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CANON LAW

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In Roman Law the Greek term *kanon* (measuring rod) was a synonym for *regula* (rule); later it applied to Church law, with rulings from councils (local or ecumenical, i.e. of the universal Church) or bishops. Christian leaders drew upon their biblical and Jewish heritage, along with principles of natural law and Roman legislation to structure the spiritual, moral and social order of their communities. Even before the Emperor Constantine favored Christianity, the local church in Elvira, Spain called a council (or synod) about 305 to grapple with current issues. Here and in other European dioceses where Jews lived some conciliar decrees affected them, invariably in ways adverse to their interests. Besides the protection of Roman law, privileges granted to the Jews in the Roman Empire by Julius Caesar were respected in principle, so that Jews could maintain synagogues and regulate the details of their community life according to their own laws. Tragically, at times mobs failed to respect these ancient laws and some synagogues were destroyed or taken over by Christians. Ambrose, bishop of Milan, thwarted the decree of Emperor Theodosius I that the Bishop of Callinicum in Asia Minor should make restitution to the Jewish community for the wanton destruction of its synagogue. Christian emperors and other rulers often restricted the initiatives of Jews, e.g. to build a new synagogue, at the behest of local bishops.

After the demise of the Roman Empire in the West, Popes and bishops exerted authority to maintain the basic rights of Jews to practice their faith and they prohibited forced conversion. The decisions of Pope Gregory I (590 - 604) regarding Jews on religious liberty, conversion to Christianity and ownership of Christian slaves were included in canonical collections of the *Decretum* of Gratian (about 1140) and the *Decretals* of Pope Gregory IX (1227-1241). Local legislation to segregate Jews was applied to the entire Latin Church at the Fourth Lateran Council in 1215, importing from Islamic lands the demand that Jews wear clothing that distinguished them from the general population. Pope Innocent III (1198-1216) based this on the commandment to wear fringes (Numbers 15:37-38) but later a sign was sewn onto the outer garment. Jews were forbidden to hold public office and converts were exhorted not to relapse into Jewish practices ("remnants of the former rite").

Canon law and the civil law of the Papal states applied to Jews in many parts of Italy until 1870. In 1917 the *Codex Juris Canonici* supplanted all previous legislation; this Code concerns only the life of Catholics of the Roman Rite. In 1983 the new *Code of Canon Law*, the revision initiated by Pope John XXIII, was promulgated. The only area of concern to Jews is legislation regarding "interfaith marriage," which is permitted with a dispensation from the local bishop. The Catholic party should strive to bring children of the marriage into the Church but no promise is required of the non-Catholic party.

Raul Hilberg, in *The Destruction of the European Jews* (New York: Harper and Row, 1961) p. 4-6, gives a list of canonical measures to which Nazi anti-Jewish legislation corresponds. Although many of the measures were enacted by local councils and did not extend over an area

comparable to the Nazi Reich, they did set an unfortunate precedent for Hitler to justify laws that gravely curtailed the civil and human rights of Jews in Germany and in occupied countries.

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