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THE NOTION OF DECENT SUPPORT OF THE CLERGY  
ACCORDING TO THE 1983 CODE OF CANON LAW

Pope John Paul II said: “It would be a real disaster if the material status of priests and their freedom from numerous daily burdens which the laity have to cope with regularly gave rise to feelings of strangeness between the clergy and the faithful. You are from people and for people. Remember that you act on behalf of the Church, which nowadays manifests its preferential option for the poor in a special way.”<sup>1</sup>

The Code of Canon Law of 1983<sup>2</sup> contains numerous dispositions related to decent support of the clergy. Clarification of the terminology used for this subject area and analysis of the notion “decent support” will make it possible to mark the limits of the obligation resting on a diocesan bishop and entities equal to him in the eyes of law as well as on the Christian faithful, and the privileges of the clergy.

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<sup>1</sup> JAN PAWEŁ II, *Jesteście z ludu i dla ludu. Homilia w czasie nieszpórów eucharystycznych w Tarnowie* (June 10, 1987), *CURRENTA*, special issue (1987): 81.

<sup>2</sup> *Codex Iuris Canonici auctoritate Ioannis Pauli PP. II promulgatus*, January 25, 1983, *AAS* 75 (1983), pars II, 1–317; Polish translation in *Kodeks Prawa Kanonicznego*, translation approved by the Episcopal Conference of Poland (Poznań: Pallottinum, 1984); the English translation of the Code used for this article can be found at [www.vatican.va](http://www.vatican.va) [hereafter: CIC/83].

## 1. TERMINOLOGY

In CIC/83, the legislator uses diverse terminology when addressing the question of decent support of the clergy.

The two most frequent words which should be regarded as essential for our analysis are *sustentatio* and *remuneratio*.

### 1.1. THE TERM *SUSTENTATIO*

The word *sustentatio* is used twenty-four times in CIC/83.<sup>3</sup> The legislator requires a diocesan bishop to ensure decent support for his presbyters (*honestas sustentatio*), according to the provision of the law (see can. 384). Incardination is permitted only if it is without prejudice to the prescripts of the law concerning decent support (*honestas sustentatio*) of the clergy (see c. 269, 1°). A personal prelate is to ensure decent support (*decora sustentatio*) for presbyters and deacons who belong to the personal prelature (c. 295 §2). Clerics are to donate those goods which they enjoy on account of their exercise of ecclesiastical offices and those which are left over after they have been provided with decent support (*honestas sustentatio*) to the benefit of the Church and works of charity (see c. 282 §2). A diocesan bishop is obliged to provide a pastor who is resigning from his office suitable support (*congrua sustentatio*) (c. 538 §3). Apart from the organisation of divine worship and the exercise of works of the sacred apostolate and charity, especially towards the poor, the Church is obliged principally to secure decent support (*honestas sustentatio*) of the clergy and other ministers (c. 1254 §2). In the same way, the faithful are obliged

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<sup>3</sup> Canons 222 §1; 230 §1; 233 §1; 263; 264 §2; 269, 1°; 281 §3; 282 §2; 295 §2; 384; 402 §2; 538 §3; 640; 696 §1; 707 §2 (2x); 800 §2; 1154; 1186; 1254 §2; 1274 §1; 1350 §1; 1650 §2; 1689. It should be noted that not all of these canons pertain to the support of the clergy. For example in canons 263 and 264 §2, the supreme legislator addresses the question of the maintenance of seminaries, both diocesan and supradiocesan ones; in canons 800 §2 the Christian faithful are obliged to provide assistance in the maintenance of Catholic schools; canon 1154 requires that adequate support be provided to the children whose parents have become separated. Two of the invoked canons do not address the question of support. Canon 696 §1 provides that a member of a religious institute may be dismissed for the reason of his “stubborn **upholding** or diffusion of doctrines condemned by the magisterium of the Church” (*pertinax sustentatio vel diffusio doctrinarum ab Ecclesiae magisterio damnatarum*); canon 1186 provides that the Church “promotes the true and authentic veneration of the other saints whose example instructs the Christian faithful and whose intercession **sustains** them” (*verum et authenticum promovet cultum aliorum Sanctorum, quorum quidem exemplo christifideles aedificantur et intercessione sustentantur*) [emphasis by P.L.].

to cater for the needs of the Church so that it has means necessary to, among other tasks, provide decent support of ministers (*honesta sustentatio*) (c. 222 §1). All dioceses are to have a special institution whose task is to gather goods and offerings for the purpose of providing support to the clergy (*sustentatio*) who perform service for the good of the diocese (see c. 1274 §1). When a penalty is being imposed on a clerical person, care must be taken not to deprive him of means of decent support (*honesta sustentatio*), unless the case concerns dismissal from the clerical state (c. 1350 §1). In Latin, the word *sustentatio* is polysemic. It derives from *sustentar* and means *support, sustenance*.<sup>4</sup>

The legislator combines the noun *sustentatio* mostly with these adjectives: *honest* – decent, righteous, honest;<sup>5</sup> appropriate, suitable;<sup>6</sup> fair, honest, good;<sup>7</sup> *decora* – modest, tactful, respectable, full of restraint;<sup>8</sup> and *congrua* – suitable.<sup>9</sup> Their use should be regarded as a specific and precise clue about the scope in which presbyters are to be provided with maintenance and sustenance. G. Marcuzzi believes that the use of the adjectives *honest*, *decora*, *congrua* with the noun *sustentatio* does not merely follow from a typical distribution of lexical stress, but provides the necessary gradation for the phrase in question.<sup>10</sup>

<sup>4</sup> *Słownik łacińsko-polski*, vol. 5 (S–Z), ed. M. Plezia, (Warsaw: Wydawnictwo Naukowe PWN, 2007), 319; J. SONDEL, *Słownik łacińsko-polski dla prawników i historyków* (Kraków: Towarzystwo Autorów i Wydawców Prac Naukowych „Universitas”, 2005), 927; *Słownik łacińsko-polski*, vol. 2 (I–Z), ed. J. Korpanty, (Warsaw: Wydawnictwo Szkolne PWN, 2003), 822; *Lexicon latino-polonicum. Słownik łacińsko-polski*, vol. 2 (L–Z), 3rd. ed. F. Bobrowski, (Vilnius: Nakładem i drukiem Józefa Zawadzkiego, 1910), coll. 1607–08.

<sup>5</sup> *Słownik łacińsko-polski*, vol. 2 (D–H), ed. M. Plezia, (Warsaw: Wydawnictwo Naukowe PWN, 2007), 722; SONDEL, *Słownik łacińsko-polski dla prawników i historyków*, 429.

<sup>6</sup> *Słownik łacińsko-polski*, vol. 1 (A–H), ed. J. Korpanty, (Warsaw: Wydawnictwo Szkolne PWN, 2001), 840.

<sup>7</sup> F. BOBROWSKI, *Lexicon latino-polonicum. Słownik łacińsko-polski*, vol. 1 (A–K), 3rd ed. (Vilnius: Nakładem i drukiem Józefa Zawadzkiego, 1905), col. 166.

<sup>8</sup> *Słownik łacińsko-polski*, vol. 2 (D–H), Plezia, 31.

<sup>9</sup> *Słownik łacińsko-polski*, vol. 1 (A–C), ed. M. Plezia, (Warsaw: Wydawnictwo Naukowe PWN, 2007), 686.

<sup>10</sup> In his opinion, the basic attribute of *sustentatio* should be interpreted as fair and honest support (*honest*). If the the universal legislation obliges the personal prelate to ensure “respectable, decent” (*decora*) support for those incardinated to the personal prelature, a higher degree is implied, which takes into account pastoral or missionary work carried out by personal prelatures in various regions of the world or for the benefit of various social groups (cf. c. 294), and this, in consequence, requires greater attention in the matter of supporting the clergy. Finally, the legislator uses the term “suitable (*congrua*) support” with respect to a retired pastor, prescribing that such support be in keeping with his needs [“Il sostentamento del clero. Nella normativa codiciale latina,” in *Il sostentamento del clero. Nella legislazione canonica e concordataria italiana*, Studi Giuridici 28 (Città del Vaticano: Libreria Editrice Vaticana, 1993), 36–37; D. WALENCIK, “Prawo duchownych do utrzymania w unormowaniach Kodeksu Prawa Kanonicznego z 1983 roku,” *Roczniki Nauk Prawnych* 17, no. 1 (2007): 194].

1.2. THE TERM *REMUNERATIO*

The word *remuneratio* is used nine times in CIC/83.<sup>11</sup> Canon 281 §1 prescribes that the clergy deserve remuneration (*remuneratio*) since they dedicate themselves to ecclesiastical ministry. In the case of married deacons who have devoted themselves completely to ecclesiastical ministry, their remuneration should be sufficient to support not only themselves but also their relatives (c. 281 §3). In the case of a transfer between offices, the person transferred receives the remuneration associated with the former office until he is installed in the other office (c. 191 §2). Similarly, a bishop who has been duly notified of his transfer receives the whole remuneration associated with this office in the particular Church until he assumes the new canonical office (c. 418 §2, 2°). Having heard the presbyteral council, the diocesan bishop is obliged to issue necessary regulations related to the economic matters of a parish, e.g. remuneration of clerics (c. 531). The noun *remuneratio* stems from the Latin word *remunere* and it denotes a repayment, reciprocation,<sup>12</sup> or remuneration, reimbursement.<sup>13</sup>

## 1.3. OTHER TERMS

The terms provided above are not only ones relating to the support of the clergy. Other notions are also used in the Code. Special significance in this respect is attributed to offerings made for the celebration of the Eucharist. In CIC/83, the most frequently used word for Mass offerings is the word *stips*,<sup>14</sup> which is used twenty-one times. The Latin term *stips* is to be interpreted as an offering, contribution,<sup>15</sup> gift,

<sup>11</sup> Cc. 191 §2; 230 §1; 231 §2; 263; 281 §1; 281 §3 (2x); 418 §2, 2°; 531.

<sup>12</sup> *Słownik łacińsko-polski*, vol. 4 (P–R), ed. M. Plezia, (Warsaw: Wydawnictwo Naukowe PWN, 2007), 512; J. Korpanty, ed., *Słownik łacińsko-polski*, vol. 2 (I–Z), 639.

<sup>13</sup> SONDEL, *Słownik łacińsko-polski dla prawników i historyków*, 833.

<sup>14</sup> Cc. 199, 5°; 945 §1; 945 §2; 946; 947; 948; 949 (2x); 950; 951 §1 (2x); 951 §2; 952 §1 (2x); 953; 955 §1 (2x); 955 §3; 958 §1 (2x); 1358. *Stipes* also appears in canons 264 §1; 791, 4°; 1265 §1; 1265 §2; and 1266, but not in reference to Mass offerings but donations in the generic sense, i.e. money collections.

<sup>15</sup> BOBROWSKI, *Lexicon latino-polonicum. Słownik łacińsko-polski*, vol. 2 (L–Z), col. 1473; *Słownik łacińsko-polski*, vol. 5 (S–Z), Plezia, 218.

donation,<sup>16</sup> or small offering, alms.<sup>17</sup> According to historical sources, *stips* denotes a contribution to the common good, an offering made to God or a gift to the needy. For this reason, it better renders the nature and essence of a Mass offering captured by canon 946: “The Christian faithful who give an offering to apply the Mass for their intention contribute to the good of the Church and by that offering share its concern to support its ministers and works.”<sup>18</sup> In line with the proposal of the Pontifical Commission for the Revision of the Code of Canon Law, CIC/83 no longer uses the term *stipendium*<sup>19</sup> to denote Mass offerings.

The Code uses the term *eleemosyna*<sup>20</sup> three times, referring directly to Mass offering. This denotes: alms,<sup>21</sup> charity,<sup>22</sup> donation, bequest.<sup>23</sup> Due to the fact that the notion in question is used only in Book V of CIC/83, it can be supposed that it might have been retained in the part related to the church property law only due to the lack of coordination in the final redaction of the Code (canons 945–958 of Book IV CIC/83 address the issue of Mass offerings).<sup>24</sup>

<sup>16</sup> I. WATERS, “Mass Offerings,” *Canon Law Society of Great Britain & Ireland Newsletter* 138, no. 6 (2004): 28; G. READ, “Comment on Mass Offerings & Taxation,” *Canon Law Society of Great Britain & Ireland Newsletter* 138, no. 6 (2004): 31.

<sup>17</sup> SONDEL, *Słownik łacińsko-polski dla prawników i historyków*, 900; *Słownik łacińsko-polski*, vol. 2 (I–Z), Korpanty, 767.

<sup>18</sup> Ā. MARZOA, “Ofiary mszalne,” in *Codex Iuris Canonici. Kodeks Prawa Kanonicznego. Komentarz. Powszechne i partykularne ustawodawstwo Kościoła katolickiego. Podstawowe akty polskiego prawa wyznaniowego*, ed. P. MAJER, Polish edition based on Spanish edition (Kraków: Wolters Kluwer Polska, 2011), 711; P. LEWANDOWSKI, “Ofiary mszalne według Kodeksu Prawa Kanonicznego z 1983 roku i IV Synodu Diecezji Tarnowskiej,” *Roczniki Nauk Prawnych* 25, no. 1 (2015): 96–97. See also M. SITARZ, “Obowiązek odprawiania mszy świętej «pro populo»,” in *Eucharystia fons vitae – współczesne problemy prawne. Materiały sesji naukowej zorganizowanej 26 kwietnia 2006 r. w Kazimierzu Dolnym*, ed. S. Tymoszy (Lublin: Wydawnictwo KUL, 2006), 99–112; R. KANTOR, “Przeznaczenie stypendiów binowanych i trynowanych,” *Tarnowskie Studia Teologiczne* 27, no. 1 (2008): 107–18; IDEM, “Nieuzasadnione binowanie Mszy świętej a sankcja karna,” *Currenda* 3 (2009): 425–34; IDEM, “Binowanie i trynowanie – normy kanoniczne,” *Currenda* 1 (2016): 158–64.

<sup>19</sup> PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNESCENDO, *De Sacramentis* (November 8–13, 1971), *Communicationes* 4, no. 1 (1972): 57. The word *stipendium* appears twice in CIC/83 (cc. 1333 §4 and 1490) but with a different denotation.

<sup>20</sup> Cc. 1307 §2; 1308 §3 (2x). This fact is omitted by I. Waters (*Mass Offerings*, 28). The Code legislator, when addressing another matter, applies the notion in question also in canons 264 §2; 319 §2; 510 §4.

<sup>21</sup> BOBROWSKI, *Lexicon latino-polonicum. Słownik łacińsko-polski*, vol. 1 (A–K), col. 1255; *Słownik łacińsko-polski*, vol. 2 (D–H), Plezia, 304.

<sup>22</sup> SONDEL, *Słownik łacińsko-polski dla prawników i historyków*, 325.

<sup>23</sup> *Słownik łacińsko-polski*, vol. 2 (I–Z), Korpanty, 638; READ, *Comment on Mass Offerings & Taxation*, 31.

<sup>24</sup> A. SOBCZAK, “Jałmużna mszalna. Komentarz do kanonów 945–958 Kodeksu Prawa Kanonicznego (cz. I),” *Homo Dei* 2 (2000): 40.

In reference to offerings made to clerics, particularly on account of their pastoral ministry, the legislator uses the word *oblatio*<sup>25</sup> twelve times. In Latin, this term should be interpreted as: money offering,<sup>26</sup> gift, donation, contribution,<sup>27</sup> gift, present,<sup>28</sup> or donation, offering for church purposes.<sup>29</sup>

CIC/83 uses the word *emolumentum* twice. Canon 506 §2 prescribes that the statutes of canonical chapters determine the income (*emolumentum*), both regular or received upon performance of a particular task, while canon 1488 §1 forbids legal representatives and advocates to make arrangements for an excessive fee (*emolumentum*). This Latin notion can be conceived as: profit, remuneration (often in kind),<sup>30</sup> a daily food ration secured for clerics by the chapter of canons,<sup>31</sup> good, benefit, payment.<sup>32</sup>

The term *retributio* is used twice with reference to supporting the clergy (CIC/83). Canon 951 §1 uses this term in opposition to the notion of Mass offering, allowing a priest who celebrates several Masses on the same day to keep some remuneration (*retributio*) “by reason of an extrinsic title” in the case of bination or trination.<sup>33</sup> In canon 281 §1 the word *retributio* is used instead of *remuneratio* – clerics deserve to have some remuneration (*remuneratio*) to be able to satisfy their needs and decently remunerate (*retributio*) those who need this help<sup>34</sup>.

The word *merces* is used by the Code only once, as derived from *mercor* – administrators of goods “are to pay a just and decent wage” (*merces*) to those who are employed on the basis of an employment contract (c. 1286, 2°). The Latin verb *merces* means: compensation, profit,<sup>35</sup> salary, reward,<sup>36</sup> payment for a service rendered.<sup>37</sup>

<sup>25</sup> Cc. 531 (3x); 551; 848; 946; 1181; 1264, 2°; 1267 §1; 1267 §2; 1267 §3; and 1274 §1. The word *oblatio* is also used in CIC/83 in reference to other issues, for example in canons 276 §2, 2°; 319 §2; 607 §1 or 899 §1.

<sup>26</sup> *Słownik łacińsko-polski*, vol. 3 (I–O), ed. M. Plezia, (Warsaw: Wydawnictwo Naukowe PWN, 2007), 655.

<sup>27</sup> WATERS, “Mass Offerings”, 28.

<sup>28</sup> BOBROWSKI, *Lexicon latino-polonicum. Słownik łacińsko-polski*, vol. 2 (L–Z), col. 448.

<sup>29</sup> SONDEL, *Słownik łacińsko-polski dla prawników i historyków*, 673.

<sup>30</sup> *Słownik łacińsko-polski*, vol. 2 (D–H), Plezia, 326; *Słownik łacińsko-polski*, vol. 1 (A–H), Korpanty, 650.

<sup>31</sup> SONDEL, *Słownik łacińsko-polski dla prawników i historyków*, 330.

<sup>32</sup> *Słownik łaciny średniowiecznej w Polsce. Lexicon mediae et infimae latinitatis polonorum*, vol. 3, bk. 7 (Dabilis – Exuvium), ed. M. Plezia, (Wrocław–Warszawa–Kraków–Gdańsk: Polska Akademia Nauk, 1973), coll. 1095–96.

<sup>33</sup> Bination is the celebration of two Masses on the same day by one priest. Trination is the celebration of three Masses on the same day by one priest, M. SITARZ, *Słownik prawa kanonicznego* (Warsaw: Instytut Wydawniczy PAX, 2004), coll. 22 and 180.

<sup>34</sup> F.R. AZNAR GIL, “La «conveniente remuneración» de los clérigos en el Código de Derecho Canónico (c. 281, §1),” *Ciencia Tomista* 113, no. 3 (1986): 557.

<sup>35</sup> *Słownik łacińsko-polski*, vol. 3 (I–O), Plezia, 479.

<sup>36</sup> SONDEL, *Słownik łacińsko-polski dla prawników i historyków*, 620.

<sup>37</sup> *Słownik łacińsko-polski*, vol. 2 (I–Z), Korpanty, 254.

The Code legislator uses the term *honorarium* three times: expenses and fees (*honorarium*) must be paid to “with due regard for particular law” (c. 1580). The bishop who is in charge of the tribunal is obliged to establish regulations governing compensation (*honorarium*) payable to attorneys, advocates, experts and interpreters (c. 1649 §1, 2°); see 1649 §2). The Latin word *honorarium* denotes compensation for services of higher rank, which cannot be rented, for example services of an advocate, doctor, etc.<sup>38</sup> or compensation for a job done.<sup>39</sup>

The expressions *assistentia socialis* (c. 281 §2; 384), *praeventia socialis* and *securitas socialis* (c. 1274 §2) should be regarded as new.<sup>40</sup> A term which carries the broadest semantic content is social security (*praeventia socialis*). These are to be interpreted as a system of facilities and benefits whose role is to provide assistance in the cases of random events, limited or lost capability for work, necessity to hire professional care or take preventive measures.<sup>41</sup> Interpreted this way, *praeventia socialis* has a collective character, encompassing such areas as social care (*assistentia socialis*) and social security (*securitas socialis*).<sup>42</sup> Social care, as one area of social activities conducted by the state and local self-governments, reaches places where it is impossible to satisfy the basic necessities of life and services under other legal titles cannot be provided.<sup>43</sup> In CIC/83, this also applies to the obligation to assist clerics who “suffer from illness, incapacity, or old age” (cc. 281 §2; 384).<sup>44</sup> Social security is to be understood as a system of mandatory accident, illness or pension insurance, coordinated by the state, based on a system of contribution collection

<sup>38</sup> SONDEL, *Słownik łacińsko-polski dla prawników i historyków*, 430.

<sup>39</sup> *Słownik łaciny średniowiecznej w Polsce. Lexicon mediae et infimae latinitatis polonorum*, vol. 4, bk. 6 (F-Hystrix), ed. M. Plezia, (Wrocław-Warszawa-Kraków-Gdańsk: Polska Akademia Nauk, 1977), col. 797.

<sup>40</sup> It is true that CIC/17 uses the term *assistentia* six times (cc. 338 §2; 1770 §2, 4°; 2259 §2; 2271, 2°; 2275, 1°; 2382), *securitas* once (c. 1673 §1), and never *praeventia*, yet none of these terms appears in combination with the adjective *socialis* [*Codex Iuris Canonici Pii X Pontificis Maximi iussu digestus Benedicti Papae XV auctoritate promulgatus*, May 27, 1917, AAS 9 (1917), pars II, 1–593 (hereafter CIC/17); WALENCIK, “Prawo duchownych do utrzymania,” 192].

<sup>41</sup> The above definition, originated by A. Rajkiewicz, is not the only one. An equally well-known definition was developed by J. Piotrowski, who believes that the idea of social security encompasses the entirety of measures and activities of public institutions serving to protect citizens from privation or incapability of providing for their own basic necessities (quoted after A. WIERZBICKI, “Polityka społeczna i kwestie społeczne w okresie transformacji,” in *Społeczeństwo i polityka. Podstawy nauk politycznych*, ed. K.A. Wojtaszczyk and W. Jakubowski (Warsaw: Oficyna Wydawnicza ASPRA-JR, 2007), 1346).

<sup>42</sup> M. KSIĘŻOPOLSKI, “Zabezpieczenie społeczne,” in *Leksykon polityki społecznej*, ed. B. Rysz-Kowalczyk (Warsaw: Oficyna Wydawnicza ASPRA-JR 2001), 240.

<sup>43</sup> K. OGRODZKI, “Opieka społeczna,” in *Encyklopedia nauk politycznych (Zagadnienia społeczne, polityczne, gospodarcze)*, ed. E.J. Reyman, vol. 4 (N–P) (Warsaw: Wydawnictwo Instytutu Społecznego i Instytutu Wydawniczego „Biblioteka Polska” w Warszawie, 1939), 126.

<sup>44</sup> Canon 231 §2 uses two terms: *assistentia socialis* and *assistentia sanitaria*.

managed by a public insurer, which will disburse benefits to eligible persons.<sup>45</sup> In accordance with the disposition of the Code legislator, where no proper social security is in place for the clergy, the conference is obliged to make sure that an institution is established to provide sufficient social security of clerics (see c. 1274 §2).

## 2. THE SCOPE OF THE NOTION *DECENT SUPPORT*

As it is evident from our analysis above, the Code legislator addresses the question of decent support for the clergy in multiple canons, but using diverse terminology. For this reason, it becomes necessary to further specify the content of these notions.

The rich terminology pertaining to the issue at stake includes two basic notions: *sustentatio* and *remuneratio*. The other terms can be regarded as supplementary and indicative of their application. Here, we need to ask the question: is the Code legislator consistent in using the notions *sustentatio* and *remuneratio*, terms which address the same matter? The answer appears to be affirmative.<sup>46</sup> In both cases, the right to *sustentatio* and *remuneratio* is linked with the dignity of a cleric as a human being. Human dignity, however, acquires a dual character as it applies both to personal dignity and personality dignity. Personal dignity is inherent in every human being due to the mere fact of being human. In contrast, personality dignity strictly depends on personal efforts.<sup>47</sup> The first aspect of dignity is captured by the word *sustentatio*, which the legislator uses to remind us about the duty to provide the clergy with all they are entitled to on account of being a human. *Sustentatio*, correctly translated into Polish as *utrzymanie* (support, maintenance), has a much broader and more basic scope than *remuneratio*, which is correctly translated into Polish as *wynagrodzenie*.<sup>48</sup> *Remuneratio*, then, is the result of an undertaken activity.<sup>49</sup>

The fundamental question to start our considerations with is the distinction between the support proper to clerics and the support provided to lay persons. As

<sup>45</sup> M. JAKUBEK, "Ubezpieczenia społeczne," in *Encyklopedia Katolicka*, ed. F. Gryglewicz, vol. 19 (Lublin: Towarzystwo Naukowe KUL, 2000), col. 1261.

<sup>46</sup> It should be noted, however, that postconciliar legislation not always maintains this sort of consistency, sometimes wrongly identifying the notion of remuneration with support.

<sup>47</sup> G. GRZYBEK, *Etyka, rozwój, wychowanie* (Bielsko-Biała: Wydawnictwo Akademii Techniczno-Humanistycznej, 2007), 10.

<sup>48</sup> The Polish term "utrzymanie" is to be interpreted as livelihood, sustenance, accommodation, and other necessities (*Uniwersalny Słownik Języka Polskiego PWN*, vol. 4 (T-Ż), ed. S. Dubisz, (Warsaw: Wydawnictwo Naukowe PWN, 2006, 305), while *wynagrodzenie* denotes payment for work or salary (*Ibid.*, 636).

<sup>49</sup> P. ARTNER, "The Remuneration of Diocesan Clerics," *Folia Canonica* 12 (2009): 10.

indicated by the Pontifical Council for Legislative Texts, the support which the Church is obliged to provide to a cleric who devotes himself to the sacred ministry as authorised by the diocesan bishop is not calculated using the criteria of retributive justice, that is those of mutuality and proportionality, with respect to particular types of ministry exercised by the cleric. This implies that the Church is under no obligation to provide a salary for a cleric's work but rather guarantee him decent support, regardless of the function which he was lawfully assigned, so that he may continue to exercise his ministry requiring total devotion of both himself and his time in peace and entirely freely. Seen from this perspective, there is a radical difference between support proper to a clerical person and a remuneration paid to a lay person. The justification for this is not the number of functions performed which should be recognised and proportionally compensated for but rather the person of the cleric himself, who provides or should provide his ministry for other reasons than those binding an ordinary employee.<sup>50</sup>

We need to bear in mind that there remains a wide range of assets out of which a cleric can be provided with a *quantum* necessary for his livelihood. In the disposition of canon 1274 §1, the legislator provides that each diocese is to have a diocesan institution to provide support for the clergy, "unless provision is made for them in another way." Based on this clause, the Pontifical Council for Legislative Texts concluded that means intended to ensure decent support for the clergy may be obtained from various sources, used individually or in combination. Schematically, three types of sources are distinguished: 1) ecclesiastical entities for the benefit of which the clergy exercise their ministry, being employed either full time or part time; 2) entities which provide the clergy with benefits in the amount reflecting a real and proper salary or pension, according to the norms applicable in a particular legal order; and 3) a diocesan institution or foundation (DFUD, section 4.3).<sup>51</sup>

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<sup>50</sup> PONTIFICIUM CONSILIUM DE LEGUM TEXTIBUS, *Decretum de recursu super congruentia inter legem particularem et normam codicalem*, April 29, 2000, *Communicationes* 32 (2000): 162–67 [hereafter DFUD], section 4.2. Cf. PONTIFICIA COMMISSIO CODICI IURIS CANONICI RECOGNESCENDO, *Schema Codicis Iuris Canonici*, July 16, 1981, *Communicationes* 14 (1982): 172. See also J. MIÑAMBRES, "Note sull'adeguata remunerazione dei chierici. A proposito di un recente decreto di congruenza fra legislazione particolare e norma codiciale," *Ius Ecclesiae* 8, no. 2 (2001): 536–44; N. FIORITA, *Remunerazione e previdenza dei ministri di culto*, (Milan: Giuffrè, 2003).

<sup>51</sup> It is assumed that in practice there are clerics who render their services for several church entities. These entities function at the diocesan level or on a broader plane. Given a particular type of ministry, they are all obliged to make an appropriate financial contribution in accordance with the particular law. Salary can be disbursed by both church and lay entities, private or public ones, for the benefit of which clerics carry out their tasks, under an explicit or tacit authorisation issued by proper ordinaries. A diocesan institution or foundation, in cases when an expected level of support for the

In the light of the above, we can draw the conclusion that financial means obtained from *remuneratio* will in effect cover the *sustentatio*, which is proper to the clergy.

What is then the meaning of decent support? In line with the disposition of canon 281 §1, decent support should be sufficient to “provide for the necessities of their [i.e. clerics’] life” (*necessitas vitae*). In R. Kantor’s opinion, the notion of “necessity” should be conceived both as *necessitas naturae* (temporal goods without which a person cannot support himself) and *necessitas personae* (goods without which a person can live but without dignity).<sup>52</sup> Therefore, the concept of support is dependent on: 1) the idea of necessity, 2) the person concerned, 3) socio-economic circumstances, and 4) objects which are regarded as superfluous. Analysing canon 1473 CIC/17, its commentators found the following superfluous: 1) unethical use of the fruits of a benefice, 2) their allocation for the purposes which are unbefitting the presbyteral state or of increasing the wealth of the family, 3) using these fruits for their own needs if the ministry and ecclesiastical offices were not properly exercised.<sup>53</sup>

While commenting on canon 979 §1 CIC/17, E. F. Regatillo notes that decent support for the clergy should be interpreted broadly, avoiding excessive scrupulousness. This concept encompasses all that is connected with food, clothing, accommodation, medical care and health care, the keeping of attendants in accordance with the requirements imposed by benefices, good rest, helping the needy, including family members, and existence in old age.<sup>54</sup> S. B. Smith goes even further saying that the conception of decent support for the clergy envisages this kind of support to be not overly economical but rather honourable and comfortable, in other words a life in which not only the basic necessities are provided for but one that allows a cleric to exercise his ministry in a proper way.<sup>55</sup> CIC/17 commentators agree that the standard of decent support depends on the following: 1) the dignity or rank of the office held; 2) individual achievements, such as completed specialist studies; 3) background; 4) church roles, both spiritual and material; 5) the duty of hospitality and charity, both towards one’s own family and

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clergy has not been attained, is to supplement the partial remuneration provided by church entities or salaries obtained from other sources (DFUD, section. 4.3).

<sup>52</sup> R. KANTOR, “Clerici vitae simplicitatem colant. Analiza kan. 282 § 1 Kodeksu Jana Pawła II,” in *Zobowiązani do wiary po dwudziestu latach na drodze wyznaczonej przez Jana Pawła II* (Tarnów, 9–10 VI 1987), ed. J. Stala and J. Królikowski (Tarnów: Wydawnictwo Diecezji Tarnowskiej Biblos, 2010), 259.

<sup>53</sup> IDEM, *Odpowiednie wynagrodzenie duchownych*, 209–10; P. LEWANDOWSKI, “Troska biskupa diecezjalnego o godziwe utrzymanie duchownych,” *Kościół i Prawo* 5, no. 1 (2016): 57–58.

<sup>54</sup> *Institutiones Iuris Canonici*, vol. 1 (Santander: Sal Terrae, 1961), 195.

<sup>55</sup> *Elements of Ecclesiastical Law*, vol. 3 (New York: Benzinger Brothers, 1888), 95.

the needy parishioners; and 6) customs and wealth of a particular region or country.<sup>56</sup>

The Second Vatican Council, whose interpretations of the current legal order are extremely important, addresses the issue mainly in the decree *Presbyterorum ordinis*.<sup>57</sup> By proclaiming the right of the clergy to decent support, the conciliar fathers make reference to the Bible: “the worker deserves his wages” (Luke 10:7) and “In the same way, the Lord has commanded that those who preach the gospel should receive their living from the gospel” (1 Cor 9 9:14). In accordance with the conciliar teaching, decent support should be such that it might provide not only for the clergy but also those lay faithful who provide their services to them, as well as those who need such assistance (see PO 20). The Congregation for Bishops sees decent support in a similar manner: “This regards remuneration which should be sufficient – taking into account the evangelical spirit of poverty – to ensure decent support, protect apostolic freedom, and give presbyters an opportunity to personally support the poor in some way.”<sup>58</sup> The assurance of such support will allow priests to avoid situations in which they will not “find themselves having to seek additional income through activities outside their ministry, which might well obscure their chosen state of life and reduce their pastoral and spiritual activity.”<sup>59</sup>

Having regard for the above, we should conclude that decent support embraces all that is needed by a cleric, from a moral perspective, to be able to carry out his ministry properly: sustenance, clothes, health care, social security, annual vacation,<sup>60</sup>

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<sup>56</sup> P.M. HANNAN, *The Canonical Concept of «congrua sustentatio» for the Secular Clergy* (Washington: The Catholic University of America Press 1950), 82.

<sup>57</sup> SACROSANCTUM CONCILIUM OECUMENICUM VATICANUM II, Decretum de presbyterorum ministerio et vita *Presbyterorum ordinis*, December 7, 1965, *AAS* 58 (1966), 991–1024 [hereafter PO]. In the decree *Christus Dominus*, the conciliar fathers oblige bishops to be concerned about the spiritual, intellectual and material welfare of their priests so that these can live holy and pious lives, faithfully and fruitfully fulfilling their ministry [SACROSANCTUM CONCILIUM OECUMENICUM VATICANUM II, Decretum de pastorali episcoporum munere in *Ecclesia Christus Dominus* 16, October 28, 1965, *AAS* 58 (1966), 673–96].

<sup>58</sup> SACRA CONGREGATIO PRO EPISCOPIS, Directorium de pastorali ministerio Episcoporum *Ecclesiae imago* 117, March 22, 1973 (Rome: Typis Polyglottis Vaticanis, 1974; the Polish translation in *Ustrój hierarchiczny Kościoła. Wybór źródeł*, ed. W. Kacprzyk and M. Sitarz (Lublin: Wydawnictwo KUL, 2006), 403–516 [hereafter EI].

<sup>59</sup> CONGREGAZIONE PER I VESCOVI, Directorio per il ministero pastorale dei vescovi *Apostolorum successores* 80, February 22, 2004 (Città del Vaticano: Libreria Editrice Vaticana, 2004); the English translation retrieved from [www.vatican.va](http://www.vatican.va) [hereafter AS].

<sup>60</sup> C. 283 §2: “They [clerics – P. L.] are entitled, however, to a fitting and sufficient time of vacation each year as determined by universal or particular law.”

assistance for his parents or the closest family members,<sup>61</sup> remuneration for those who help the cleric, or further intellectual development.<sup>62</sup> The above list is not exhaustive.

With respect to the amount of support, the code legislator lays down a general rule whereby it should be “appropriate” to the clerical status, and two factors which will allow this “appropriateness” to be determined exactly, namely: “the nature of their functions and the conditions of places and times (can. 281 §1).<sup>63</sup>

The application of law with respect to support of the clergy is conditioned by various factors. F.R. Aznar Gil distinguishes the following criteria: 1) personal (ensuring not only decent support but also meeting the needs associated with the human condition and the clerical state), 2) functional (associated with the character of the exercised office, 3) social (dependent on the socio-economic circumstances of the place where a cleric exercises his ministry), and 4) the criterion of priestly brotherhood (considering the character of the role as well as the place and time, the support should be in principle equal for all clerics in the same condition).<sup>64</sup> Another classification is proposed by Dariusz Walencik: 1) the level of education, 2) the

<sup>61</sup> IOANNES PAULUS PP. II, *Epistula La Sede Apostolica*, November 20, 1982, *AAS* 75 (1983), pars I, 122: “Spetta ad essi una remunerazione proporzionata ai compiti svolti e tale da assicurare un decoroso sostentamento e consentire l’adempimento dei doveri del proprio stato, comprese anche quelle responsabilità che in certi casi possono avere di venire in aiuto ai propri genitori o ad altri familiari a loro carico.” Cf. *Codex Canonum Ecclesiarum Orientalium auctoritate Ioannis Pauli PP. II promulgatus*, October 18, 1990, *AAS* 82 (1990), 1045–1363, 390 §1.

<sup>62</sup> C. 279 §1: “Even after ordination to the priesthood, clerics are to pursue sacred studies and are to strive after that solid doctrine founded in sacred scripture, handed on by their predecessors, and commonly accepted by the Church, as set out especially in the documents of councils and of the Roman Pontiffs. They are to avoid profane novelties and pseudo-science.”

<sup>63</sup> As noted by T. Rincón-Pérez, these formulations are derived directly from PO 20. The first factor was considered in the last redactions of the conciliar decree, most probably in order to counteract excessive egalitarianism, incompatible with the principles of distributive justice and the evangelical idea of “Christian community of good” (“Święci szafarze, czyli duchowni,” in *Codex Iuris Canonici. Kodeks Prawa Kanonicznego. Komentarz*, 264; J. KRUKOWSKI, “Święci szafarze, czyli duchowni,” in *Księga II. Lud Boży. Część I. Wierni chrześcijanie. Część II. Ustrój hierarchiczny Kościoła*, vol. 2/1 of *Komentarz do Kodeksu Prawa Kanonicznego*, ed. J. Krukowski (Poznań: Pallottinum, 2005), 104; LEWANDOWSKI, *Troska biskupa diecezjalnego o godziwe utrzymanie duchownych*, 58). Cf. PAULUS PP. VI, *Litterae apostolicae motu proprio datae Ecclesiae Sanctae. Normae de quaedam exsequenda SS. Concilii Vaticani II decreta statuuntur*, August 6, 1966, *AAS* 58 (1966), no. 8, 757–87; the English translation available at [http://w2.vatican.va/content/paul-vi/en/motu\\_proprio/documents/hf\\_p-vi\\_motu\\_proprio\\_19660806\\_ecclesiae-sanctae.html](http://w2.vatican.va/content/paul-vi/en/motu_proprio/documents/hf_p-vi_motu_proprio_19660806_ecclesiae-sanctae.html); EI 117 or AS 80. See also S. DUBIEL, *Uprawnienia majątkowe Kościoła katolickiego w Polsce w świetle Kodeksu Prawa Kanonicznego z 1983 roku, Konkordatu z 1993 roku i ustaw synodalnych* (Lublin: Wydawnictwo KUL, 2007).

<sup>64</sup> AZNAR GIL, “La «conveniente remuneración» de los clérigos,” 570–71; KANTOR, *Odpowiednie wynagrodzenie duchownych*, 214–15.

length of the ministry in the Church, 3) the office held, 4) the environment, and 5) the material status of society.<sup>65</sup>

The question of decent support is also connected with the call for poverty. For this reason, the Congregation for the Clergy highlights the fact that although clerics do not pledge poverty in public, they are to “foster simplicity of life” and “refrain from all things that have a semblance of vanity” (cf. c. 282 §1). “The priest must avoid offering grounds for even the slightest insinuation that he may conceive his ministry also as an opportunity for obtaining benefits, favouring friends and relatives or seeking positions of privilege. [ ] In all aspects (living quarters, means of transportation, vacations, etc.) the priest is to eliminate any kind of affectation and luxury.”<sup>66</sup> Also, we need to remember the disposition of canon 282 §2, in which the legislator provides that clerics are to “use for the good of the Church and works of charity those goods which have come to them on the occasion of the exercise of ecclesiastical office and which are left over after provision has been made for their decent support and for the fulfilment of all the duties of their own state.”<sup>67</sup>

## CONCLUSIONS

The analysis carried out in this article leads to the following conclusions:

1) The Code legislator addresses the question of decent support for the clergy in multiple canons, but using diverse terminology.

2) The fundamental notions are: *sustentatio* and *remuneratio*. The other terms can be regarded as supplementary and indicative of their application. *Sustentatio*, correctly translated into Polish as *utrzymanie* (support, maintenance), has a much broader and more basic scope than *remuneratio*, which is correctly translated into Polish as *wynagrodzenie*.

<sup>65</sup> WALENCIK, “Prawo duchownych do utrzymania,” 200–201.

<sup>66</sup> CONGREGAZIONE PER IL CLERO, *Direttorio per il ministero e la vita dei presbiteri* 83 (Città del Vaticano: Libreria Editrice Vaticana, 2013); the English translation accessed February 22, 2018, <http://www.clerus.va/content/clerus/en/notizie/direttorio-per-il-ministero-e-la-vita-dei-presbiteri---nuova-edi.html>. See also A. ZAMBON, *Il consiglio evangelico della povertà nel ministero e nella vita del presbitero diocesano* (Roma: Editrice Pontificia Università Gregoriana, 2002); IDEM, “Il presbitero e i beni materiali: un rapporto scontato? Alcune riflessioni a partire dal can. 282 §1,” *Quaderni di Diritto Ecclesiale* 17 (2004): 81–110; LEWANDOWSKI, *Troska biskupa diecezjalnego o godziwe utrzymanie duchownych*, 53–76.

<sup>67</sup> L. CHIAPPETTA, *Il Codice di diritto canonico. Commento giuridico-pastorale*, 3rd ed., vol. 1, bk. 1–2 (Rome: Edizione Dehoniane Bologna, 2011), 371; W.H. WOESTMAN, *The Sacrament of Orders and the Clerical State. A Commentary on the Code of Canon Law* (Ottawa: Faculty of Canon Law, Saint Paul University, 2006), 193–94.

3) The support which the Church is obliged to provide to a cleric in accordance with the criteria of retributive justice, that is mutuality and proportionality with respect to particular types of ministry exercised. This implies that the Church is not obliged to provide a cleric with a salary but guarantee him decent support.

4) Decent support embraces all that is needed by a cleric from a moral perspective to be able to carry out his ministry properly: sustenance, clothes, health care, social security, annual vacation, assistance for his parents or the closest relatives, remuneration for those who help the cleric, or further intellectual development.

5) With respect to the amount of support, the code legislator lays down a general rule whereby it should be “appropriate” to the clerical status, and two factors which will allow this “appropriateness” to be determined exactly, namely: “the nature of their functions and the conditions of places and times (can.

Although clerics do not publicly commit themselves to poverty, they are to lead a simple life and “refrain from all things that have a semblance of vanity.”

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## THE NOTION OF DECENT SUPPORT OF THE CLERGY ACCORDING TO THE 1983 CODE OF CANON LAW

### Summary

The 1983 Code of Canon Law contains numerous instructions for decent support of clerics.

Decent support should be such that it provides for the basic necessities of clerical life. The concept of "necessity" should be understood both as *necessitas naturae* (the temporal goods without which one cannot sustain himself) as well as *necessitas personae* (goods without which the human person can live but not in a dignified way). Decent support includes everything that is morally necessary for the priest to properly carry out his priestly vocation: food, accommodation, clothing, health care, social security, annual holidays, aiding parents or close family members, giving payment for assistance or further intellectual development.

With respect to the issue of the cost of support, the code legislator sets out the general principle that it is to be "appropriate" for the clerical position he is in, and the two factors that make it possible to determine this "appropriateness" more precisely, namely: taking into account the nature of the tasks entrusted and the adjustment of the cost of remuneration to the circumstances of place and time.

**Key words:** clergy; remuneration; food; social security; vow of poverty.

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