

**VAIHARAI**  
(The Dawn)  
A Theological Half-Yearly

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Jan.-Dec. 2013

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## ***From Editor's Desk***

The purpose of Incarnation was revealed to Joseph the husband of Mary, the mother of Jesus Christ: "for he will save his people from their sins" (Mt 1:21). The law of the Church serves the same purpose *salus animarum suprema lex* (CIC, C. 1752). We the 'People of God' during our earthly pilgrimage are confronted with many aggressive attacks of the Evil One. To resist them we need constant assistance from above (Cf. Lk 22:31-32). God desires that we His children may be led by the Spirit (Rom 8:14) and may walk at liberty guided by His precepts (Cf. Ps 119:45).

Incarnation is God assuming human condition submitted to the law in order to redeem those who were under the law. This enabled the believers to love God and to love one's neighbour in order to make humankind one family, recognising God as *Abba* (Gal 4:4-7). This love of God and of neighbour is the foundation of all law (Mt 22:36-40). In order to guide the sons and daughters of God towards this perfection, the Church through her pastors regulates the conduct of the believers. With the mandate of pasturing the sheep (Cf. Jn 21:15-17), the Supreme Pastor of the Universal Church promulgates and implements law in the Church. The law of the Church helps us to understand the reality and be away from falsity

(Cf. Ps 119:104). It aims at avoiding murmur against one another in the daily chores (Cf. Acts 6:1). It safeguards against false teaching in order to help us to walk in the right way towards perfection (Cf. Didache 6:1-2). It nurtures in us good conscience in order not to overstep one's role in the Church (Cf. 1 Clem 41:1). Emperor Justinian I explains the purpose of law as follows: *Iuris praecepta sunt haec: honeste vivere, alterum non laedere, suum uique tribuere* ("The precepts of the law are these: to live honestly, to injure no one, and to give everyone his due", *Justinian Code*, 1:3). When one understands these theological and practical implications of law in the Church, the daily living of Christians will become more witnessing. At the same time when one ignores these implications and tries to twist the interpretation of the law, he/she becomes counter witness to the Incarnation and creates confusion and trouble in the family of God.

The contributors of this issue have taken pain to clarify some of the relevant issues of our time. We appreciate them and thank the Guest-Editor Rev. Dr. Norbert Thomas who was instrumental in bringing out this issue. Let the Silver Jubilee celebration of the *Tamil Nadu Canonists' Association* equip the members with new vigour in their ministry as the facilitators in the salvific mission of Jesus Christ. We take this opportunity to remember with gratitude and appreciate the contribution of the former editor of Vaiharai Rev. Dr. V. Raphael.

"A new commandment I give to you, that you love one another" (Jn 13:34).

**Dr T. Xavier Terrence**

**Editor**

## Editorial

It is indeed a dual blessing for me to bring out this issue in honour of the Silver Jubilee celebrations of *Tamil Nadu Canonists' Association* to be held on 7 & 8 January 2015. In order to understand the concept of dual blessing, it is to be analysed in two angles. Firstly, as a guest-editor of *Vaiharai* which is a bi-annual publication of St Paul's Seminary, Trichy, it is a fitting accolade to the canonists who have been serving the various dioceses and religious congregations of Tamil Nadu in various capacities as Judicial Vicars, Judges and Notaries in ecclesiastical tribunals. Secondly, as the Secretary of Tamil Nadu Canonists' Association, it is my pleasant duty to thank the administration of St Paul's Seminary, particularly, the publication Committee and the new Editor of *Vaiharai* Rev. Dr T. Xavier Terrence, Professor of Patrology and Sacred Scripture, for having accepted the articles of my brother-canonists to bring out a special issue in honour of the Silver Jubilee.

Canon Law plays a vital role in the administrations of the Catholic Church. It gives 'rights and obligations' to every baptised person starting from the Pope to the one baptised today. We should not misunderstand while we speak of rights and obligations of each baptised individual. Very often, it is presumed that the concept 'obligations' is portrayed as a burden unleashed on certain section of the society. We need to understand this terminology in correct perspective as 'directives of guidance' for the smooth running of Catholic life. That is the reason, the last canon of the Code (C. 1752) states, *Salus Animarum Suprema Lex*, that is, the 'Salvation of Souls is the Supreme Law.' Hence, any law which remains a

burden to practise one's faith in Jesus, is to be abrogated. Jesus tells us clearly that Sabbath is for man and man is not for Sabbath. In other words, the regulations of the observance of Sabbath should in no way debase the human dignity of the individual. Hence, the obligations mentioned in the Code are to be taken in a positive sense upholding basic values of human persons.

However, there is a danger while we speak of 'rights' of every baptised without reference to 'obligations'. The reason is that many demand their rights as provisions given exclusively by virtue of Canon Law. Certain people who demand their rights fail to take into consideration their obligations as well. From practical point of view, some clerics and lay people misuse the terms 'rights and obligations' to suit their own ambitions and advantages. The people, who voice their concern for rights, fail to uphold the principles of justice while implementing their obligations. Hence, the 'rights and obligations' should go together to enjoy the privileges as envisaged in the Code but also to think of our various responsibilities. In this way this special issue includes various articles dealing with legislative, judicial and executive responsibilities of the Church.

We have classified the articles in such a way to suit into three groupings. The first three articles deal with matters related to the canonisation of civil law. That is, the effectiveness of canonical principles in dealing with matters connected in Indian Civil Code. In this regard, Rev. Dr Antony Alagu Selvan, D. C. L, M. Phil (CS) M. A., has brought out his article on the title "1983 Code in the Life of the Church with Special Reference to the Indian Church". Rev. Dr Antony Alagu Selvan is a priest of the Diocese of Salem, obtained doctorate in

Canon Law in Urban University, Rome in 1996 and taught Canon Law from 1998-2013 at Good Shepherd Seminary, Coimbatore. Now he serves as the Judicial Vicar of the Diocese of Salem in addition to other portfolio of being the parish priest and Vicar *forane* of Mettur.

The second article deals with “Catholic Church Disputes in the Civil Courts of India”. In this regard, the author Rev. Dr Sahayaraj Lourdusamy, stresses the need to have a system to arbitrate the disputes without going to the civil courts which are very complicated in nature. Rev. Dr Sahayaraj Lourdusamy, a priest of the Diocese of Thanjavur holds a doctorate in Canon Law from the Catholic Institute of Paris and also a doctorate in Civil Law from the University of Paris XI, France. Besides he holds Master’s degree in Sociology, Computer Science and Journalism and Bachelor’s Degree in Mathematics, Education and Indian Civil Law. At present he is the Chancellor of the Diocese of Thanjavur and one of the Judges in the Diocesan Tribunal.

The third article deals with, “Rights to Religious Freedom in the Church and in India: Content and Complexity” in which the author Rev. Dr M. R. Jesu states that the right to religious freedom needs more advancement in the present legal and constitutional frame works in order to overcome the conflicts and constraints. Rev. Dr M. R. Jesu, a priest of the Diocese of Sivagangai, holds a Bachelor’s degree in Civil Law, a Master’s degree in Human Rights, and a Doctorate in Canon Law from Catholic Institute of Toulouse, France in 2010. At present he is the Chancellor and the Judicial Vicar of the Diocese of Sivagangai.

The second group comprising articles 4, 5, 6 & 7 deals with the governance of the local Church and the Diocesan

Bishop's relationship with Religious working in his diocese. The fourth article is on "Relation between the Bishop and Religious in the Particular church". The author Rev. Dr M. Philomindas, a priest of the Diocese of Kumbakonam, urges that both the Bishop and the Superior General of the Religious congregations should cooperate with each other to solve the vexed problems in the administration for the good of the church. Rev. Dr M. Philomindas has obtained Doctorate in Canon Law in 1997 from the Urban University, Rome and studied Jurisprudence from the Gregorian University Rome in 1998. He has been the Judicial Vicar of the Diocese of Kumbakonam since 1998.

The fifth article is on "Confused Relationship between the Diocesans and the Religious caused by the Administration of Temporal Goods". The author Rev. Dr M. John Diraviam, a priest of the Archdiocese of Madurai, pinpoints the pastoral collaboration between the diocese and religious congregations in their apostolate towards the poor. Rev. Dr M. John Diraviam, completed his Licentiate in 2000 at St Peter's Bangalore and doctorate in Canon Law in St Paul University, Ottawa, in 2007. At presents he serves as the Chancellor and Judicial Vicar of the Archdiocese of Madurai.

The sixth article is on "The Role of Consultation in the Governance of the Particular Church". The author Rev. Fr D. Antony Jesuraj of the Diocese of Coimbatore enumerates the role of the bishops to consult the pastors and lay people in the particular church and also of the duty of pastors consulting the lay people of their respective parishes. Rev. Fr D. Antony Jesuraj completed licentiate in Canon Law in the year 2012 at St Peter's Pontifical Institute, Bangalore. At present, he is serving as Judicial Vicar in the Diocese of Coimbatore.

The seventh article is on “Participatory Structures in the Church: Are they functioning?” The author Rev. Dr Y. Irudayaraj, a priest of the Diocese of Trichy, writes on the role and cooperation among the hierarchy and laity in the administration of the church on the spirit of Vatican II. Rev. Dr Y. Irudayaraj completed his doctorate in Canon Law in Urban University, Rome and is professor emeritus of St Paul’s Seminary, Trichy. At present he serves as the Judicial Vicar of the Diocese of Trichy.

The third group comprising articles 8, 9, 10 speaks chiefly on marriage problems and various challenges such as psychic incapacities, pastoral disputes and conflicts connected with married life. The eighth article is on “Sociological Challenges of Marriage in India”. The author Rev. Dr Norbert Thomas, a priest of the Diocese of Tuticorin had his doctorate and post doctorate in Canon Law at the Catholic University of Leuven, Belgium in 2001 and 2009 respectively. After serving his diocese as Judicial Vicar for seven years, he is currently teaching Canon Law in St Paul’s Seminary, Trichy.

The ninth article is on “Necessity of Expert’s Opinion in Psychic Incapacity”. The author Rev. Dr Amalraj Royappan, a priest of the Diocese of Tuticorin enumerates the necessity of seeking expert’s opinion in dealing with cases of psychic nature to arrive at a moral certitude. Rev. Dr Amalraj Rayappan, after the licentiate at St Peter’s Pontifical Institute in Bangalore, completed his doctorate in Canon Law in Urban University, Rome. At present, he serves as the Chancellor and Judicial Vicar of the Diocese of Tuticorin.

The last article is on “Arbitration and Reconciliation in the Context of Pastoral and Marriage Dispute or Conflict”. Rev. Dr G. Felix, a priest of the Diocese of Kottar, delves into

arbitration which is an extra-judicial means of resolving conflict and dispute in the context of marriage cases. Rev. Dr G. Felix obtained his doctorate in Canon Law in Urban University, Rome in 1987. He acquired another doctorate in Eastern Code in Pontifical Oriental Institute, Rome in 2006. He served as assistant Professor of Canon Law in Urban University, Rome from 1991-1993, as Professor of Canon Law and Dean of studies in *Pontificio Collegio Beda*, Rome and also as Professor of Administration of Sacraments in *Regina Mundi* Institute, Rome. At present, he serves as the Chancellor of the Diocese of Kottar.

**Rev. Dr Norbert Thomas**

Guest-Editor

Vaiharai