism is administered to both adults and infants who are in danger of death (c. 865 §2, 867 §1). For an adult, baptism is given with the following considerations: if having some knowledge of the principal truths of the faith, the person has manifested in any way at all the intention to receive baptism and promises to observe the commandments of the Christian religion. In danger of dying what is regulated in the norm c. 865 §1 was relaxed, but not all, especially regarding the intention of the person to receive baptism.

An important aspect that affects the validity of baptism to those who have reached the use of reason is the intention of the subject (Pighin, 2016, p. 113). This condition is *ad validitatem* (Quaderni, 2017, p. 747). It is mandatory that they have expressed an intention to be baptized in any way either explicitly or implicitly. The Latin verb *manifestaverit* in this canon also applies to intention that was once expressed before the danger of death existed, and then was never withdrawn. And if it is evident that the intention exists-implicitly at least, then there is no reason not to baptize him.

On the other hand, for infants who have not been baptized and they are in danger of death, the preparation for parents (cf. c. 867 §1) and founded hope (cf. c. 868 §1) are not required. The clause of c. 867 §2 includes the caption: *sine ulla mora*, in other words without delay. This means that baptism must somehow be given without exception, as explained in the c. 849: baptism, the gateway to the sacraments and necessary for salvation. This fundamental reason is also the motive for the baptism licitly of an infant in danger of death whose parents are not Catholic or against the will of the parents (cf. c. 868 1, 3°), which in normal situations is required as regulated in c. 868 §1. The eternal salvation of the child prevails over parental rights (cf. Chiappetta, 2011, p. 113). It should be noted: that the law does not require the baptism of infants in the danger of death against the will of the parents, but only legislates that baptism administered in such situation is not only valid but also licit (Ekpo, 2018, p. 146).

Regarding the minister of baptism, it is necessary to pay attention to the phrase *in casu necessitatis* in c. 861 §2. Canon law divides into two categories of ministers of baptism, ordinary and extraordinary ministers. The ordinary minister of baptism is a bishop, a presbyter, or a deacon (cf. can. 861 §1), while the extraordinary ministers of baptism are; a catechist or another person designated for this function by the local ordinary when an ordinary minister is absent or impeded, or in a case of necessity any person with the right intention, confers baptism licitly (cf. c. 861 §2). In the case of necessity here is nothing but the situation of *periculum mortis* then it is directly related to eternal salvation that cannot be delayed.

In that situation, anyone, even if he is not catholic, not even baptized, a heretic, a schismatic, an apostate or atheist can baptize as extraordinary minister as long as with the right intention (as the Council of Trent explained: the intention to do what the Church does). And of course with the correct form and matter. The form is the baptismal formula, “I baptize you in the name of the Father, and of the Son, and of the Holy Spirit.” The matter is the water (natural water from water sources, river, well, lake, sea, snowmelt water or melted ice) either by immersion or by pouring over the head of the recipient (cf. c. 854). Of course, in *periculum mortis*, the method of pouring water on the recipient’s head is the most reasonable option. *In casum necessitatis*, water that has not been blessed is also licit to use (cf. can. 853).

The Sacrament of Confirmation

Canon law regulates in some norms the matter of administering the Sacrament of Confirmation in danger of death. The first relates to the minister of the Sacrament of Confirmation. According to c. 882, the ordinary minister of confirmation is a bishop, because a bishop marked with the fullness of the sacrament of Orders for they are the successors of the apostles (*Lumen Gentium*, 1964, n. 26). He is the original minister of Confirmation (see also CCC, n. 1312). While the extraordinary minister -this term is actually not used anymore in the current *Codex*, while in CIC 1917 c. 782 §2 is used- is a presbyter provided with this faculty in virtue of universal law or the special grant of the competent authority. Indeed, priests can validly administer this sacrament since they by the grace of priestly ordination have *potestas ordinis*. But in ordinary situations it requires *ad validitatem* the faculty of administering Confirmation from the competent authority or from universal law. For example a chaplain, based on universal law c. 566 §1, can confer the sacrament of confirmation to the people he serves who are in danger of death.

The norm c. 883, 3°, notes that, in danger of death, *ipso iure*, parish priest and indeed any presbyter can administer it to the people concerned. The parish priest, obviously because he is the one who lives directly among his people, who in case of danger of death, he is the most likely to be contacted easily (cf. also c. 530, 2°). Interesting to see the phrase *quilibet presbyter* in this norm. This phrase needs to be interpreted in the broadest sense. That every priest, even priests who are sentenced to excommunication or another censures, including also priests who may have left the priesthood or have been laicalized, as long as there are faithfuls who are in danger of death can administer the Sacrament of Confirmation validly and licitly without any personal or territorial limitations.

The next relates to those to be Confirmed. Under normal circumstances c. 889 §1 provides that every baptized person not yet confirmed and only such a person is capable of receiving confirmation. This norm speaks of subjects capable of receiving the Sacrament of Confirmation. The condition “have been baptized” and “not yet Confirmed” is for the validity of receiving the Sacrament. Theologically it is related to the understanding that the Sacrament of Baptism is the gateway to life in the Spirit and the door which gives access to the other sacraments and the indelible character of the Sacrament of Confirmation once validly received.

Whereas c. 889 §2 establishes several conditions for receiving this sacrament, out of the danger of death. Those conditions are; that a person who has the use of reason be suitably instructed, properly disposed, and able to renew the baptismal promises. In the Latin Catholic Church, since the X century, the Sacrament of Confirmation has been given to those who have entered the age of discretion. Or as stipulated in the norm c. 891, under ordinary circumstances the sacrament of confirmation is to be conferred on the faithful at about the age of discretion. These provisions are for the licit only. In danger

of death, the provisions in c. 889 §2 are dispensed. Mention here in a case where a child who has not been able to use reason.

For this, in danger of death, children should be confirmed even if they have not yet attained the age of discretion or the age established by the Conference of Bishops. In a decree issued by Pope Pius XII in 1946, faculty was granted to some priests, including all territorial pastors, to administer the Sacrament of Confirmation also to infants, in danger of death due to grave illness (*Sacra Congregatio de Disciplina Sacramentorum*, 1946, p. 351). It is also good to see how the canonical norms of the Eastern Catholic Churches are towards the administration of the Sacrament of Confirmation. In Code of Canons of the Eastern Churches (CCEO), c. 695 §1, it is arranged that Chrismation (Eastern Churches refer to Confirmation as Chrismation) with holy Myron must be administered in conjunction with baptism. So there is no requirement for the use of reason let alone an age limit in their rules. They confer Chrismation immediately after baptism. And according to the tradition of the Eastern Churches, chrismation is administered by a presbyter either in conjunction with baptism or separately (cf. c. 694 CCEO).

In short, in danger of death, this sacrament can and must be administered at any age. It is important to remember that in the Catholic faith one cannot equate maturity of faith with the adult age of natural growth. It is also based on what St. Thomas Aquinas said about the maturity: “Age of body does not determine age of soul. Even in childhood man can attain spiritual maturity: as the book of Wisdom says: “For old age is not honored for length of time, or measured by number of years. Many children, through the strength of the Holy Spirit they have received, have bravely fought for Christ even to the shedding of their blood” (cf. *ST* III, q. 72, 8, a. 2; Cf. Wis 4:8; cf. CCC, n. 1308).

The Sacrament of Eucharist

Canon law determines how the Sacrament of the Eucharist is administered to children. In general, the Eucharist is given to children with the following conditions: they have sufficient knowledge and careful preparation so that they understand the mystery of Christ according to their capacity and are able to receive the body of Christ with faith and devotion (cf. c. 913 §1). The 1983 CIC does not give us the exact age for first Communion. Previous *Codex*, in c. 88 §3 states that those who have completed seven years are assumed to be able to use reason. For this in the current *Codex*, we can refer to c. 97 §2.

The norms of canon law give more attention to the role of parents to prepare properly their children who have reached the use of reason and as soon as possible bring them to receive the divine food (cf. c. 914). However, in danger of death, the conditions required more simplified but still fundamental: enough that if they can distinguish the body of Christ from ordinary food and receive communion reverently (cf. c. 913 §2). For children who have serious illness, it is sufficient to have minimal certainty that they know that what they will eat is not an ordinary food, but the body of Christ himself, and respect to the Holy Communion.

What about those with mental disabilities, especially if they are also in danger of death. This issue needs to be considered more wisely. First of all, the ability to distinguish between ordinary food and the Body of Christ is part of intellectual ability. It would not be appropriate if this applies strictly to those who have mental disabilities which they are naturally prevented from having that capacity, at least not the same as other normal people. It should be considered case by case. In my opinion, the rules that apply to them always should refer to c. 912: any baptized person not prohibited by law can and must be admitted to Holy Communion. It suffices that it is given with care, especially with the help of the family, so that there is no danger of profanation of the Holy Communion. Pope Benedict XVI in his apostolic

exhortation, also stated quite clearly on this issue: “Finally, whenever possible, Eucharistic communion should be made available to the mentally handicapped, if they are baptized and confirmed: they receive the Eucharist in the faith also of the family or the community that accompanies them (*Sacramentum Caritatis*, 2007, n. 56).

Next relates to the administration of *Viaticum*. *Viaticum* is the Holy Eucharist received by those who are about to leave this earthly life and are preparing for the journey to eternal life (*Compendium of CCC*, n. 320). In danger of death, administration of *viaticum* is regulated in c. 921 §§1-3. The Christian faithful who are in danger of death from any cause (severe illness, old age, high-risk medical surgery, execution of the death penalty) are to be nourished by Holy Communion in the form of *viaticum*. Those who on the same day have received *viaticum* are not obliged to receive it again. However, it is strongly urged to receive it again on the same day, especially if the danger of death reappears.

In cases where the danger of death is likely to persist, it is recommended to receive *viaticum* often, but on separate days. It must also be remembered that the giving of *viaticum* should not be excessive to the sick, lest it diminish the dignity of the Holy Communion and become a false piety. In such situation it is good if *viaticum* is given to them every day as long as the danger persists. The *viaticum* should be given while the sick person is still fully conscious (cf. c. 922). Therefore, *viaticum* should be given without delay, especially lest the sick person go into a coma before receiving it. In doubt whether he is still conscious or not, the *viaticum* should still be given. The recipient of the *viaticum* is not required to abstain from any food and drink before receiving it, as is required to receive Holy Communion in a Eucharistic celebration (see also c. 919 §1, §3).

Administration of the *viaticum* in normal situation is the responsibility of pastors as well as their vicars, chaplains, and superiors of religious institutes or societies of apostolic life that are clerical for the areas of their competence. In the case of necessity any priest or other minister of Holy Communion (an acolyte or another member of the Christian faithful designated according to the norm of c. 230, §3) must give *viaticum* to those in need, who must then inform the matter to the competent minister (cf. c. 911 §2). In particular need, even every lay person who is not designated by the competent authority, would have the same duty (Chiappetta, 2011, p. 146).

The Sacrament of Penance

With regard to the Sacrament of Penance and absolution, canon law provides that in the *periculum mortis* general absolution may be granted to many penitents at once (cf. c. 961 §1). This is of course an exception, as the Church, especially after the Council of Trent, considers individual and integral confession and absolution constitute the only ordinary means to celebrate the Sacrament of Penance (*II Concilio di Trento*, 1545-1563, sess. XIV, cap. V). This teaching and discipline was reaffirmed in the instruction *Sacramentum paenitentiae* issued by the Congregation (now Dicastery) for the Doctrine of the Faith on June 16, 1972 which in the current norm is listed at c. 960.

The condition governed by c. 961, 1° is when the situation of the danger of death is imminent and there is insufficient time for the priest or priests to hear the confessions of the individual penitents. Clearly, what is excluded by the norm in this case is personal confession. However, that does not exempt them from their obligation to intend to confess within a suitable period of time each grave sin which at the present time cannot be so confessed and that the person is properly disposed. This condition is required *ad validitatem* (cf. c. 962 §1). In such situations, where time may still be sufficient, the priest should ask the people to awaken the spirit of contrition in them (cf. c. 963). According to the Council of

Trent, contrition is sorrow of the soul and detestation for the sin committed, together with the resolution not to sin again (*Il Concilio di Trento*, 1545-1563, sess. XIV, cap. IV).

With regard to the ministers in the presence of a penitent in danger of death there are two things that are regulated by canon law. The first is in the general case. In *periculum mortis*, even though a priest lacks the faculty to hear confessions, he absolves validly and licitly any penitents from any censures and sins, even if an approved priest is present (cf. c. 976). Here there are two things that are excluded; the faculty to hear confession and the authority to remove censures. The canonical discipline in c. 966 §1 provides that for the valid absolution of sins requires that the minister have, in addition to the *potestas ordinis*, the faculty of exercising it for the faithful to whom he imparts absolution. Likewise, censures (excommunication, interdict and suspension) both *ferendae sententiae* and *latae sententiae* were revoked by those who had the authority to do so (cf. cc. 1354-1361). In case of death, it is enough that the priest is validly ordained, only *potestas ordinis* is required from him, regardless of his moral or juridical conditions (whether he is excommunicated or has left the priesthood).

The second case is in the case of *absolutio complicitis*. The c. 977 states that the absolution of an accomplice in a sin against the sixth commandment of the Decalogue is invalid except in danger of death. Two formulations about the sixth commandment: one strictly biblical, borrowed from Exodus 20:14: “Thou shalt not commit adultery,” and the other proper to the traditional catechesis of the Catholic Church: “Thou shalt not fornicate” or “Thou shalt not commit impure acts.” Briefly related to these two things: sexuality (which is reserved in holy matrimony for the purpose of procreation) and chastity (a moral virtue). An accomplice in the sixth commandment means a person who has performed impure acts with the priest-confessor in any way: sexual intercourse, masturbation, or other impure acts even just through words or gestures (Chiappetta, 2011, p. 712). These penitents-accomplices can be women or men, adults or children as long as it is consensual. Without consensus, e.g. one of the parties is not consciously committing that sin (drunk, under the influence of drugs or hypnosis, or incapable of using reason), there is no complicity.

Beyond the danger of death absolution to an accomplice against the sixth commandment of the Decalogue not only creates the invalidity of the sacrament but also creates a grave offence for which the priest incurs a *latae sententiae* excommunication reserved to the Apostolic See (cf. c. 1384). According to substantive norm of the *De delictis gravioribus* published by the Congregation for the Doctrine of the Faith on May 18, 2001, art. 4, §1, 1°, this delict is reserved to the Dicastery for the Doctrine of the Faith if it is brought in the *forum externum*, but if it remains in the *forum internum* reserved by Apostolic Penitentiary. It should be noted here that invalidity is only related to sins against the sixth Decalogue, not other sins. The sin could have occurred either before or after ordination. The censure only affects the confessor, not the penitent. In cases where the priest did not intentionally give absolution to an accomplice, because he did not know who the penitent was, the penalty of censure excommunication *latae sententiae* is not imposed on him.

Regarding pastoral obligations and responsibility as a priest, c. 986 §2 provides that in urgent necessity, any confessor is obliged to hear the confessions of the Christian faithful, and in danger of death, any priest is so obliged. In urgent cases, any priest who has the faculty to hear confessions (*quilibet confessarius*) is obliged to perform that duty for the people who request it. But in more extreme situations, i.e. the danger of death, (*quilibet sacerdos*) even without faculty, is obliged to hear confession and grant absolution. The difference between c. 986 §2 and c. 977 is that this canon contains the obligation for every priest to hear confession in danger of death.

The Sacrament of the Anointing of the Sick

Even if there is no term *periculum mortis* in the canons related to The Sacrament of the Anointing of the Sick, it is not tough for us to understand that a situation of danger of death is undeniably inherent to it. Particularly *periculum mortis* that appears *ab intrinsico* such as sickness or old age (cf. also c. 1004 §1). The current *Codex* no longer uses the term Extreme Unction. This old term has been used in the context of ecclesiastical law since the XII century. Extreme Unction refers to the notion that the sacrament is only given to those who are near death. In *Sacrosanctum Consilium* n. 76 states that: “the Anointing of the Sick is not a sacrament for those only who are at the point of death”. For this reason, this sacrament should be received “as soon as anyone of the faithful begins to be in danger of death from sickness or old age”. This explanation is very important, for it is the fundamental reason for the change in terminology also in canon law.

It is regulated that any priest is permitted to carry blessed oil with him so that he is able to administer the sacrament of the anointing of the sick in a case of necessity (cf. c. 1003 §3). The term *in casu necessitatis* here is certainly more extensive, and cannot possibly exclude *periculum mortis* situations. The urgency of the situation relaxes the rule in c. 847 §2 that the blessed oil must be preserved diligently with proper care. In addition, there is enough if there is a reasonable cause, so any other priest can administer this sacrament to the sick with at least the presumed consent of the priests to whom the care of souls has been entrusted (the ministers *ex officio*, for instance pastors, chaplains) (cf. c. 1003 §2).

The Sacrament of Holy Orders

Also, on canonical regulations with regard to the Sacrament of Holy Orders the term *periculum mortis* is not found. But in reality, we have heard several times that some bishops have granted dispensation to their seminarians in *periculum mortis* to be immediately ordained to the priesthood. The dispensation is mainly related to their shortened priestly formation period. Based on c. 250 philosophical and theological studies which are organized in the seminary itself are to encompass at least six full years. Or if in the judgment of the diocesan bishop circumstances demand it, for at least four years (cf. c. 235 §1). It is possible for a terminal illness to appear to a seminarian during his formation. In such a case, if the age for ordination is sufficient as prescribed by c. 1031 §1, and of course based on the careful consideration of either the bishop or his superior, than the bishop can simply grant a dispensation for the period of his formation that has not yet been completed.

This also includes dispensation for an interval of at least six months between the diaconate and the presbyterate. If in danger of death, dispensation requested for the candidate more than a year from the age required according to the norm of c. 1031 §1, that dispensation is reserved to the Apostolic See (cf. c. 1031 §4). In other cases, presumably such dispensation would not be granted, except for very rare particular cases, and those related to pastoral urgency for the purpose of *salus animarum* (Chiappetta, 2011, p. 240). With regard to dispensation from celibacy, Pope John Paul II stated that for those priests who have lost clerical state, and who are civilly married, of whatever age, and they are in *periculum mortis*, they should be assisted by competent ordinaries and without delay send to the Holy See a request for their dispensation (Montini, 2018, p. 336).

The Sacrament of Marriage

In relation to the impediment to marriage and the fact of baptism in the canonical marriage norm, it is stipulated that in danger of death and if other proofs cannot be obtained (no baptism certificate, no

witnesses), the affirmation of the contracting parties, even sworn if the case warrants it, that they are baptized and are prevented by no impediment is sufficient unless there are indications to the contrary (c. 1068). In danger of death either one or both spouses, the norms about the examination of spouses and the investigations necessary before marriage which is established by the Conference of Bishops, are relaxed and made simpler. It is sufficient that both parties declare that they have been baptized or that there are no impediments that might prevent the validity of the marriage. Or in some cases, based on the consideration of those who legitimately assisted the marriage, it can be done under oath to better guarantee the veracity of the declaration. It is recommended that the declaration and the oath are made in the presence of a pastor and two witnesses for a stronger validation in external forum (Chiappetta, 2011, p. 288).

Then, regarding norms of diriment impediments, in urgent danger of death, the local ordinary can dispense his own subjects from the form to be observed in the celebration of marriage and from each and every impediment of ecclesiastical law whether public or occult except for impediment arising from the sacred order of presbyterate for which dispensation is granted only to the Apostolic See (cf. c. 1079 §1; c. 291). In such special situations, then, the faculty of the local ordinary is extended: granting dispensation also for the impediment arising from the diaconate ordination, the impediment arising from a public perpetual vow of chastity in a religious institute of pontifical right, the impediment of crime mentioned in can. 1090, which under normal circumstances they would not have the authority to dispense with. The dispensation can be granted to their own subjects residing anywhere and all actually present in his own territory.

In the same circumstances for cases in which the local ordinary cannot be reached, the pastor, the properly delegated sacred minister, and the priest or deacon who assists at marriage, possess the same power of dispensing (cf. c. 1079 §2). The local ordinary is not considered accessible if he can be reached only through telegraph or telephone (cf. c. 1079 §4). Also, in *periculum mortis* a confessor possesses the power of dispensing only from occult impediments for the internal forum, whether within or outside the act of sacramental confession (cf. c. 1079 §3). However, if the confessor grants the dispensation from occult impediments outside the act of sacramental confession, this situation is bound by the norm of c. 1082 that the dispensation is to be noted in a book which must be kept in the secret archive of the curia. On the other hand, if dispensation is granted in the Sacrament of Penance, there will never be any administration, as it is directly related to the *sigillum sacramentale* (the sacramental seal). It is not authorized to dispense the above impediments even under the same circumstances if the person assisting at marriage is a layperson delegated under c. 1112 §1.

One of the important canons relating to the *periculum mortis* is c. 1116 §1 which prescribes the form to be observed in the celebration of marriage. This is related to the extraordinary canonical form. This canon regulates situations where the ordinary canonical form is impossible to apply. The situation is: if a person competent to assist according to the norm of law cannot be present or approached without grave inconvenience, those who intend to enter into a true marriage can contract it validly and licitly before witnesses only: a) in danger of death (1°), b) outside the danger of death provided that it is prudently foreseen that the situation will continue for a month (2°).

In marriage, it is clear that the presence of the person who assists at a marriage, especially clerics, is very important, not only juridically, in that they ask for the manifestation of the consent of the contracting parties and receives it in the name of the Church, but also spiritually. Also related to the fact that in the Latin Rite the celebration of marriage between two Catholic faithful normally takes place

during Holy Mass, because of the connection of all the sacraments with the Paschal mystery of Christ (*Sacrosanctum Consilium*, 1963, n. 61). Nevertheless, they are only assistants or *testis qualificatus*. The baptized man and woman who give the consent, they are the ministers of this Sacrament. That is why, by dispensation (cf. c. 1127 §2) or in a *periculum mortis* situation or when the situation will continue for a month, even in their absence, the marriage is valid. The absence in c. 1116 §1 could be due to; cannot be present (physically impossible to attend) or cannot be approached without grave inconvenience (this grave inconvenience, both physical and moral, can arise from both partners or from the assistant). Regarding this grave inconvenience, it has already been answered in a *responsum* by *Pontificio Consiglio per i Testi Legislativi*, on May 3, 1945.

It is sufficient *ad validitatem* that the marriage is celebrated in the presence of two witnesses who are capable of being witnesses to the marriage. As for the danger of death, it can happen to only one of the spouses, or both. In this case, if some other priest or deacon who can be present is available (who has no legitimate delegation), he must be called and be present at the celebration of the marriage together with the witnesses (cf. c. 1116 §2). Their presence does not diminish the validity of the marriage in the presence of the witnesses only. And if he (the priest or deacon) is indeed present, or if not, the witnesses, in solidum with the contracting parties, they are bound to inform as soon as possible the pastor or local ordinary about the marriage entered into as provided in c. 1121 §2. In the danger of death, it is hard to imagine either spouse also going to inform the marriage, unless perhaps only one of them is in *periculum mortis*.

The *Periculum mortis* and *communicatio in sacris* in c. 844

To discuss *communicatio in sacris* is to talk about ecumenical relations. Specifically it discusses about sharing in sacramental life as a consequence that Catholics share a real communion with other Christians through baptism. And one of significant tension in our ecumenical relations is the question of administering and receiving sacraments. In the decree of the Second Vatican Council, *Orientalium Ecclesiarum* n. 26, it is stated that: “common participation in worship (*communicatio in sacris*) which harms the unity of the Church or involves formal acceptance of error or the danger of aberration in the faith, of scandal and indifferentism, is forbidden by divine law”. In short, the expression *communicatio in sacris*, apt to designate the participation in liturgical worship or in the administration of the sacraments by persons belonging to churches or religious denominations that are not in full communion with the Catholic Church (Quaderni, 2021, p. 73). In many cases, however, there is an urgency for practical service for the salvation of souls and their spiritual good as Christians. Against this the *Unitatis Redintegratio* no. 8 gives us two important principles governing the practice of such common worship (*communicatio in sacris*): first, the bearing witness to the unity of the Church, and second, the sharing in the means of grace.

The Code of Canon Law c. 844 describes the situations in which Catholics can receive sacraments from other Christian ministers, and vice versa when Catholic ministers can give the sacraments to other Christians. This only applies to 3 sacraments; Penance, Eucharist, and Anointing of the Sick. The main principle in ordinary and normal situations is: Catholic ministers administer the sacraments licitly to Catholic members of the Christian faithful alone, who likewise receive them licitly from Catholic ministers alone (§1). This canon regulates 3 different cases: the first is the Catholic faithful with non-Catholic ministers (§2), the second is Catholic ministers with the members of Eastern Churches which do not have full communion with the Catholic Church and members of other Churches which in the

judgment of the Apostolic See are in the same condition in regard to the sacraments as these Eastern Churches (§3), and the third, in danger of death and other grave necessity (*alia urgeat gravis necessitas*), Catholic ministers and other Christians not having full communion with the Catholic Church (§4).

The two situations; danger of death and other grave necessity, in §3, are understood differently by canon law. In the case of *periculum mortis*, the fact of the danger is sufficiently determined by the minister concerned, whereas in *alia urgeat gravis necessitas*, it always requires the intervention of the diocesan bishop or the Conference of Bishops, only they can make a judgment on how urgent the need is. The minister cannot determine it on his own.

In both cases it is stipulated that Catholic ministers administer these same sacraments (Penance, Eucharist, and Anointing of the Sick) licitly, for all other Christians not having full communion with the Catholic Church, whatever their church or community, but with several conditions: a) they cannot approach a minister of their own community, b) they seek such on their own accord, c) provided that they manifest Catholic faith in respect to these sacraments, d) they are properly disposed. The above requirements are first of all to protect the dignity of the Sacrament itself. They should not, even in special and urgent circumstances, be given without being certain of their spiritual disposition and understanding of the nature of the Sacraments as believed in Catholic teaching. As long as these conditions are fulfilled, in danger of death, the sacraments should be administered by Catholic ministers without delay.

Then, in danger of death, may Catholics also receive the three sacraments from non-Catholic ministers? The Codex does not say anything specific about this condition. But it is good to note the important reasons underlying the norm in §2: “whenever necessity requires it or true spiritual advantage suggests it”. It is not difficult to answer that the danger of death meets all these conditions. In danger of death, spiritual benefits and services cannot be denied for the salvation of their souls. That’s when they need it most. There is enough certainty for them (Catholics): provided that danger of error or of indifferentism is avoided, physically or morally impossible to approach a Catholic minister, and these sacraments are valid in their churches (the Church of non-Catholic minister). Let us recall what Pope John Paul II said about the commitment to ecumenism: “it is a source of joy [...] that in specific cases and in particular circumstances, Catholics too can request these same sacraments from ministers of Churches in which these sacraments are valid” (*Ut Unum Sint*, 1995, n. 46). Then what about the sacrament of Baptism, can they also do it for Catholics in danger of death? Absolutely they can, based on c. 861 §2. Outside of special circumstances and without observing the various conditions laid down in c. 844, the administration of the sacraments is not permitted, in violation of which they are subject to canonical sanction (cf. c. 1381).

Conclusion

Several conclusions can be drawn from the above research. First, in the face of the danger of death, the Church’s legal system only enforces the salvation of souls as its finality because that is the mission of the founder, Christ himself. For this reason, the danger of death is a particular situation that is highly taken into account in the legislation of the Catholic Church. It is not only an unavoidable human phenomenon but also indisputably a juridical-canonical fact. This may be uncommon in civil law, especially in criminal law. Second, positive ecclesiastical norms can always be dispensed or at least relaxed in danger of death, not only for recipients of the Sacrament but also for ministers. Whether it arises because of canonical sanctions that restrict them from receiving and ministering the sacraments (cf. cc. 1335 §2, 1352 §1) or merely because of some requirement for the norm’s licitness is impossible

to fulfil. Even if it is something that “under normal circumstances” could threaten the dignity of the Sacrament (for example in the case of *absolutio complicis*), or in danger of death, non-baptized persons or Christians who are not in full communion with the Catholic Church may serve as minister (recall here the case of emergency baptism). Moreover, insofar as the conditions of c. 844 §4 are concerned, in danger of death, the three sacraments in question may also be administered to other Christians who are not in full communion with the Catholic Church. All the juridical facts, *ratio legis* and practical pastoral comments in this paper have shown us that there is always a legal way to solve pastoral difficulties in the danger of death.

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