

**DIOCESAN FUNERAL TIME-LIMIT NORMS AND
THE DENIAL OF ECCLESIASTICAL FUNERALS IN
NIGERIA: A CANONICAL ANALYSIS OF THE RIGHT
TO CHRISTIAN BURIAL**

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Abstract

This paper explores whether the denial of ecclesiastical funeral rites to a deceased member of Christ's faithful, due to violation of diocesan stipulated time limit, constitutes a violation of the faithful's fundamental Christian right. Some Nigerian diocesan norms prohibit the celebration of funeral Mass with the mortal remains of the deceased when the family of the deceased violates a time-limit of some weeks. Drawing on canons **1184–1185** of the 1983 Code and other Church documents, this study examines the canonical, theological, and pastoral nature of the right to ecclesiastical funerals. It further critiques some diocesan statutes in Nigeria that impose temporal restrictions (two weeks, three weeks, or one month) beyond which parish priests are forbidden to celebrate funeral Masses with the mortal remains of the deceased present. The article argues that such statutes, when enforced without regard for just cause, cultural context, or pastoral discernment, may conflict with universal law and violate the fundamental rights of the Christian faithful to the Church's spiritual assistance at death (cf. **cann. 213, 843 §1, 1176 CIC**). The study concludes that while diocesan norms may regulate funerary practice for pastoral order, they can neither restrict/nullify rights guaranteed by universal law nor undermine the theological meaning of Christian burial rooted in baptism and the paschal mystery.

Keywords: Christian, Funeral, Rights, Obligations, Statutes, Time-limit, Baptism, Penalty.

Introduction

The existential milestones of human existence, which are birth and death, occupy a central place in both human society and the salvific mission of the Church. While secular societies utilize civil registries to document these transitions, the Catholic Church elevates them through her sacramental and liturgical life. Just as the rites of Christian initiation mark the supernatural rebirth of the believer, the ecclesiastical funeral stands as a singular, indispensable moment within the Church's liturgical and juridical tradition. Far from being a mere social convention or a comforting rite of passage, the Christian funeral is a profound ecclesial act. It is a public proclamation of faith in the Paschal Mystery, an intercessory commendation of the deceased to God's mercy, and a liturgical manifestation of the communion of saints. Ecclesiastical law explicitly codifies this dual theological and pastoral reality. Canon 1176 §1 of the 1983 Code establishes the foundational principle that Christ's faithful who have died are to be given ecclesiastical funerals according to the norm of law. This formulation establishes a clear **favor iuris**; a legal presumption in favor of granting funeral rites to the deceased faithful. This right is intimately linked to the fundamental right of the Christian faithful to receive assistance from the sacred pastors out of the spiritual goods of the Church, particularly the Word of God and the sacraments, as articulated in Canon 213. Consequently, the universal legislator translates this right of the faithful into a strict pastoral obligation, charging parish priests with the specific duty of celebrating funeral rites for their deceased parishioners.

Yet, in stark contrast to this universal canonical presumption favoring the concession of funeral rites, contemporary pastoral practice in some dioceses within Nigeria reveals a widening

chasm between universal canon law and particular administrative policies. In various Nigerian dioceses, local statutes and episcopal directives prohibit parish priests from celebrating funeral Masses, with the mortal remains, or conducting ecclesiastical burials if the interment does not occur within a defined temporal window, ranging from two weeks to one or two months post-mortem. The socio-pastoral and economic rationales driving the promulgation of these restrictive particular norms are undeniably laudable. They seek to shield impoverished families from the crushing societal and financial pressures associated with prolonged, extravagant funeral preparations, combat the commodification and inflation of mortuary expenses, curb wasteful expenditures on secondary funeral festivities that deplete resources better reserved for the welfare of the living, and counteract the prolonged, culturally motivated retention of corpses in mortuaries. Collectively, these policies aim to foster Christian simplicity, pastoral order, and financial discipline. Nevertheless, when these temporal norms are rigidly enforced with little negotiable conditions, they result in the outright denial of ecclesiastical funerals to deceased Christ's faithful whose families fail to meet the prescribed deadlines.

This clash between universal law and particular administrative discipline raises urgent canonical, ecclesiological, and theological questions. Foremost among these is whether a diocesan bishop, in the exercise of his particular legislative authority, can validly restrict or extinguish a fundamental right guaranteed to the Christian faithful by universal law. Furthermore, one must ask whether temporal deadlines, which are completely foreign to the universal canonical criteria for the denial of funerals, can serve as a legitimate legal basis for depriving a deceased Catholic of a Christian burial. Given that laws which restrict the free exercise of rights or import a penalty are subject to strict interpretation under Canon 18. It is critical to evaluate whether the denial of a funeral under these

circumstances constitutes an **ultra vires** act that violates the subjective rights of the deceased.

To address these pressing questions, this study systematically analyzes the intersection of universal canonical equity and particular diocesan governance in Nigeria. The investigation begins by examining the ecclesial and theological significance of funeral rites, drawing from the conciliar teachings of **Lumen Gentium** and **Sacrosanctum Concilium**, alongside the **Catechism of the Catholic Church**. It then proceeds to a strict exegesis of the universal norms governing the concession and denial of funerals in Canons 1176, 1184, and 1185. Particular attention is given to Canon 1184 §1, which provides an exhaustive list of categories of the faithful who may be deprived of an ecclesiastical funeral, none of which include administrative delays or temporal infractions. The argument advanced here is that while diocesan bishops possess authentic legislative and executive power to regulate pastoral discipline within their territories, such authority must be exercised in harmony with the hierarchy of laws. Particular legislation cannot abrogate, modify, or restrict rights rooted in baptism and universal canonical legislation. Ultimately, the rigid enforcement of temporal limits as a ground for denying Christian burial represents an illicit restriction of the subjective rights of the faithful, conflicts with the limits of Canon 1184, undermines pastoral justice, and obscures the supreme law of the Church: *salus animarum suprema lex*

The Purpose and Ecclesial Significance of Funeral Rites

The celebration of ecclesiastical burial rites is a form of public worship of the Church in the sense that the faithful express their firm belief in the life after death. This faith in praxis is expressed each time they gather to celebrate the funeral of a deceased member. Church funeral, according to one German author Aymans-Mörsdorf as quoted by Mmaju Eke, is the

outstanding appreciation of the earthly existence of a person by the Church. The Church gives God thanks for an accomplished life of the deceased here on earth. The Church, in the hope of the resurrection, also prays for the repose of the soul of dead. Then, in a dignifying manner, the Church buries the body of the deceased faithful, ‘which through baptism became the temple of the Holy Spirit’¹. The funeral liturgy expresses the dignity of the deceased as a member of Christ’s faithful. It affirms the enduring bond between the living and the dead within the communion of saints. It is the celebration of the whole rite meant to accord the departed faithful the full dignity as a member of Christ’s faithful.

In many local Churches in Nigeria, the celebration of ecclesiastical funeral rites encompasses a series of liturgical and devotional acts extending beyond the actual burial. It commonly begins with the Christian wake on the eve of burial. Often, the Vigil includes the celebration of Mass, the Liturgy of the Word, the Rosary, and other prayers for the deceased. On the burial day, prayers are offered at the mortuary and at the family home before the body is conveyed to the Church. The funeral Mass constitutes the central liturgical celebration, culminating in the Rite of Final Commendation and Farewell. The funeral rites conclude with the committal of the body at the place of burial. In all, these rites manifest the Church’s pastoral care for both the deceased and the bereaved while expressing faith in Christ’s victory over death.

The funeral ritual inherited from the post-Tridentine period, however, did not always convey the doctrinal richness of the Christian understanding of death. According to an author, it did not sufficiently accommodate the diverse pastoral and cultural circumstances of local communities². This historical limitation

¹ Aymans-Mörsdorf, *Kanonisches Recht. Lehrbuch aufgrund des Codex Iuris Canonici*, Bd. III, Paderborn, München, 2007, 545.

² M. Eke, *Denial of Catholic funeral rites and irregular marriages in Igboland. A canonical-pastoral analysis of cc. 1176 and 1184 CIC*,

may partly explain why neither the 1917 Pio-Benedictine Code nor the 1983 Code provides a formal juridical definition of ecclesiastical funeral rites. Nevertheless, canon 1204 of the 1917 Pio-Benedictine Code offers a practical description, stating that ecclesiastical funeral rites consist of “the transfer of the body to the church, the funeral services celebrated over it in the church, and its burial in a place legitimately designated for the interment of the faithful departed”. In response to the liturgical reforms called for by the Second Vatican Council, the Sacred Congregation for Divine Worship promulgated the **Ordo Exsequiarum**³ on 15 August 1969 for the universal Latin Church. The title itself, **Ordo Exsequiarum** (Order of Funerals), indicates a broader understanding of Christian funerals than merely the final act of burial. The Latin term **exsequiae** embraces the entirety of the rites associated with Christian death, beginning from the time of death and extending through the funeral celebrations to the final acts of ecclesial farewell and consolation⁴.

The promulgation of the **Ordo Exsequiarum** implemented the directives of the Second Vatican Council, particularly those contained in **Sacrosanctum Concilium**⁵. **This Council document** mandated the revision of funeral rites so that they would express more clearly the paschal character of Christian death and correspond more effectively to the traditions and circumstances of different regions and cultures. The revised ritual sought to articulate a theology of death rooted in Christ’s Paschal

Dissertation, Klaus Mörsdorf Canonical Institute, Ludwig-Maximilians-University Munich, Germany, 2013, 83

³ Sacred Congregation for Divine Worship, *Rituale Romanum ex decreto sacro sancti oecumenici Concilii Vaticani II instauratum auctoritate Pauli PP promulgatum, Ordo Exsequiarum*, Editio Typica, Typis Polyglottis Vaticanis, Roma 1969. Engl. Trans.: *Rite of Funerals* (Washington: USCC/ICEL, 1971).

⁴ Owusu, V. K., *The Roman Funeral Liturgy: History, Celebration and Theology*, 1993, 37

⁵ Cf. Vatican II, SC, n. 81

Mystery while simultaneously reflecting a more holistic Christian anthropology⁶. It recognized the need to accommodate cultural diversity, pastoral realities, and the varying circumstances surrounding death, thereby enabling funeral rites to speak meaningfully to the lived experiences of the faithful. After all, Christian funeral celebration is giving sensitivity to the hope offered because of Christ's death and Resurrection and to the grief of those who mourn.

To accomplish these objectives, the Commission for the Implementation of the Constitution on the Sacred Liturgy undertook an extensive study of funeral customs throughout the world. Based on this research, the revised ritual proposed three principal models of funeral celebration. The first reflected the traditional Roman practice, especially from the 8th century, prevalent especially in Italy and France, in which the principal funeral celebration takes place in the church. The second corresponded to customs common in German-speaking regions, where the body was frequently taken directly from the home to the cemetery and the principal liturgical celebration occurred there. The third model envisioned funeral rites centred principally in the home of the deceased⁷. This practice is common in Africa in general and Nigeria in particular.

The inclusion of these various forms demonstrates the Church's recognition that Christian funeral rites belong to a living liturgical tradition capable of adapting to diverse cultural contexts while remaining faithful to the essential elements of Catholic faith. Consequently, the **editio typica** of the **Ordo Exsequiarum**⁸ expressly envisaged further adaptations by Episcopal Conferences in accordance with local customs and pastoral

⁶ Cf. Owusu, V. K., *The Roman Funeral Liturgy*, 37.

⁷ Cf. R. Rutherford, *The Death of a Christian: The Rite of Funerals*, Pueblo Publishing Company, New York 1980, 152

⁸ **Ordo Exsequiarum**, n. 22

needs⁹. Such flexibility underscores the ecclesial significance of funeral rites as both universal expressions of Catholic faith and culturally meaningful celebrations of Christian hope in the resurrection. Thus, the Christian reason for funerals is understood to be a testimony of religious faith that stems from theology and culminates in a liturgical celebration under the guidance of canonical norms. In part, the celebration of funerals follows the universal practice in which reverence is accorded the mortal remains of the deceased by the people¹⁰. It is also a Christian manifestation of faith in the continuation of life after death.

The Right of a Deceased Christian to Ecclesiastical Funeral

Funeral rites are celebrated primarily for the spiritual benefit of the deceased, while also offering consolation and hope to the living. Before examining the canonical right to ecclesiastical funeral rites, it is useful to consider briefly the Christian understanding of death. The Uniform Determination of Death Act (UDDA) of 1981¹¹ defines death as either the irreversible cessation of circulatory and respiratory functions or the irreversible cessation of all functions of the entire brain, including the brain stem¹². Although, the above definition of death remains debatable, as neurologists since 1970s have observed that isolated

⁹ M. Eke, *Denial of Catholic funeral rites and irregular marriages in Igboland*, 84.

¹⁰ J.L. Santos, "Title III Church Funerals", in Angel Marzoa, Jorge Miras and Rafael Rodríguez-Ocaña (eds.), *Exegetical commentary on the Code of Canon Law*, Wilson & Lafleur Montreal, Canada 2004, 1675.

¹¹ National Conference of Commissioners on Uniform State Laws, **Uniform Determination of Death Act § 1** (1981). The UDDA is a model state law that was approved in 1981 by the National Conference of Commissioners on Uniform State Laws, in cooperation with the American Medical Association, the American Bar Association, and the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

¹² As quoted by Mary M. Veeneman, "Death and Dying" in Joel B. Green (ed.) *Dictionary of Scripture and ethics*, Baker Academic, Michigan 2011, 206-207.

brain cells could potentially continue to function even if integrated super cellular brain function has ceased. Hence, medical and philosophical discussions concerning the precise determination of death continue, Christian theology approaches death from a perspective that transcends biological cessation.

While Martin Heidegger famously described the human person as **Sein-zum-Tode**¹³, being-toward-death, Christian anthropology understands the human person fundamentally as one called to eternal life¹⁴. Therefore, death is neither the annihilation of the person nor the ultimate end of existence. It represents the completion of earthly pilgrimage and the beginning of a new mode of existence in communion with God. René Latourelle¹⁵ observes, Christian faith acknowledges the reality of death while simultaneously looking beyond it toward the promise of eternal life made possible through Christ. In Christ, death becomes an act of surrender to God and a participation in the saving mystery which believers are called to share in divine life. This theological understanding provides the foundation for the Church's funeral rites. The right to ecclesiastical funeral derives principally from Baptism and from the communion of saints. Through Baptism, a person is incorporated into Christ's death and resurrection (Rom 6:3–5), becomes a member of the Church, and acquires rights and obligations within the ecclesial community (cf. can. 96). Christian death thus represents the culmination of the baptismal journey begun at the font. Having been buried with Christ in Baptism and raised to new life, the Christian is accompanied by

¹³ Martin Heidegger, **Being and Time**, in John Macquarrie and Edward Robinson (trans.), Blackwell Publishers, Oxford 1962, 279–311; see also Mary M. Veeneman, "Death and Dying", 208.

¹⁴ In Mary M. Veeneman, "Death and Dying", 208.

¹⁵ R. Latourelle, "Death" in Rene Latourelle and Rino Fisichella (eds.), *Dictionary of Fundamental Theology*, A Herder & Herder Book, New York 2000, 212.

the Church at death through funeral that express faith in the resurrection and the hope of eternal life¹⁶.

The Catechism of the Catholic Church teaches that the Christian funeral is a liturgical celebration of the Church in which the ecclesial community accompanies the deceased to the Father's house and entrusts him or her to God's mercy¹⁷. In this sense, funeral constitute the Church's final public act of pastoral care toward one who has been incorporated into Christ through Baptism and nourished throughout life by the sacraments. It is an act of ecclesial communion beneficial to the deceased for the repose of his/her soul and comfort to the family. The Second Vatican Council teaches that all who belong to Christ form one People of God and remain united in him, whether they are pilgrims on earth, undergoing purification after death, or already enjoying heavenly glory¹⁸. Prayer for the dead and the celebration of funeral rites are therefore concrete expressions of this communion that unites the Church militant, the Church suffering, and the Church triumphant. Ecclesiastical funeral rites publicly manifest this bond while imploring God's mercy upon the deceased and offering hope and consolation to the faithful.

The 1983 Code of Canon Law translates these theological principles into juridical norms. Canon 1176 §1 establishes the fundamental principle that "deceased members of Christ's faithful must be given ecclesiastical funerals according to the norm of law". This provision reflects the Church's long-standing conviction that the faithful have a claim upon the Church's spiritual assistance even at the moment of death. This is spiritual exercise to the benefit of the deceased Christ's faithful. It conveys the significance of the hope for new life in the face of death, and

¹⁶ Cf. R. Latourelle, "Death", 213; see also CCC, nn. 1006-1014

¹⁷ Cf. *Catechism of the Catholic Church*, nn. 1680–1683.

¹⁸ Vatican II, **LG**, n. 49.

the unshakable love of God ¹⁹ . The canon establishes a presumption in favor of granting an ecclesiastical funeral to baptized Catholics unless the law expressly provides otherwise.

The juridical basis of this right is closely connected with the incorporation of the faithful into the Church through Baptism. Canon 96 provides that by Baptism a person is constituted in the Church of Christ and becomes a subject of rights and obligations proper to Christians. Among these rights is the right to receive spiritual assistance from the Church. Canon 213 affirms that Christ's faithful have the right to receive from their sacred pastors the spiritual goods of the Church, especially the word of God and the sacraments. Although this canon principally concerns the living faithful, its underlying principle illuminates the Church's obligation to provide spiritual assistance appropriate to the faithful at the conclusion of earthly life, including ecclesiastical funeral rites. Moreover, canon 843 §1 obliges sacred ministers not to deny the sacraments to those who seek them opportunely, are properly disposed, and are not prohibited by law from receiving them. While Christian funerals are sacramentals rather than sacraments, the canon reflects a broader ecclesial principle: access to the Church's spiritual goods is presumed unless restricted by law for a grave reason. This same principle informs the canonical regulation of ecclesiastical funerals.

Commentators²⁰ have therefore noted that canon 1176 should be interpreted within the broader framework of the fundamental rights of Christ's faithful. James H. Provost regarded the recognition and protection of such rights as one of the significant innovations of the 1983 Code. Anthony Chiegboka emphasizes

¹⁹ Cf. H.S. Nelson, "Funeral" in Rodney J. Hunter (ed.), *Dictionary of pastoral care and counseling*, Abingdon Press 2005, 450.

²⁰ James H. Provost, *Promoting and Protecting the Rights of Christians: Some Implications for Church Structure*, 289; Anthony Chiegboka, *Pastoral Guide for Local Church Administration*, Rex Charles and Patrick, 2012, 58.

that ecclesiastical governance must respect these rights through proper legal procedures and due process. Consequently, ecclesiastical funerals should not be regarded merely as a privilege granted at the discretion of ecclesiastical authority. It is a right flowing from baptismal incorporation into the Church²¹. It is enjoyed by those who remain in ecclesial communion at the time of death.

For this reason, canon 1184 §1 must be interpreted strictly. The denial of ecclesiastical funeral rites constitutes an exception to the general norm established in canon 1176. The legislator therefore limits such denial to specific circumstances, namely notorious apostates, heretics, and schismatics; those who choose cremation for reasons contrary to Christian faith; and other manifest sinners whose ecclesiastical funerals would cause public scandal, provided they gave no signs of repentance before death. These exceptions confirm rather than diminish the general canonical principle that ecclesiastical funerals are ordinarily to be granted. The operation of the Church should *de facto*, respect the legal prescriptions especially that on fundamental rights of the individual and consequent protection of such rights through due process, self-defense, and proper imposition of penalties²².

From the foregoing, the Canons understudy reveal two complementary principles. Firstly, a presumption in favor of granting ecclesiastical funeral to baptized members of Christ's faithful. Second, a narrowly construed exception permitting denial only in the circumstances expressly determined by universal law. These principles reflect the Church's pastoral preference for mercy and inclusion while safeguarding the integrity of ecclesial communion and public ecclesiastical

²¹ John P. Beal, James A. Coriden, and Thomas J. Green, eds., **New Commentary on the Code of Canon Law**, New York: Paulist Press, 2000, 1397–1400.

²² Anthony Chiegboka, *Pastoral Guide for Local Church Administration*, 58.

witness. Accordingly, particular laws, diocesan regulations, or parochial statutes that introduce additional grounds for denying ecclesiastical funerals beyond those recognized in universal law risk exceeding the limits established by the legislator and undermining the canonical presumption in favor of granting funeral rites.

Evolution of Denial of Ecclesiastical Funeral Rites in Canon Law

The denial of ecclesiastical funeral rites to certain members of Christ's faithful possesses a long and complex history within the canonical tradition of the Church. Its origins are intimately connected with the notion of ecclesial communion. The manner in which a Christian lived his or her life bore consequences for the Church's public liturgical response at death. Separation from ecclesiastical communion ordinarily entailed exclusion from ecclesiastical burial after death. As Del Pozzo²³ observes, the denial of ecclesiastical funerals arose from the conviction that public conduct contrary to the faith ruptured communion with the Church. Such attitudes, renders inappropriate the public ecclesial honours ordinarily accorded to members of Christ's faithful who died in communion with the Church. Thus, deprivation of ecclesiastical burial gradually came to be regarded as one of the gravest ecclesiastical sanctions imposed upon those who seriously violated ecclesiastical law or publicly repudiated ecclesial communion.

This discipline emerged not merely from juridical enactments but also from the ecclesial consciousness of the Christian community. The faithful perceived that those who obstinately persevered in grave public opposition to the faith should not ordinarily receive the same ecclesiastical honours as those who

²³ M. Del Pozzo, "Il riconoscimento del diritto alle esequie ecclesiastiche nella società secolarizzata", in *Annales theologici*, 29 (2015), 47.

remained faithful to the Church until death²⁴. The roots of this emerging practice is not only traced to Jewish burial customs but also to Igbo burial customs. The Jews ordinarily buried their dead separately from those outside the covenant community in order to distinguish the worshippers of the true God from pagans and unbelievers. Igbo traditional culture believes in the respect for the dead and as such accord a befitting burial to all who maintain communion with her tradition while they cast the bodies of those who lived lives contrary to tradition to the evil forest²⁵.

Consequently, a distinction gradually developed between the burial accorded to members of the Christian community and that accorded to those who had publicly separated themselves from ecclesial communion. Jewish communities ordinarily buried their members separately from pagans and outsiders as a visible expression of covenantal identity. After Christianity emerged as a distinct religion, Christians gradually developed their own burial customs. During the first centuries of the Church, Christians initially buried their dead in private family tombs and cemeteries. As ecclesiastical structures matured, catacombs and specifically Christian cemeteries developed, particularly around Rome and other major cities. By the third century, Christians possessed burial grounds distinct from those of pagans and non-Christians²⁶.

The existence of dedicated Christian cemeteries reinforced the conviction that burial within consecrated ground signified

²⁴ M. Del Pozzo, "Il riconoscimento del diritto alle esequie ecclesiastiche nella società secolarizzata", 47.

²⁵ C. Obiodu, "Denial of Ecclesiastical Funeral: A Canonical Penalty for Non-Clearance of Debts?", in Michael Konye & Chidiebere Obiodu (eds.), *In Thanksgiving and Love*, Wavefront Technologies Ltd, Owerri 2025, 135-160, in 145.

²⁶ Cf. F. Awotoye, *The canonical question of ecclesiastical funeral of manifest sinners*, Doctoral Thesis, Venice 2021, 75-76; see also C. Obiodu, "Denial of Ecclesiastical Funeral", 138.

membership in the ecclesial community. Exclusion from such burial was therefore understood as a visible manifestation of exclusion from ecclesiastical communion.²⁷ Early ecclesiastical sources attest to this development. The **Apostolic Constitutions**²⁸ encouraged the faithful to accompany the deceased with prayers and hymns, particularly those who had remained faithful to Christ. Likewise, evidence from the Patristic period indicates that heretics and schismatics were frequently excluded from Catholic cemeteries. Imperial legislation contained in the **Codex Theodosianus**²⁹ distinguished between Catholics and heretics in matters concerning religious privileges, while still permitting certain dissident groups to maintain separate cemeteries. Similarly, St. Cyprian of Carthage³⁰ reproached Bishop Martial of Spain for associating with pagan practices and for permitting the burial of family members among unbelievers. The Council of Laodicea³¹ prohibited Catholics from participating in religious activities at the cemeteries of heretics, thereby emphasizing the ecclesial significance attached to burial within the communion of the Church.

As such, this practice received authoritative expression in the teaching of Pope Leo the Great. Responding to questions concerning persons who sought reconciliation only at the point of death but died before receiving ecclesiastical absolution, Leo stated: **Those with whom we were not in communion during**

²⁷ Cf. F. Awotoye, The canonical question of ecclesiastical funeral of manifest sinners, 76-77

²⁸ **Constitutiones Apostolorum**, lib. VI, c. 30, in F. X. Funk (ed.), **Didascalia et Constitutiones Apostolorum**, vol. I Schöningh, Paderborn 1905, 365.

²⁹ Cf. **Codex Theodosianus**, 16.5.1

³⁰ Cyprian of Carthage, **Epistula** 67, 6, in **Patrologia Latina** 3:1025–1038.

³¹ Council of Laodicea, can. 9, in Norman P. Tanner (ed.), **Decrees of the Ecumenical Councils**, vol. I Georgetown University Press, Washington, DC 1990, 130.

life cannot be admitted to communion after death³². This principle profoundly influenced subsequent canonical discipline concerning ecclesiastical burial and funeral rites³³. During the medieval period, ecclesiastical councils increasingly employed the denial of ecclesiastical burial as a disciplinary measure aimed at protecting ecclesial communion and deterring public scandal. The Second Lateran Council (1139) denied ecclesiastical burial to unrepentant usurers, participants in violent tournaments, and arsonists³⁴. The Third Lateran Council (1179) reinforced these sanctions and extended them to other categories of persons whose conduct publicly contradicted ecclesiastical discipline³⁵. Likewise, the Fourth Lateran Council (1215) reaffirmed the exclusion of heretics from ecclesiastical communion and its corresponding privileges, including ecclesiastical burial³⁶.

A more systematic regulation emerged with the promulgation of the **Rituale Romanum** by Pope Paul V in 1614³⁷. For the first time, the Roman Ritual provided a comprehensive catalogue of persons who were to be denied ecclesiastical burial unless they manifested signs of repentance before death. These included notorious apostates, heretics, schismatics, excommunicates, persons who deliberately committed suicide, duelists, and those who requested cremation for reasons contrary to Christian faith³⁸. Such norms reflected the close connection that then existed between ecclesiastical burial and canonical penalties. This disciplinary tendency intensified during the modern period. In the

³² Pope Leo I, Epistle 159, q. VIII, c. 6, in **Patrologia Latina** 54:1138.

³³ Cf. C. A. Kerin, *The Privation of Christian Burial: An Historical Synopsis and Commentary*. Kessinger Publishing 2006, 22.

³⁴ Cf. Lateran Council II, cc. 13-14, 18

³⁵ Cf. Lateran Council III, cc. 9, 10, 14, 20, 25, 27

³⁶ Cf. Lateran Council IV, c. 3

³⁷ Pope Paul V, Apostolic Constitution, **Apostolicae Sedis**, 17 June 1614, in **Rituale Romanum**, editio princeps (Romae, 1614), Tit. VI, c. 2.

³⁸ **Rituale Romanum**, Rome 1614, Tit. VI, c. 2.

constitution **In Eminenti** ³⁹ (1738), Pope Clement XII condemned Freemasonry and imposed excommunication upon Catholics who joined such societies, including deprivation of ecclesiastical burial unless repentance was shown. Since offences such as apostasy, heresy, schism, and disobedience to ecclesiastical authority constituted both sins and canonical delicts, deprivation of ecclesiastical burial functioned simultaneously as a spiritual consequence of broken communion and as a juridical penalty for ecclesiastical offences⁴⁰.

This tendency reached its juridical culmination in the 1917 Pio-Benedictine Code. It expressly classified deprivation of ecclesiastical burial among vindictive penalties (can. 2291, 5° CIC/1917). Canon 1240 §1 enumerated several categories of persons who were to be denied ecclesiastical burial, including notorious apostates, heretics, schismatics, persons under condemnatory or declaratory sentences of excommunication or interdict, duelists, those who deliberately committed suicide, and other manifest sinners. Within the juridical framework of the 1917 Code, deprivation of ecclesiastical burial functioned not only as a consequence of broken ecclesial communion but also as a posthumous ecclesiastical sanction intended to safeguard ecclesiastical order and prevent scandal among the faithful⁴¹. The purpose was not primarily the correction of the deceased but rather the restoration of ecclesiastical order and the deterrence of scandal among the faithful (cf. can. 2286 CIC/17).

The twentieth century brought both canonical and theological shift through the liturgical and ecclesiological renewal initiated

³⁹ Clemens XII, apostolic constitution, **In eminenti Apostolatus specula**, 28 Aprilis 1738, in **Bullarium Romanum**, §3.

⁴⁰ C. Obiodu, "Denial of Ecclesiastical Funeral", 141.

⁴¹ Cf. C. A. Kerin, **The Privation of Christian Burial: An Historical Synopsis and Commentary** Catholic University of America Press, Washington, DC 1941, 97–102; see also F. Awotoye, The canonical question of ecclesiastical funeral of manifest sinners, 134.

by the Second Vatican Council. The Council Fathers directed that funeral rites be revised so as to express more clearly the paschal character of Christian death⁴². This mandate led to the promulgation of the **Ordo Exsequiarum**⁴³ in 1969 by the Sacred Congregation for Divine Worship. The revised rite emphasized that Christian funerals are fundamentally acts of faith, prayer, and hope through which the Church commends the deceased to God's mercy, consoles the bereaved, and proclaims belief in the resurrection. The ecclesiology of Vatican II also contributed significantly to a renewed understanding of funeral rites. The Council's emphasis on Baptism as the foundation of Christian dignity and ecclesial participation highlighted the right of Christ's faithful to the spiritual assistance of the Church at the moment of death⁴⁴. Consequently, the 1983 Code of Canon Law adopted a markedly different juridical approach. Unlike the 1917 Code, it no longer classifies deprivation of ecclesiastical burial among canonical penalties. Rather, canon 1176 §1 begins with the presumption that deceased members of Christ's faithful are entitled to ecclesiastical funerals according to the norm of law.

Although canon 1184 §1 of 1983 Code continues to permit the denial of ecclesiastical funeral in certain exceptional circumstances, the underlying rationale differs substantially from that of the previous legislation. The norm is no longer conceived primarily as a vindictive penalty imposed upon the deceased. Rather, it reflects the objective incompatibility between certain public acts and the Church's public liturgical expression of ecclesial communion. Thus, notorious apostates, heretics, schismatics, and certain manifest sinners may be denied ecclesiastical funeral only when their conduct constituted a

⁴² Vatican II, *SC*, n. 81.

⁴³ Sacred Congregation for Divine Worship, **Ordo Exsequiarum**, editio typica (Vatican City: Typis Polyglottis Vaticanis, 1969), Praenotanda, nn. 1–3.

⁴⁴ Vatican II, *LG*, nn. 11,14

public rupture of ecclesial communion and when no sign of repentance was manifested before death.

The historical evolution of this discipline therefore reveals a gradual movement from a predominantly penal and exclusionary approach toward one that is more ecclesiological, sacramental, and pastoral in character. Contemporary canon law continues to recognize exceptional circumstances warranting the denial of ecclesiastical funerals. Nevertheless, the fundamental presumption now favours their celebration. The emphasis has shifted from punishment of the deceased to the protection of ecclesial communion, avoidance of scandal, and fidelity to the Church's salvific mission. Accordingly, the denial of ecclesiastical funeral remains an exceptional measure that must be interpreted strictly and applied only in the circumstances expressly determined by universal law.

Emergence of Time-Limit Provisions in Nigerian Diocesan Particular Law

Following the promulgation of the **Ordo Exsequiarum** and the directives of the Second Vatican Council, many Episcopal Conferences throughout the world have issued national guidelines concerning Catholic funeral rites, either as adaptations of or commentaries on the **editio typica**⁴⁵ of the Roman Rite of Funerals. Scholars have observed that episcopal and diocesan funeral regulations generally emphasize two fundamental principles. Firstly, the duty to treat the bodies of the deceased faithful with dignity and respect. Secondly, the understanding of Christian death in the light of baptismal incorporation into

⁴⁵ The *editio typica* is the official liturgical book, published first in 1969 and has been continuously revised. It contains texts, explanations and instructions for liturgical celebration of Church Funerals

Christ's death and resurrection⁴⁶. These principles constitute the theological foundation of Catholic funeral discipline and have traditionally guided the formulation of particular norms concerning funeral celebrations.

Whether the Catholic Bishops Conference of Nigeria has promulgated comprehensive national norms governing funeral celebrations remains uncertain at the time of writing. What is evident, however, is the absence of a unified national policy regulating the period between death and burial. Consequently, a number of dioceses, particularly in the ecclesiastical provinces of southeastern Nigeria, have enacted particular legislation governing funeral practices. These diocesan statutes commonly establish a maximum period within which burial should take place, ranging from approximately fourteen days in some dioceses to thirty or sixty days in others. The pastoral motivations behind these norms are generally understandable. Among the objectives frequently cited are the desire to discourage prolonged preservation of corpses, reduce excessive financial expenditures associated with elaborate funeral ceremonies, discourage social competition and ostentatious displays of wealth, promote prompt Christian burial, and curb cultural practices deemed incompatible with the Gospel. In a socioeconomic environment marked by significant financial hardship, such concerns cannot be dismissed lightly. Moreover, diocesan bishops possess legislative authority within their particular Churches and may enact disciplinary norms for the good order of ecclesial life in accordance with canon law (cf. cann. 381 §1, 391 §§1–2).

Nevertheless, the juridical legitimacy and pastoral appropriateness of certain provisions contained in these statutes require careful examination. In a number of dioceses, failure to bury a deceased Catholic within the prescribed period may result

⁴⁶ Cf. M. Eke, *Denial of Catholic funeral rites and irregular marriages in Igboland*, 28.

in the prohibition of a Funeral Mass with the body present. In some cases, only a funeral service conducted by a catechist, Seminarian or another delegated person is permitted. Although the precise formulations differ from one diocese to another, the practical effect is often the exclusion of the deceased from the ordinary celebration of ecclesiastical funeral.

The pastoral consequences of these regulations also merit consideration. In many African societies, and particularly within Igbo culture, the failure to provide a socially and religiously recognized burial for the deceased is often perceived as a profound dishonour both to the dead and to the surviving family. Consequently, when ecclesiastical funeral rites are withheld, some families may seek alternative funeral ceremonies from other ecclesial communities or religious groups willing to officiate at the burial. Such situations can generate pastoral alienation and may weaken the bond between the faithful and the Catholic Church at a moment when they are especially in need of ecclesial support and consolation⁴⁷.

Furthermore, questions arise regarding the coherence of certain funeral regulations with their stated objective of reducing the financial burden associated with burial celebrations. While discouraging extravagant funeral practices is undoubtedly a legitimate pastoral concern, restrictions requiring the transportation of the body to a parish church for the celebration of the Funeral Mass may, in some circumstances, increase rather than reduce expenses for grieving families. The **Ordo Exsequiarum** itself envisions considerable pastoral flexibility in the celebration of funeral rites and recognizes the possibility of adapting funeral liturgies to local circumstances and pastoral

⁴⁷ Cf. M. Eke, *Denial of Catholic funeral rites and irregular marriages in Igboland*, 30

needs⁴⁸. Where poverty or logistical difficulties are significant, greater recourse to the options already provided within the liturgical books may offer a more pastorally effective response than measures that risk restricting access to ecclesiastical funeral.

The Canonical Legitimacy of Diocesan Time-Limit Norms Affecting the Right to Ecclesiastical Funeral

The 1983 Code envisions that bishops, as moderators of the liturgy and guardians of ecclesial order, may issue particular norms to regulate funeral practices (cf. *can. 391*). However, this authority is not absolute. Canon 135 §2 specifies that “Legislative power is to be exercised in the manner prescribed by law; that which in the Church a legislator lower than the supreme authority has cannot be delegated, unless the law explicitly provides otherwise. A lower legislator cannot validly make a law which is contrary to that of a higher legislator”. Thus, diocesan statutes must remain consistent with universal law and cannot impose new juridical impediments where the Code has not done so. Furthermore, Canon 18 legislates that “Laws which prescribe penalty, or restrict the free exercise of rights, or contain an exception to the law, are to be interpreted strictly”. Therefore, diocesan norms that effectively deny ecclesiastical funerals because of administrative or temporal conditions, rather than moral or doctrinal reasons enumerated in *Canon 1184*, exceed the legitimate scope of particular law and may constitute an **illicit restriction of the faithful’s canonical right**.

Moreover, the law of the Church is always pastoral in purpose. The canonical tradition recognizes the principle of canonical equity, which requires that laws be interpreted and applied with attention to justice, mercy, and the salvation of souls (cf. *can. 1752*). When diocesan norms or pastoral practices result in the

⁴⁸ *Ordo Exsequiarum, Praenotanda*, nn. 21–24, 41–51; cf. Vatican II, *SC.*, n. 81.

exclusion of deceased member of Christ's faithful from funeral due to purely temporal considerations, such application conflicts with the supreme law of the Church which states that the salvation of souls is the supreme law. The ecclesiastical funeral is a **right grounded in baptismal dignity**, safeguarded by universal law, and sustained by the Church's pastoral mission. Any local statute that restricts or denies this right for non-canonical reasons must be critically examined against these higher principles.

More so, Canon 1176 affirms a **right** rather than a mere permission. The legislator uses the phrase *donandi sunt*, "are to be given", which carries a prescriptive and obligatory tone. It is a public right that cannot be renounced⁴⁹. The second paragraph of Canon 1176 emphasizes the objectives of Christian funeral as giving comfort of hope to the living, honor to the dead and praying that they receive divine assistance⁵⁰. Therefore, the funeral's primary orientation is **soteriological and pastoral**, not administrative. Any local legislation that imposes conditions unrelated to these purposes, such as stipulating that a funeral may not be celebrated after two weeks or one month, risks transforming a spiritual duty into an administrative privilege, contrary to the legislative spirit of canon 1176.

Besides, the legislator underscores the right of each Christian to be accompanied by their ecclesial community at death and allows for pastoral flexibility, permitting funerals elsewhere with proper consent (cf. can. 1177). This flexibility is significant because it reflects **canonical realism**. This is because circumstances such as civil delay, cultural customs, or family logistics may affect the

⁴⁹ Sacred Congregation of the Council, Resolution *Sancti Servi*, 12th January 1924, in *AAS* 16 (1924), 188-191.

⁵⁰ J.T. Martín de Agar, "The Other acts of Divine worship", in E. Caparrod, M. Thériault, J. Thorn (eds), *Code of Canon Law Annotated*, Wilson & Lafleur Limitée Montreal, 1993, 737.

time and place of burial. Hence, canon law accommodates pastoral discretion rather than rigidity. A diocesan law imposing time-limits on burial, without or with limited provision for legitimate causes, conflicts with this principle of flexibility embedded in *canon 1177*. Pope Francis frequently reminds pastors, “the Church is a mother who does not close the door to anyone who seeks her consolation”⁵¹. This maternal principle must animate the interpretation of all norms concerning the dead. Every funeral is a liturgical act of the entire Church, not a private family affair. Thus, exclusion from this rite carries an ecclesiological weight beyond the administrative domain.

Importantly, the legislator stipulates those to be legitimately denied ecclesiastical funeral to notorious apostates, heretics, and schismatics; those who chose cremation for anti-Christian motives; manifest sinners whose funerals would cause public scandal (cf. *can. 1184*). The key interpretative principle here is **restrictiveness** (cf. *can. 18*). These categories are exhaustive and must not be expanded by local law or episcopal decree. The underlying aim of the legislator is to protect the ecclesial community from scandal, not to regulate administrative efficiency. Thus, diocesan laws that deny funerals based solely on the duration between death and burial, regardless of the deceased’s faith or moral conduct, represent an **unlawful extension** of *Canon 1184*. The denial of an ecclesiastical funeral must rest on moral or doctrinal grounds that compromise ecclesial communion, not on procedural infractions⁵².

Additionally, canon law upholds the principle of personal imputability in penal matters. Canonical penalties presuppose both the commission of a *delict* and the *moral imputability* of the offender (cf. *cann. 1321 §§1–2*). In cases concerning burial time-

⁵¹ Pope Francis, **Homily for All Souls Day**, November 2, 2020.

⁵² Ladislav Örsy, **The Church: Learning and Teaching**, Wilmington: Michael Glazier, 1987, 212.

limit regulations, the deceased is ordinarily not responsible for any delay in the celebration of funeral rites beyond the prescribed period. Rather, the decision to postpone burial is typically made by surviving relatives or family members for financial, logistical, cultural, pastoral, or personal reasons. Consequently, the deceased neither committed nor participated in the alleged violation. A denial of ecclesiastical burial in such circumstances therefore risks extending the effects of a penal or penal-like measure to a person who lacks any juridical or moral responsibility for the act in question. This calls into question the correct application of imputability within canonical penal discipline.

Such a practice is difficult to reconcile with the principle of legality in penal matters, **nullum crimen, nulla poena sine lege**. This principle requires that penal consequences be grounded in a clear juridical norm and applied only in accordance with established law. It likewise stands in tension with the fundamental canonical principle that penalties are strictly personal. Canonical tradition consistently excludes the imposition of penal consequences on persons who are not morally or juridically imputable for the offence committed. In this regard, the denial of ecclesiastical burial on account of a family's delay in arranging funeral rites appears to deviate from the rationale of penal justice in the Church. The measure is effectively applied not to the actual authors of the delay, but to the deceased, who is incapable of responsibility and therefore cannot be the subject of imputability. This results in a juridical inconsistency, since the person affected by the restriction is not the proper subject of the alleged delict.

Equally problematic is the question of due process and the right of defense. Canon 221 §§1–3 guarantees the Christian faithful the right to vindicate and defend their rights in the canonical order and requires that no canonical sanction be applied except in accordance with the norm of law. This presupposes not only a

juridical basis for any restrictive measure but also observance of procedural guarantees, including the opportunity to be heard and to seek hierarchical recourse. The deceased, who is the direct subject of the deprivation, is clearly incapable of exercising any right of defense, while surviving family members are often left without effective procedural avenues to challenge or review the decision. This raises serious concerns regarding compliance with the procedural guarantees inherent in canonical justice and the proper safeguarding of rights under can. 221.

Practical Recommendations for Dioceses

Given the foregoing, Nigerian dioceses should revise burial statutes to ensure conformity with universal canonical norms and the principles governing penal and quasi-penal measures. In particular, any provision that operates as an automatic exclusion from ecclesiastical funerals on account of delayed burial should be avoided, with clear distinction maintained between pastoral regulation and penal sanction, in light of can. 1184 interpreted strictly in accordance with can. 18.

Dioceses should instead adopt a structured pastoral protocol for managing delayed burials. This may include a presumptive grant of extension upon notification to the parish priest, with delegated authority to parish priests (or episcopal vicars) to approve reasonable extensions, reserving episcopal intervention for exceptional cases involving potential scandal or serious pastoral concerns. Any restriction of funeral should be preceded by an individualized assessment of circumstances and accompanied by a written determination indicating the juridical basis for the decision.

Furthermore, procedural safeguards should be explicitly guaranteed, including the possibility of hierarchical recourse in accordance with canons 1732–1739 prior to the implementation of any restrictive measure. At the pastoral level, dioceses should

strengthen catechesis on Christian burial, the theological meaning of ecclesiastical funerals, and the avoidance of socio-cultural pressures that generate undue delay or excessive expenditure, while ensuring that such pastoral exhortation is not construed as coercive regulation. As H. S. Nelson observes, funeral extravagance risks economic exploitation of grieving families and lacks moral justification.

Conclusion

The denial of ecclesiastical funeral to a devout Christian faithful, particularly under diocesan statutes imposing rigid temporal limits, constitutes a serious infringement on both canonical rights and theological principles. The Church has both the right and the duty to regulate funeral celebrations in order to safeguard sound doctrine, promote Christian witness, and prevent abuses. At the same time, such regulation must remain faithful to the theological and canonical nature of ecclesiastical funerals as acts of worship, intercession, and ecclesial communion. Particular legislation should therefore seek an appropriate balance between necessary pastoral discipline and the fundamental right of the faithful to receive the spiritual assistance that the Church customarily offers her deceased members⁵³.

⁵³ cf. John Paul II, Apostolic Exhortation **Ecclesia in Africa** (14 September 1995), nn. 42–43.