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Ecclesiastical Law (Erasmus)

Unit 1st: Introduction

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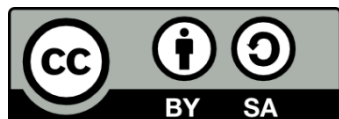
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Introduction

Unit Contents

1. Object and pillars of Ecclesiastical Law

2. First pillar of Ecclesiastical Law

3. Second pillar of Ecclesiastical Law

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Unit Objectives

- Introduction to the object/material of

  Ecclesiastical Law.

- Understanding of the pillars of

  Ecclesiastical Law.

Object and pillars of Ecclesiastical Law

- Ecclesiastical law has different content/object than in the past.

- Today it contains **three** pillars:

  ✓ **Religious human rights** (International, European and national protection)

  ✓ **Church and state relations**

  ✓ **Internal laws of religions**

First pillar of Ecclesiastical Law

Protection of human rights

- Protection of human rights at international level (global or regional).

- Global level - protected by **United Nations** through:

  ✓ International Conventions (the most important: the ICCPR)

  ✓ Declarations (the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the global declaration of human rights of 1984)

Declarations vs. International Conventions

- Declarations → they are **commitments for the states**.

- International conventions → they produce **legal obligations**.

- Declaration of 1981 and Declaration of 1984 are applied as customs.

- Special Rapporteur on Religious freedom (UN Commission on human rights) examines the conformity of national instruments with the Declaration of 1981 when visits the states.

International Covenant on Civil and Political Rights

- **Human Rights Committee** → the body that monitors implementation of the ICCPR by its State parties:

  ✓ Enacts Human Rights Issues and General Comments.

  ✓ General Comment No.22 on the Article 18 of the ICCPR:

    o The **right to freedom of thought, conscience and religion**.

    o **Interpretation** of international standards concerning religious freedom

European Convention on Human Rights

- **Article 9**: freedom of religion.

- European Court of Human Rights(**ECHR**) → international court and judicial body. Its role is the protection of human rights by breaches.

- Human Rights Committee and ECHR follow judicial procedure examining the applications submitted .

OSCE

- Organization for Security and Co-operation in Europe (OSCE) → human rights organization at European regional level.

- **Not a legal body but political**.

- International commitments, declarations on religious equality, religious freedom, protection of religious minorities.

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Protection at EU level

- **Inter-state** (not international) human

  rights agreement:

  ✓ Treaty on the Functioning of the European Union

  (**TFEU**) → states and EU bodies must respect

  human rights when applying EU law (freedom of

  religion is amongst the protected rights).

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Protection at national level

- Respect of human rights as

  constitutional rights.

Second pillar of Ecclesiastical Law

Church and state relations

- Relations of any kind (juridical, cultural, educational).

- Not only Christian or other churches/religious communities, but also communities of non-believers:

  ✓ **States are obliged to protect equally** (according to international law) **religion and non-religion**.

Third pillar of Ecclesiastical Law

Internal laws

- Both religious communities and communities of non-believers.

- International law and constitutional laws are referred to religion or non-religion.

- Internal laws concerning religion should apply.

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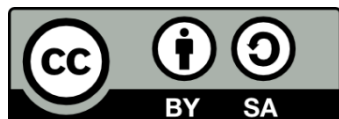
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End of unit

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