

## MEMORANDUM

### COMMENTARY ON THE VALIDITY OF THE HOLY ORDERS OF THE CATHOLIC APOSTOLIC CHURCH OF BRAZIL

This communion derives its closest Apostolic relation to the Holy See from the succession of the Catholic Apostolic Church of Brazil (Igreja Catolica Apostolica do Brasil or ICAB). This Memorandum responds to the points raised by various Roman Catholic bodies in Brazil in two documents that seek to discredit ICAB and its sacraments, and appends some general remarks on this subject. This response is published in order that the faithful may be reassured as to the validity of sacraments conveyed through that church, so far as Our succession is concerned.

Such a response is made on behalf of this communion alone. We do not claim to speak for the Catholic Apostolic Church of Brazil and Our response is without prejudice to any response that has been made or that may be made by that church in the future.

The documents concerned are in the Brazilian Portuguese language and have been translated as literally as possible for the purposes of discussion and response. Reference has also been made to the official website of the Catholic Apostolic Church of Brazil at <http://www.igrejabrasileira.com.br> for the purpose of establishing the positions of that church on the issues concerned.

#### A. Website document of the Archdiocese of Campo Grande, Brazil

An undated document has been placed on the website of the Roman Catholic Archdiocese of Campo Grande, Brazil, at the URL <http://arquiocesedecampogrande.org.br/arq/formacao/formacao-igreja/351-o-que-e-a-igreja-brasileira-ou-igreja-catolica-brasileira-.html> (retrieved November 2011) that contains commentary concerning the validity of the Holy Orders of the Catholic Apostolic Church of Brazil.

#### Background to the document

ICAB definitively separated from the Roman Catholic Church in 1945 as a consequence of the political stance adopted by Archbishop Carlos Duarte Costa<sup>1</sup> (1888-1961) in opposing the granting of Vatican passports to high-ranking Nazis and in the abuse of power by the Church hierarchy.

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<sup>1</sup> <http://www.catholic-hierarchy.org/bishop/bduco.html>

The separation of Dom Carlos from the Holy See did not affect his episcopal standing, nor his ability to confer valid Holy Orders, according to the law of the Catholic Church. Concerning these ordinations, we are told that ICAB has preserved “The Tradition used by the Church at the time of the separation in 1945 especially with regard to the matter and the form”.<sup>2</sup>

ICAB professes the same faith as the Roman Catholic Church, but differs in certain aspects of practice. Specifically:

- Married men may be ordained deacon, priest or bishop.
- The permanent diaconate has been instituted for married men.
- The Sacraments may be celebrated in the vernacular. The Mass is customarily celebrated *versus populi*.
- The laity may participate in the administration of the Eucharistic Word and in evangelization.
- The Sacraments are available to all regardless of their financial means.
- The Church is led by a Council of Bishops which elects one of their number as President<sup>3</sup>.
- Auricular confession is replaced by general, communitarian confession.
- In some circumstances, divorced persons may remarry.

It may be seen that ICAB has thus anticipated some of the developments of Vatican II, but without the often-criticized liturgical changes that have accompanied those developments in the Roman Catholic Church. It retains the pre-Vatican II liturgy, albeit in a vernacular translation.

It is understood that during the 1980s, dialogue between Rome and ICAB took place during the leadership of the late Dom Luis Fernando Castillo-Mendez with a view to establishing a path of possible reconciliation, though this came to an end without any agreement.

### Response to assertions made in the document

The document claims to speak with the authority of the Roman Catholic Church as a body, although it bears no authority of a central body such as the Congregation for the Doctrine of the Faith and indeed is unsigned.

The following specific points are raised and will be responded to below:

#### I. Origin of ICAB

The document presents the following as part of its section “Origin of ICAB”:

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<sup>2</sup> www.icab.or.br/ordem.htm accessed March 2010

<sup>3</sup> 1945-61 Dom Carlos Duarte Costa; 1961-2007 Dom Luis Fernando Castillo-Mendez; 2007- Dom Josivaldo Pereira de Oliveira.

Soon, however, Dom Carlos found himself grappling with new struggles: in 1942 Brazil went to war against Nazi-fascism, then the bishop has publicly called for the President to intervene in order to expel the church and bishops and priests “fascists, Nazis and Phalangists” He accused Catholic Action of espionage in favor of totalitarianism from the right; prefaced and praised the book, “Soviet power” of Hewlett Johnson and attacked the armed forces of Brazil. As a result, he was arrested as a communist and sent to a city of Minas Gerais, where he stayed as a guest.

#### Response:

The record is clear that Dom Carlos most certainly did many of the things that are held against him by the author of this document; moreover he was entirely correct to point to Fascist influence and sympathizers within the Roman Catholic Church, referring particularly to German and Italian nationals who were being sheltered by the Roman Catholic Church in Brazil. He accused these people of being instrumental in the destruction of Brazilian warships by German submarines.

In addition, Dom Carlos was critical of a number of developments within the Roman Catholic Church, particularly the encyclicals *Rerum Novarum* of Pope Leo XIII and *Quadragesimo Anno* and *Divini Redemptoris* of Pope Pius XI. For the earlier part of his tenure he was protected by Cardinal Dom Sebastiao Leme da Silveira Cintra, the Archbishop of Rio de Janeiro, but when the Cardinal died in 1942 Dom Carlos found his successor extremely hostile to him, and it was clear that the tensions between Dom Carlos and the hierarchy would soon be brought to a head. His privileges were duly curtailed and on 10 July 1944 he was forbidden to preach the Gospel and to hear confessions. This was followed by arrest on 6 July on the grounds of being a Communist sympathizer. He was not released until 6 September, which release had been secured as a result of the petitioning of the Brazilian government by the United Nations and the British and Mexican governments.

Sadly, the Roman Catholic Church chose – as so often with whistleblowers within its ranks – to ostracize Dom Carlos rather than to address the issues he had raised within its hierarchy. The highly partial view demonstrated in the document clearly presents the sympathies of its authors as being with Dom Carlos’s opponents, which must be considered a questionable alliance at best given the political allegiances of those people.

Mention is made of the Very Revd. Hewlett Johnson (1874-1966) who was Dean of Canterbury in the Church of England and earned the nickname “The Red Dean”. The book referred to (1941) is a collection of articles in which the author, as was his wont, praised the life of the Soviet Union and its political system based on his personal travels there. Although we take the view that Dean Johnson’s political views were in profound error, there is no doubt that

they were held with the utmost sincerity and as the outcome of an orthodox Christian faith – indeed he is one of those credited with persuading Stalin to restore the Moscow Patriarchate.

Johnson believed that a socialist political system could provide a Christian moral basis for society that was absent from capitalism. This was a view shared by Dom Carlos Duarte Costa, who founded a Christian Socialist Party in 1945. However, Dom Carlos was never a member of any communist political party, nor was his Christian Socialism communist in the sense that this term is commonly used. Instead, he advocated a system whereby land would move to state ownership but would then be rented from the state by its existing owners in perpetuity, subject to a proportional value tax. This would then lead to the abolition of income taxes<sup>4</sup>.

What is very clear is that Dom Carlos was perceived as out of step with the mainstream of the Roman Catholic Church in Brazil and elsewhere, and that he was willing to confront injustice as he perceived it regardless of personal cost. We hold that a man's politics are his own affair and not a matter of faith, and that, whether or not one might agree with Dom Carlos's political views, his stand was one of strongly held principle and was in every respect honourable – in stark contrast to the actions of the church he served, which treated him as a mere inconvenience and sought to cast him out.

## II. Excommunication – or not?

The document states in the same section:

In view of this attitude, the Holy Office declared D. Carlos excommunicated vitandus (= to be avoided) to July 3, 1946.

We continue to believe that Dom Carlos acted out of necessity in his violation of canon law. Therefore any such sentence pronounced by the Holy Office would have been void and he did not incur the penalty of excommunication. In his “Manifesto to the Nation” (1945), Dom Carlos stated:

“May it be known by the Brazilian public that the Bishop of Rome, Eugenio Pacelli, has no authority to excommunicate me and in accord with what I have made public, I am a more authentic Bishop of Rio de Janeiro, as I was elected by popular acclamation of the Brazilian people, than he, the Bishop of Rome, elected by Italian Cardinals.”<sup>5</sup>

The 1983 Code of Canon Law, canon 1323, §4 holds that a person who violates a law believing that they act out of necessity is not subject to a penalty, even if there is, in fact, no such state of necessity. Canon 1323, 70 provides that if one

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<sup>4</sup> “Manifesto to the Nation”, retrieved November 2011 at [http://www.catholicshaveachoice.com/manifesto\\_to\\_the\\_nation1.htm](http://www.catholicshaveachoice.com/manifesto_to_the_nation1.htm)

<sup>5</sup> [http://www.catholicshaveachoice.com/manifesto\\_to\\_the\\_nation1.htm](http://www.catholicshaveachoice.com/manifesto_to_the_nation1.htm)

inculpably thought there was, he would not incur the penalty, and Canon 1324, §3; §1, 80 provides that if one culpably thought there was, he would still incur no automatic penalties. Excommunication for schism (canon 1382) or the unlawful consecration of a bishop (canon 1364) is of this last kind.

The state of necessity is defined as a state where the necessary goods for natural or supernatural life are so threatened that a person is morally compelled to break the law in order to preserve them. It can readily be argued that this was the position of Dom Carlos, who believed quite correctly that the hierarchy of his church had fallen into profound moral error and that nothing short of drastic action would correct that error. As he put it in his “Manifesto to the Nation”:

“Breaking myself away from the Roman Church in order to reestablish the Church of Christ in its purity, correcting its errors.”

We should note that no penalty in canon law is incurred unless a subjective mortal sin has been committed (canons 1321 §1, 1323 70), and recall that Dom Carlos acted throughout in obedience to God and in perfect accord with the dictates of his conscience. Even if Dom Carlos was wrong to do this, he had not committed a subjective sin in doing so.

Further, there is no authority on earth that can compel a bishop to compromise in his teaching of the Catholic faith or act in such a way as to corrupt or destroy the Church. The Divine power accorded to Dom Carlos, as with every validly consecrated bishop, at his consecration was given to him for a reason, and when the circumstances arose whereby that power was needed, he demonstrated the courage to invoke it. It comes as no surprise that ICAB after due investigation declared him a saint on 4 July 1970.

It has only been since the Decree of the Holy Office of 9 August 1951 that excommunication *ipso facto* has been applicable to episcopal consecrations performed illicitly, that is to say without the permission of the Holy See. The Code of Canon Law of 1917 provides that the penalty for illicit consecrations shall be suspension, not excommunication: “Ipsa iure suspensi sunt, donec sedes Apostolica eos dispenaverit” – “They are suspended by the law itself, until the Apostolic See dispenses them.” [Canon 2370, CC 1917.1).

The lineage to the Metropolitan Primate of EADM depends on a bishop, Dom Luis Fernando Castillo-Mendez, who was consecrated by Dom Carlos on 3 May 1948 – before the changes of 1951. None of the other bishops in the lineage following him were ever in communion with Rome<sup>6</sup>. This is significant because had they been ex-Roman Catholics they would have incurred canonical

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<sup>6</sup> Archbishop Barber was a Presbyterian before entering the Free Catholic movement; Archbishop Persson’s church of origin is the Church of Sweden; Archbishop Kersey’s church of origin is the Church of England.

penalties in their own right. These penalties cannot be said to apply to persons who are not and have never placed themselves under the jurisdiction of the Roman Catholic Church.

### III. Various statements of opinion

The document presents the following statements of opinion:

In matters of doctrine, ICAB seeks to reproduce the Catholic Church, excluding (understandably) the primacy of Peter ...

Its theological message is very diluted, their guiding vision that little study. Several of these are men who tried to get to the priesthood in the Catholic Church, but for one reason or another, did not manage that, then went to the ICAB, where the study and access to holy orders they were greatly facilitated.

Unfortunately it can be seen in members of the hierarchy and faithful of ICAB certain opportunism, ie, the demand to attend to personal interests: ordering the “priestly” or “bishop”, financial gain through the celebration of worship, “marriage” in favor of easier people already married, “baptized” without preparation of parents and godparents...

They would demand that the ICAB adapt at any price; reads, for example, in classified telephone directories of Rio de Janeiro:

“ICAB, Brazilian Catholic Apostolic Church, St. George Parish, marriage with or without civil effect of single people, divorced or separated. Confirmations. Consecrations. Also in homes or Clubs Realengo, Piraquara.”

For the most part, this passage consists of opinionated propaganda without supporting evidence that is presented in a bid to discredit ICAB. Such a crude and unsophisticated tactic, reminiscent of the gutter press, is unlikely to make an impression on the faithful.

The facts are these:

- ICAB teaches the Catholic faith purely and simply. Its theological message is not “diluted” and is explicit in its Statutes and Ecclesiastical Code accessible at <http://www.igrejabrasileira.com.br/legislacao.php>  
The document admits that

“Many people can not distinguish between the Catholic Church and the Brazilian. There seems to be the intention of keeping up appearances at all of the Catholic Church between the leaders of the Brazilian Church.”

Were there any substantive difference in theology, this would hardly be the case! These statements also prove that such allegations as “The lack of doctrinal and disciplinary structure of the Brazilian churches” are without merit.

- As is the case with the Eastern Orthodox churches and the Old Catholics – whose sacraments are considered valid by Rome – ICAB

does not concede a position of infallibility to the Pope and looks to the primitive, pre-Constantinian united Church for its organizational model. The Eastern Orthodox and Old Catholic Churches do not recognize the primacy of the Pope either, but the Vatican still considers their sacraments to be valid. In his “Manifesto to the Nation”, Dom Carlos states:

“The Catholic Apostolic Church of Brazil is a religious society, which has for its foundation the teachings of the Old and New Testament. It is Catholic because it professes the Christian faith which is diffused throughout all the world, through all Christians, considering as brother, in Christ all those who love and respect Christ as God, as Man, as Philosopher. It is Apostolic because it is a true successor of the Apostles and all the functions practiced by me are valid and licit. It is Brazilian because it is national because it separated itself from the Roman Church not recognizing as Chief the Chief of the Roman Church, considering its Chief to be the National Episcopate, thereby protecting the traditional beliefs and customs of our land.”

- It is indeed true that a number of clergy of ICAB have previously received seminary training in the Roman Catholic Church – indeed some have been ordained deacon or priest within that church. However, the “one reason or another” why they decided to pursue their vocation in ICAB instead may just as easily have been positive rather than negative. For example, ICAB permits its clergy to marry (just as the whole of the Catholic Church did until medieval times). It also upholds vigorously the primacy of conscience “respecting the broader principle of freedom of thought in religious matters, civil, political, scientific and philosophical issue, and any person may be questioned under any circumstances, with respect to their beliefs, so do not be conditioned or limited any right or duty, defending equal rights for all - taking into consideration their differences - without any discrimination.”<sup>7</sup> This approach is different in nature from the rigid and repressive centralization that too often has characterized the Roman Catholic Church in the modern era – an approach with no authentic tradition in the history of the undivided church.
- What the document fails to mention is that ICAB has been recognized by the Supreme Court of Brazil as a church since 26 June 1945, and is entitled to celebrate religious marriage with civil effect in exactly the same manner as the Roman Catholic Church. The Brazilian Constitution guarantees freedom of worship.

The marriage of divorced persons within ICAB is the subject of a discourse by Fr. Antonio of the Diocese of Itumbiara, ICAB<sup>8</sup>. His judgement is as follows:

“The conclusions we can draw are:

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<sup>7</sup> <http://www.igrejabrasileira.com.br/historia.php>

<sup>8</sup> <http://www.igrejabrasileira.com.br/noticias.php>

1-A marital separation is not ideal and should, by all means, try to keep couples together, but not to impose this condition to those who suffer in their married life.

2-Marriage should be honored in a solemn way by all those who fear and love God, but this command is addressed to all men and women of all ethnicities and races, anywhere on earth.

3-The New Testament contains no list of commands specifying the situations in which one spouse can divorce the other, contains, rather, a specific condition, but very comprehensive in the form of grant to the repudiation of the divine spouse, which is illicit sexual intercourse, which has already been explained above. However, based on Jesus' words in Matthew 19.2, we understand that the separation of a couple for weak or minor reasons is not permitted by God and is sin, and constitute dishonor of marriage, because there are people who are separated by futile and selfish reasons. It is clear that the Bible does not support this category of marital separation.

4-The Scriptures, solemnly, discourages divorce, saying that God prefers forgiveness to the separation between spouses, even when it comes to illicit sex.

5-To act lightly in relation to marriage, the sacrament of marriage, divorce is a sin.

6-It is the opinion of the Brazilian Catholic Apostolic Church that a Christian man who has already divorced, and a Christian woman who has already divorced can remarry.”

#### IV. Issues of Sacramental Intent

The document presents the following as the view of “the Catholic Church”:

3.3.

a) Although the Brazilian ministers of the Church to apply exactly the matter and form of each sacrament, they lack something essential for their sacraments are valid, that is, the intention of doing what Christ willed to be done. In fact, the ministers of ICAB, through their rites, intend to create and develop a “church” separate from the one Church founded by Christ, that “the Church” no longer profess new truths of the Creed, but indulges in religious eclecticism: Protestants, spiritualists, Freemasons and Communists may also be members of ICAB. Yes, the magazine “The Paten,” magazine “diocese of the Lowlands” of ICAB, in its No. 3 of 1971, 4 back cover says that the Brazilian Church “religiously Catholic, because it accepts in its bosom Christians of any mentality, not repel those who are or say Protestants, Spiritualists, Masons, etc. Roman Catholics...” This means that the Brazilian Church is to be a charitable society, humanitarian aid, but no longer has defined the religious message that Christ gave to the world and the symbol of apostolic faith professes.

Hence we see that the action of ministers of ICAB lacks that intention which is essential for the validity of the sacraments: the intention of doing what Christ does through the sacraments.

Response:

1. The allegation of lack of valid intent in ICAB is in error, because it is contrary to the immemorial teaching of the Roman Catholic Church on the meaning of sacramental intent. Let us cite some of the many established Roman Catholic sources on this matter:

*286) The validity and efficacy of the Sacrament is independent of the minister's orthodoxy and state of grace.*

Ludwig Ott, Fundamentals of Catholic Dogma

*“The Church does not judge about the mind and intention, in so far as it is something by its nature internal; but in so far as it is manifested externally she is bound to judge concerning it. A person who has correctly and seriously used the requisite matter and form to effect and confer a sacrament is presumed for that very reason to have intended to do (intendisse) what the Church does.”*

Pope Leo XIII, *Apostolicae Curae*, On the Nullity of Anglican Orders (1896)

*“Error in faith does not of itself invalidate a sacrament.”*

Father Maurice Bevenot, S.J., in *The Tablet*, 26 November 1955<sup>9</sup>

*“One who is separated can confer a sacrament even as he can receive it.”*

St. Augustine, *De Unico Bapt.* [De Bap. contra Donat. vi, 5]

*“A sacred order is presumed valid until its invalidity is established by proof to the effect that it was received with want of intention on the part of the petitioner. He must show that something essential was lacking when the sacrament was conferred.”*

S. Woywod, *Practical Commentary on the Code of Canon Law*

The Roman Catholic Church does not hold that it has a monopoly on valid sacraments. The sacraments of the Eastern Orthodox churches and of the Old Catholic churches<sup>10</sup>, notwithstanding any objections of supposed schism or heresy, are considered valid by Rome and there are numerous official pronouncements attesting to this as well as *de facto* instances of such acceptance. The logic that merely because a body is jurisdictionally separated from the Holy See and has developed as a church in its own right its sacraments are therefore invalid by that reason is in gross error and in open contravention of historic Catholic teaching and practice.

Let us see what the Roman Catholic Church actually teaches concerning churches that possess valid sacraments but are not currently in communion with the Holy See and do not accept the primacy of the Pope. The Declaration of the Congregation for the Doctrine of the Faith “*Dominus Iesus*” of 2000 could not be clearer on these points:

IV. 17. Therefore, there exists a single Church of Christ, which subsists in the Catholic Church, governed by the Successor of Peter and by the Bishops in communion with him. The Churches which, while not existing in perfect communion with the Catholic Church, remain united to her by means of the closest bonds, that is, by apostolic succession and a valid Eucharist, are true particular Churches. Therefore, the Church of Christ is present and operative also in these Churches, even though they lack full communion with the Catholic Church, since they do not accept the Catholic doctrine of the Primacy, which, according to the will of God, the Bishop of Rome objectively has and exercises over the entire Church...Therefore, these separated Churches and communities as such, though we believe they suffer from defects, have by no means been deprived of significance and importance in the mystery of salvation. For the spirit of Christ has not refrained

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<sup>9</sup> Quoted in Cockerham, Revd. Alban, *The Apostolical Succession in the Liberal Catholic Church*, St Alban Press, San Diego, 2006, p 81.

<sup>10</sup> At least until the millennium, in respect of those churches that do not ordain women.

from using them as means of salvation which derive their efficacy from the very fullness of grace and truth entrusted to the Catholic Church”.<sup>11</sup>

We must also cite the teaching of Pope Urban II concerning bishops who are in schism:

“We command that persons consecrated by bishops who were themselves consecrated according to the Catholic rite, but have separated themselves by schism from the Roman Church, should be received mercifully and that their Orders should be acknowledged, when they return to the unity of the Church, provided they be of commendable life and knowledge.”<sup>12</sup>

Moreover, it is held by the Roman Catholic Church that a consecration that is performed without two bishops as assistants is still valid:

*“Alexander VII, brevi Onerosa, 4 Feb. 1664, concessit ut aliqua episcopalis ordinatio, apud Sinas, fieret ab uno tantum episcopo, cum assistentia duorum presbyterorum, et etiam, si opus esset, sine illorum assistentia.”*

S. Many, *Praelectiones de Sacra Ordinatione* (Paris: Letouzey 1905), 519.

and one performed without Papal dispensation is likewise valid:

“Pope Clement XI and Pope Benedict XIV declared that consecrations performed without such a dispensation are valid De Synodo Diocesana 13.13.9-10. “...consecrationem hujusmodi validam, licet illicitam, esse censuerunt... ratam firmamque, sed illicitam Consecrationem pronuntiavit.” Benedict’s emphasis, quoting Clement’s decree of 26 November 1718”.<sup>13</sup>

2. The allegation that ICAB no longer professes the truths of the Creed is false. ICAB has since its foundation professed the Nicene Creed.

3. The allegation that ICAB “indulges in religious eclecticism” may just as surely be directed at the Vatican, which has engaged in extensive ecumenical dialogue with Christians of other denominations in recent decades. It can be seen that the Roman Catholic Church has exhibited explicit Protestant tendencies in the developments of Vatican II and much else in recent years. As well as the Vatican’s policy of appeasement of Communism in the years following 1962, it has since come to embrace much in the way of socialist “liberation theology” – extending so far as open egalitarianism<sup>14</sup> and “anti-clericalism”. As to Freemasonry, notwithstanding the official position of the Vatican (which has not been consistent), there remain Roman clergy and laity

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[http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_20000806\\_dominus-iesus\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20000806_dominus-iesus_en.html) retrieved November 2011.

<sup>12</sup> Pope Urban II, Council of Piacenza, cap. x; cf. Can. Ordinationes, ix, qu. 1.

<sup>13</sup> For these, many other citations and much relevant discussion, see “The Validity of the Thuc Ordinations” by Fr. Anthony Cekada, retrieved from <http://www.traditionalmass.org/articles/article.php?id=60&catname=13> in November 2011.

<sup>14</sup> The discontinuation of the open grant of titles of nobility by the Vatican under Pope Paul VI is a case in point of this.

today who are also Freemasons and who see no contradiction in such membership<sup>15</sup>.

It must be said that the reliance on a single statement in an ICAB diocesan newsletter of some forty years ago rather than upon any wider official pronouncement of ICAB or any examination of its specifics, represents a willingness to exploit a poor standard of evidence for the sake of mere propaganda.

The Catholic Encyclopedia<sup>16</sup> addresses the issue of membership of the Church thus:

The membership of which we speak, is incorporation in the visible body of Christ. It has already been noted (VI) that a member of the Church may have forfeited the grace of God. In this case he is a withered branch of the true Vine; but he has not been finally broken off from it. He still belongs to Christ.

It is further unfortunate that the authors of this document seek at once to proclaim their exclusive right to Catholicism while seemingly forgetting that the meaning of the word “Catholic” is universal. The church that denies the basic right of membership to baptised individuals merely because they may be judged to be in a state of sin would be an empty vessel indeed. The author for his own purposes chooses to confuse the two issues. In fact, what ICAB is seeking to do is simply to broaden the reach of the Church to those who would otherwise feel themselves to be excluded from it.

Throughout, it can clearly be seen that these matters have no bearing whatsoever on sacramental intent and validity in the sense that these terms are used by the Church.

#### V. ICAB and the churches in relation to it

The document presents the following as the view of “the Catholic Church”:

b) Since the ICAB branched, giving rise to multiple “churches,” Orders and Brotherhoods independent, since one can not know the extent to which the terms “Catholic Brazilian” faithfully preserves the sacramental rites, with the arbitrary time and easily introduce deviations in small communities. As a result, the Catholic Church does not recognize the ordinations conferred by ICAB, much less recognize the authenticity of the Mass and the sacraments celebrated by ICAB.

and additionally:

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<sup>15</sup> “Four Grand Masters of English Freemasonry have been Roman Catholics. Today there are many Roman Catholic Freemasons.” - <http://www.ugle.org.uk/what-is-masonry/frequently-asked-questions/> (accessed November 2011)

<sup>16</sup> <http://www.newadvent.org/cathen/03744a.htm> (accessed November 2011)

Since ICAB adapts to the various opportunities to grow, there are currently many branches of the same independent of each other, suggesting the name "Brazilian Catholic Apostolic Church" instead of "Brazilian Church."

Response:

ICAB is a legal entity recognized under the law of Brazil in keeping with the Supreme Court decision of 1945. Currently, ICAB has thirty-six Dioceses in Brazil and one mission in the United States of America. There are no other foreign missions<sup>17</sup>. The church is under a single authority in the form of its college of bishops. The President of the College of Bishops since 2007 is Dom Josivaldo Pereira de Oliveira. An official website is maintained at <http://www.igrejabrasileira.com.br>

By most standards, this is not a small church, though in its localization to a single country and one foreign mission it certainly does not approach the dimensions of the Roman Catholic Church worldwide. It does, however, provide a viable alternative Catholic jurisdiction to the Roman Catholic Church so far as Brazil is concerned.

Over the years the following events have taken place:

- On some occasions, ICAB's bishops have participated in consecrations of bishops for other churches and missions that may or may not still be in communion with ICAB<sup>18</sup>. These churches stand in the Apostolic Succession of ICAB, but they are not directly governed by ICAB and are instead autonomous. Since this grouping is wide and embraces those of many different theologies, the document is correct only in as much as such groups must be investigated on a case by case basis to establish whether the group in question has maintained the Catholic Faith and a Catholic sacramental understanding, rather than any general assumption of this kind being possible that would cover all the groups involved.
- Some clergy of ICAB have left the church and served in other churches or missions which are independent from it, to which the same observations would apply as in the previous point.

The position of Our communion is that it derives its succession through ICAB alone, and not any communion that has branched from it. The Metropolitan Primate of EADM was consecrated by a retired bishop of ICAB who served additionally as Primate of the Apostolic Episcopal Church, a body in

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<sup>17</sup> However, there are intercommunion relationships between the Communion of Catholic Apostolic National Churches (ICAN) and its members, which include other churches abroad. While there are close connexions between ICAB and ICAN, the two are separate entities.

<sup>18</sup> Including member churches of ICAN (see previous note).

intercommunion with ICAB from 1987 onwards. Only three bishops separate the Metropolitan Primate from Dom Carlos Duarte Costa himself<sup>19</sup>.

#### VI. Roman Catholic recognition of Holy Orders conferred through ICAB

That the Roman Catholic Church does indeed recognize sacraments conveyed through ICAB is proven by the case of Dom Salomão Barbosa Ferraz<sup>20</sup> (1880-1969), who was consecrated by Dom Carlos Duarte Costa on 15 August 1945 and served as a bishop in ICAB, but later reconciled with the Holy See and was accepted without conditional reconsecration. Indeed he was appointed Titular Bishop of Eleutherna and served as a Council Father for all four sessions of the Second Vatican Council. We should further note that Dom Salomão was married at the time of his reconciliation (and was the father of seven children), becoming one of the very few married Roman Catholic bishops in the modern era.

Concerning the succession via Dom Salomão (which also passes to EADM), the Roman Catholic Archbishop of Medellin, Mgr. Alberto Giraldo Jaramillo, formerly president of the Colombian Episcopal Conference, has issued in letter Prot 577/ARZ/99 of August 26, 1999, in these terms: “According to the dossier that you have given me, and now I return to your hands, it is recognized that there is a line of succession from Archbishop Duarte today to those who minister in the Order”<sup>21</sup>.

There are further examples of bishops consecrated by Dom Carlos being recognized by the Vatican. The most obvious is Dom Eliseu Maria Coroli<sup>22</sup> (1900-82), for whom Dom Carlos (already “retired”) was co-consecrator on 13 October 1940. He served as Titular Bishop of Zama Major in the Roman Catholic Church from his consecration until his resignation from office in 1977.

The Instituto Misionero San Pio V, a Colombian traditionalist group that is currently in dialogue with the Roman Catholic Church, supplies the following information concerning Dom Orlando Arce Moya, who was consecrated by Dom Carlos on 30 November 1956 as bishop of Santiago de Chile for the Igreja Nacional Chilena, a church in communion with ICAB. “Some years later he was also received by Pope John XXIII and appointed Auxiliary Bishop to the Archbishop of Madrid, Spain. In later years he was transferred to the position of auxiliary bishop in the Archdiocese of Ceara, Brazil.”<sup>23</sup> According to ICAB, Dom Orlando participated in the sessions of the Second Vatican

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<sup>19</sup> According to the closest of the several lines of succession from Dom Carlos.

<sup>20</sup> <http://www.catholic-hierarchy.org/bishop/bferraz.html>

<sup>21</sup> <http://www.imisionerosanpioquinto.org/>

<sup>22</sup> <http://www.catholic-hierarchy.org/bishop/bcoroli.html>

<sup>23</sup> <http://www.imisionerosanpioquinto.org/obispo-mons-pineda-castro/su-sucesion-apostolica-1>

Council.<sup>24</sup> He was not conditionally reconsecrated, indicating that his orders were accepted as valid by the Holy See.

Dom Pedro Luis Hernandez was consecrated by Dom Carlos on 29 June 1955. He was later “received by the Vatican with the blessing of Pope John XXIII and immediately assigned as Auxiliary Bishop of the Archdiocese of La Paz, Bolivia.”<sup>25</sup>

## VII. Formation

The document states:

D. Carlos directly or indirectly promoted the ordination of numerous “bishops” and “elders” whose cultural and doctrinal formation was poor.

Yet we can see clearly that a number of those whom he ordained were then fully accepted by the Roman Catholic Church – any supposed deficiencies in their formation having presumably been overcome! In fact, ICAB maintains its own seminaries and candidates for Holy Orders undertake a full formation there.

### B. Letter of 8 December 2008

A letter dated 8 December 2008 has been issued by Dom Fr. Alano Maria Pena O.P., the Metropolitan Archbishop of Niterói, Brazil, within the Roman Catholic Church, that contains commentary concerning the validity of the Holy Orders of the Catholic Apostolic Church of Brazil.

#### Background to the letter

The letter concerns a priest who, having served within the Roman Catholic Church, had informed his Ordinary of his resignation from that body in order to exercise his ministry in the Catholic Apostolic Church of Brazil.

#### Assertions made in the letter

The following assertions are made in the letter:

- that the Roman Catholic Church does not recognize the sacraments of ICAB, specifically those of Matrimony and Baptism
- that the Roman Catholic Church regards those participating in sacramental services of ICAB as incurring the sin of apostasy and placing themselves outside the Roman Catholic Church.

#### Response to these assertions

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<sup>24</sup> <http://bisposicab.blogspot.com/2011/08/8-dom-orlando-arce-moya-30111956.html>

<sup>25</sup> <http://www.imisionerosanpioquinto.org/obispo-mons-pineda-castro/su-sucesion-apostolica-1>

Having examined these assertions and their basis in Canon Law, this communion concludes that the letter is in material error in making these assertions and specifically contravenes the policies and doctrines established by the Holy See concerning these matters.

We note that this letter is not issued from a central body such as the Congregation for the Doctrine of the Faith, but instead by an individual archdiocese. This, together with the overall position of the Church post-Vatican II, in which many consider that sacramental theology has been subject to neglect and that false teaching has consequently arisen, may account for the glaring errors it contains.

### I. Validity of the sacrament of Baptism

The Council of Trent defines as dogma that it is forbidden to baptise a person who has already been baptized. Unless validity was absolutely unambiguous baptism that had been administered in another communion would usually be readministered conditionally. Conditional administration is an acknowledgement of the possibility of validity.

St Augustine in *Contra Donat. i, 1* says regarding those in schism:

“Just as those who come back to the Church after being baptized, are not baptized again, so those who return after being ordained, are not ordained again.”

The official position of the Vatican on baptism in another communion not in union with the Holy See is provided for in the *Directory for the Application of Principles and Norms on Ecumenism*<sup>26</sup> from which We quote (relevant lines have been emphasised):

95. In arriving at these expressions of common agreement, the following points should be kept in mind:

a) Baptism by immersion, or by pouring, together with the Trinitarian formula is, of itself, valid. Therefore, if the rituals, liturgical books or established customs of a Church or ecclesial Community prescribe either of these ways of baptism, the sacrament is to be considered valid unless there are serious reasons for doubting that the minister has observed the regulations of his/her own Community or Church.

b) The minister's insufficient faith concerning baptism never of itself makes baptism invalid. Sufficient intention in a minister who baptizes is to be presumed, unless there is serious ground for doubting that the minister intended to do what the Church does.

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<sup>26</sup> Pontificium Consilium Ad Christianorum Unitatem Fovendam,  
[http://www.vatican.va/roman\\_curia/pontifical\\_councils/chrstuni/general-docs/rc\\_pc\\_chrstuni\\_doc\\_19930325\\_directory\\_en.html](http://www.vatican.va/roman_curia/pontifical_councils/chrstuni/general-docs/rc_pc_chrstuni_doc_19930325_directory_en.html) (accessed November 2011)

c) Wherever doubts arise about whether, or how water was used, respect for the sacrament and deference towards these ecclesial Communities require that serious investigation of the practice of the Community concerned be made before any judgment is passed on the validity of its baptism.

Examination of the text above even at a cursory level shows such a discrepancy with the language of the letter that it must be concluded that the letter was written in ignorance of its provisions.

In fact, Rome even accepts as valid baptism conferred in communities that do not hold the Apostolic Succession. The Declaration “Dominus Iesus” already cited states:

On the other hand, the ecclesial communities which have not preserved the valid Episcopate and the genuine and integral substance of the Eucharistic mystery, are not Churches in the proper sense; however, those who are baptized in these communities are, by Baptism, incorporated in Christ and thus are in a certain communion, albeit imperfect, with the Church. Baptism in fact tends per se toward the full development of life in Christ, through the integral profession of faith, the Eucharist, and full communion in the Church.<sup>27</sup>

## II. Validity of the sacrament of Matrimony

The Church teaches that the man and woman marrying are the minister of the sacrament of Matrimony, not the priest. A valid marriage can be entered into in circumstances where no priest is available by the couple alone before witnesses, using the correct form prescribed by the Church and having the intent to do as the Church does. The role of the priest is to invoke God’s blessing upon the marriage the couple have entered into; the validity of the sacrament therefore depends upon the intent of the couple, and not the position of the priest.

Further conditions applied to this sacrament date from the Council of Trent in 1547, when they were applied in response to the Protestant Reformation, and are thus not part of the authentic tradition of the undivided church.

## III. Apostasy

A definition of apostasy is provided by the Catholic Dictionary (1951) which states:

“Apostasy from the Faith is the act by which a baptized person, after possessing the true Christian faith, totally rejects it. The complete abandonment of the practice of the Faith is NOT apostasy, or even presumption of Apostasy. A person is an apostate whether he joins a non-Christian religion, as Judaism, Buddhism, Islam, or falls into unbelief, atheism, materialism, agnosticism, rationalism, indifferentism, or “free-thought”. Apostates from the Faith incur excommunication ipso facto, and other penalties”

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<sup>27</sup>

[http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_20000806\\_dominus-iesus\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20000806_dominus-iesus_en.html) retrieved November 2011.

The current edition of the Catechism of the Catholic Church defines apostasy thus:

[2089] apostasy is the total repudiation of the Christian faith

These definitions provide that in order to be considered apostate a person must actively join a non-Christian religion or actively subscribe to a category of atheist or similar schools of belief that are opposed to the Christian faith.

None of these provisions could conceivably apply to any professed Christian of any denomination; still less one who is a member of ICAB which professes and practices the Catholic faith. We recall the words of the author of the previous document, “Many people can not distinguish between the Catholic Church and the Brazilian.” It can be seen without the need for further examination that any charge of apostasy is false and indeed can only be a gross injustice against those faithful Catholics who are members of ICAB.

### Further matters

Before we leave these questions, we should address in passing some related matters. Firstly, it is important to note that the Vatican does not propagandize against all autocephalous churches, but only against those which it considers to pose in some way a challenge to its power and control over the faithful. ICAB, by virtue of its size, prominence in Brazilian religious life, and unquestionably valid orders, can certainly be considered to constitute such a challenge.

Secondly, recent years have seen a series of unsubstantiated rumours concerning the late President of the College of Bishops of ICAB, Dom Luis Fernando Castillo-Mendez, and seeking to imply that his ordination to the priesthood was somehow dubious or that “records cannot be found within the [Roman Catholic] diocese concerned.” These rumours are false, and we note that documentation has often been known to “go missing” when its existence proves inconvenient to the Roman authorities.

The facts are these: Dom Luis completed seminary training in the Roman Catholic Church at Caracas, Venezuela, and was ordained priest on 10 August 1944 in Solsona, Catalonia, Spain, by Valentin Comellas y Santamaria<sup>28</sup>, Bishop of Solsona in the Roman Catholic Church. In 1947, he left the Roman Catholic Church because of his involvement with the “Curas Criollos” (Native Priests) movement in Venezuela and with three other priests founded the Venezuelan Apostolic Church, whose principles were similar to those of ICAB. Early in 1947 the VAC elected Dom Luis, who was pastoring St Teresa’s Parish in

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<sup>28</sup> <http://www.catholic-hierarchy.org/bishop/bcoms.html>

Caracas, to be its bishop and he won support from Leftist politicians. He was opposed, however, by the Venezuelan government and on March 8, 1947 he and the other three founders of the Venezuelan church were excommunicated by Roman Catholic Archbishop Lucas Guillermo Castillo, who stated that the four priests had “violated fundamental dogma of the Roman Catholic Church and held concepts blasphemous and offensive to the person and authority of Pope Pius XII.”

The Venezuelan government sought to prevent Dom Luis from going to Brazil to receive episcopal consecration from Dom Carlos Duarte Costa and likewise refused Dom Carlos permission to enter the country. Accordingly, the two met in the Panama Canal Zone, which was then under the jurisdiction of the USA and which had no formal diplomatic relations with the Vatican. Here, on 3 May 1948, Dom Carlos consecrated Dom Luis bishop and appointed him Patriarch of Caracas (*ad personam*) and Primate of Venezuela.

After this, life in Venezuela became impossible for Dom Luis and he was in danger from both the government and Roman Catholic forces there. When he could no longer remain there safely he travelled to Brazil, arriving on 21 June 1950. Dom Carlos appointed him parish vicar and diocesan bishop of Uberlandia, Minas Gerais, in ICAB. He moved to Rio de Janeiro as auxiliary bishop in 1957 and to Brasilia as bishop of the state of Goias in about 1960. In 1961 he acquired Brazilian citizenship and in the same year succeeded Dom Carlos as President of the College of Bishops of ICAB.

## IN CONCLUSION

Having established that the documents discussed above are false and baseless in their content, we should conclude with the observations of ICAB itself, which makes the following pointed comments directed at the authors concerned and others of their ilk:

Since the beginning of her evangelizing mission, the ICAB has been suffering terrible persecution...and it is also those who claim to be “true” representatives of Christ here on earth, who are the persecutors. They give you the “Cry of the Excluded” and make the “Fraternity Campaign”, emphasizing “Ecumenism,” but they are the ones that discriminate so spitefully and rudely according to the Constitution of our country, and worse, disobeying, without scruple, the Great Commandment that Christ taught us: “Love the Lord your God with all your heart and with all thy soul and with all thy mind” and similar to this is: “Thou shalt love thy neighbor as yourself.” On these two commandments hang all the law and the prophets.” (Mt 22, 34-40). It is they who, taking advantage of the ignorance of the people, lie, saying that our Baptisms are not valid when the Apostle Paul taught that “one Lord, one faith, one baptism. There is one God and Father of all, who is above all and through all and in all” (Eph. 4.5 to 6), they lie, too, when spread to the same people, that the marriages performed in our church

do not have value because we know that, theologically, those who administer the Sacrament of Matrimony, are those who themselves are engaged, the Priest, minister of the altar of the Lord, invoking the blessing of God for the marriage that the couple has entered into, therefore, those who have the right intention of get married in our Church are blessed by God, while those who deny this truth, doubt the infinite goodness of God and are disrespectful to the Civil Law of Brazil that gives us the right to celebrate religious marriage with civil effect. Each one has its mission, the vineyard of the Lord: a plant, other waters, “but God makes it grow” (I Cor 3, 6).<sup>29</sup>

## FOR THE COUNCIL OF THREE

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<sup>29</sup> <http://www.igrejabrasileira.com.br/historia.php>