# Canon Law Abstracts
# No. 100 (2008/2)

## Covering periodicals appearing July-December 2007

**Under the patronage of Saint Pius X**

CANON LAW ABSTRACTS is published twice yearly. The January issue covers periodicals which appear during the period January to June of the previous year, the July issue those which appear between July and December of the previous year. Those periodicals which do not appear to time are abstracted as they appear.

Every effort is made to report the views of authors objectively and accurately, without attempting to comment on them. Since, however, our contributors are fully engaged in their own work, it is impossible to exclude all danger of inaccuracy or misinterpretation. If any of our readers discover any inaccuracies, we hope they will point them out to the editor.

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Canon Law Abstracts costs £9.00 per copy.
The annual subscription is £18.00 payable in advance.
Cheques may be made payable to CANON LAW SOCIETY.

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ISSN 0008-5650

# *Contents*

## GENERAL SUBJECTS

***Comparative law***

**Ap LXXVIII 3-4 (2005), 813-860: Marcello Moretti: Il diritto morale di autore nella legislazione italiana, nel sistema giuridico di copyright degli USA e nella legislazione vaticana.** (Article)

M. gives a brief history of the rise of copyright protection for authors from the first recorded legislation on the matter in England in 1710. He then provides details of the legislation in the Italian peninsular both prior to and after unification. He follows this with a survey of the modern international dispositions on copyright with particular reference to Italy, the United States of America and the Holy See.

**ELJ IX 9/07, 250-263: Rupert Bursell: Turbulent Priests: Clerical Misconduct Under the Clergy Discipline Measure 2003.** (Article)

The recently-revised Anglican disciplinary norms for the Church of England lay down procedures for bringing complaints against the clergy. The procedures can only be commenced in relation to specified acts or omissions. B. explores the difficulties that arise from their application. He considers the case when a complaint involves doctrine, ritual or ceremonial, when it might involve the uncodified pre-Reformation canon law, as well as the "catch all" categories of neglect or inefficiency in the performance of the duties of a cleric's office, and conduct unbecoming to the office and work of a clerk in holy orders.

**ELJ IX 9/07, 264-287: Eithne D'Auria: Sacramental Sharing in Roman Catholic Canon Law: A Comparison of Approaches in Great Britain, Ireland and Canada.** (Article)

See below, canon 844.

***Ecclesiology***

**IC XLVII 94/07, 403-413: Tomás Rincón-Pérez: Sobre el carácter pastoral del Derecho de la Iglesia.** (Article)

As Pope John Paul II emphasised, the relationship between law and pastoral activity is not one of opposition. Canon law is precisely what makes "pastoral justice" possible. A better knowledge of the law is essential for the life of the Church and the salvation of souls. The pastoral aspect is an intrinsic dimension of canon law as regards discipline, ordering in justice, and protecting freedom.

**SC 41 (2007), 17-25: Jean Passicos: La mention de L'Esprit Saint dans le Code de droit canonique: Entre doctrine et pastorale.** (Article)

The 1983 Code introduced an innovation in the history of canon law in translating into juridical terms certain theological teachings of Vatican II, thus being closer to Revelation and Tradition than was the 1917 Code. One example is the mention in the Code of God's presence and activity in the Church. The focus of this article is on the Holy Spirit in the Code. P. laments the fact that the Holy Spirit is mentioned only seven times in the Latin Code in contrast to seventeen times in the Eastern Code. There are evident places in the Latin Code where the Holy Spirit could have been mentioned but was not, such as in the foundational canons on the liturgy and the sacraments at the beginning of Book IV. Nevertheless, he finds that the few canons referring to the Holy Spirit are in continuity with the teaching of Vatican II and, taken together, express the diversity of the Spirit's action.

**SC 41 (2007), 279-297: Rik Torfs: Canon Law in a Secularized Society.** (Article)

In Western secularised societies, the faithful have entered into what T. calls a third phase since Vatican II. The first phase was the anticipation of the new Code which was to implement in practical terms the conciliar vision. The second phase witnessed movement towards the implementation of the Code *secundum legem*. In the third phase there is emerging a radical paradigm shift in that the structures created or confirmed by the 1983 Code are no longer capable of being maintained as such. In T.'s attempts to try to glean some understanding in these historical evolutions, he analyses these current tendencies under five headings: canon law and the notion of truth, canonical truth and the religious market, initiatives by the laity, ceremonies without limits, and the Church's choice to be a minority.

***Ecumenism and interreligious dialogue***

**For XVII/06, 240-242: Pope Benedict XVI: Interreligious and intercultural dialogue is a necessity for building together a world of peace.** (Address)

Text of address given to representatives of the Muslim community on 25 September 2006. The Pope stresses the importance in a secularised and relativistic world of dialogue between Christians and Muslims. Both must be faithful to their own traditions, but also learn lessons from the past.

**For XVII/06, 264-268: Pope Benedict XVI: Shaping the 'changing ecumenical situation'.** (Address)

On 17 November 2006 the Holy Father addressed the Plenary Assembly of the Pontifical Council for Promoting Christian Unity. Despite changing situations and sensitivities, the goal remains the visible unity of the Church. He speaks of continuing progress, in particular with regard to dialogue with the Orthodox Churches, despite a difficult period.

**For XVII/06, 328-334: Giovanni Lajolo: To build peace tomorrow do justice today.** (Address)

The Holy See's special envoy addresses the General Assembly of the United Nations on 27 September 2006 on old and new challenges to the U.N. He states that development is the high road to peace. Human rights are pillars of peace. Dialogue among religions is important for peace

**LS 31 (2006), 214-237: Taras Khomych: Eastern Catholic Churches and the Question of 'Uniatism': Problems of the Past, Challenges of the Present and Hopes for the Future.** (Article)

See below, Code of Canons of the Eastern Churches.

***General introductions to canon law***

**Javier Hervada: Introduction to the Study of Canon Law.** (Book)

H. stresses that this book is not an introduction to canon law in the strict sense, but rather an introduction to the *study* of canon law. It covers two groups of

subjects. The first deals with the law of the People of God, or the juridical dimension of the Church (addressing the question: "What is canon law, and what are its basic features?"), and includes considerations on the nature of the People of God, its social bonds, its institutional and community aspects, the need for law in the People of God, law as a structure of the Church, the sacramental bases of canon law, and the relationship between divine and human law. The second group of subjects, headed "The Science of Canon Law", deals with gnoseological and methodological aspects (addressing the question: "How can we know and interpret canon law?"), and includes considerations on the nature of juridical knowledge, the juridical method, and the tools of the juridical method. (For bibliographical details see below, Books Received.)

**Joseph T. Martín de Agar: A Handbook on Canon Law.** (Book)

This is the second updated edition of a book originally published in 1999. It aims to provide a complete, though not detailed, vision of Latin canon law, to accompany the reading of the principal juridical texts, especially the Code of Canon Law. It is divided into thirteen chapters, dealing with the basic notions and history of canon law; the sources of canon law (norms, laws, customs, administrative acts, etc.); "subjects" in canon law (physical and juridical persons); the constitution of the Church; the social structure of the People of God; the hierarchical structure of the People of God; diocesan government and organisation; consecrated life; the Word of God (the teaching function of the Church); divine worship (the sanctifying office in the Church); the temporal goods of the Church; penal canon law; procedural law; and relations between the Church and the political community. (For bibliographical details see below, Books Received.)

**Pete Vere / Michael Trueman: Surprised by Canon Law, volume 2.** (Book)

This book is a follow-up to *Surprised by Canon Law* in which the authors answered 150 questions about canon law. The present volume, which contains 101 questions and answers, is divided into thirteen chapters, dealing with sacred times and places, holy orders, institutes of consecrated life, parish life, church goods, conferences of bishops, offices of the Roman Curia, the canonisation of saints, the election of a Pope, penal law, safeguarding the sanctity of the sacraments, the Code of Canons of the Eastern Churches, and ecumenism. (For bibliographical details see below, Books Received.)

***Law reform***

**SCL III (2007), 73-92: Francis Morrisey: Some Challenges Canonists would have to Face in the Near Future.** (Article)

With a view to the twenty-fifth anniversary of the promulgation of the 1983 Code M. identifies a number of challenges arising from changes in the Church and society during this period, particularly in the context of North America. These are: financial reorganisation; parish reorganisation; the implications of "same-sex marriage"; the place and role of penal and marriage nullity trials; the demise of many religious institutes and the establishment of new canonical structures to continue their work; the implication of clerical vocation shortages and seminary formation; changes in diocesan configuration; multi-cultural expectations and adaptations; Catholic higher education; Catholic healthcare.

***Legal theory***

**AkK 175 1/06, 68-90: Libero Gerosa: Religionsfreiheit und vergleichende Rechtswissenschaft – Kanonistische Überlegungen zu den Grundlagen und Perspektiven der Menschenrechte.** (Article)

See below, *Religious freedom.*

**Ang 84 (2007), 277-292: David H. McIlroy: A Trinitarian reading of Aquinas's treatise on law.** (Article)

Aquinas is typically presented to students of law or ethics as one of the fathers of a tradition of natural law conceived of as a universally applicable moral system self-evident to all human beings irrespective of whether they believe in God or not. However, this is somewhat misleading, as Aquinas's treatise on law is driven by a soteriological dynamic as he seeks to explain the relationship of natural, human and Mosaic law to the eternal law which is the providence by which the triune God directs the universe. The treatise on law expounds a Trinitarian theology of law, that is to say, Aquinas's account of law is driven by his understanding of the work of the Son and the Spirit in the economy of salvation. Aquinas begins his discussion of the category of law by defining law as rational (*aliquid rationis*), directed to the common good by a person or persons responsible for a community, and promulgated adequately. This category contains four species: eternal law, natural law, human law, and divine law, of which eternal law is the core form, from which the others derive. His account of natural law must be seen as a realm of given reality and rules which

have stability and normativity precisely because they have been created by God. His assessment of the proper role of human law looks very different if the work of Christ and the Holy Spirit are excised from or overlooked in his thought.

**Ap LXXVII 3-4 (2004), 733-746: Francesco D'Agostino: Fondamento e idealità del diritto nel pensiero di Giovanni Paolo II.** (Article)

D'A. opens his study by contrasting the utilitarian approach to law of the philosopher David Hume and his followers to that of Pope John Paul II who insists on the basis of rational morality for all law.

**Ap LXXVII 3-4 (2004), 747-757: Gergely Kovács: Diritto e culture. Diritti culturali.** (Article)

Inspired by the teaching of John Paul II and his initiative in establishing the Pontifical Council for Culture, K. explores the concepts and practice of law related to culture.

**Ap LXXVIII 1-2 (2005), 527-578: Paolo Gherri: Canonistica e questione epistemologica: l'apporto di T. Jiménez Urresti.** (Article)

Starting from an article published in *Concilium* of October 1965, an issue dedicated to canon law, G. studies the approach adopted by Jiménez Urresti and his associates to the tension between theology and canon law. He develops his study following the style of a syllogism with major and minor premises, and includes an exploration of the teaching of other canonists and theologians. From these considerations G. offers his insights on the epistemological issues arising from Jiménez Urresti's teaching.

**Ap LXXIX 1-2 (2006), 11-48: Paolo Gherri: Premessa metodologica alla Giornata Canonistica Interdisciplinare.** (Conference presentation)

On 2 September 2002 the Congregation for Catholic Education issued a decree revising the order of studies in the faculties and departments of canon law. One of the responses to this initiative on the part of the Pontifical Lateran University was to initiate a Canonical Interdisciplinary day. G. organised the day and after some historical considerations sets out in this study some of the factors that are to be considered in this exercise.

**Ap LXXIX 1-2 (2006), 49-75: Paolo Gherri: Categorialità e transcendentalità del Diritto: le ragioni di un approfondimento.** (Conference presentation)

G. continues his contribution to the Pontifical Lateran University's Canonical Interdisciplinary day by surveying some of the philosophical presuppositions of certain canonists. He comes to the conclusion that there needs to be a definite precision in the use of philosophical terminology when referring to law.

**Ap LXXIX 1-2 (2006), 77-96: Roberto Di Ceglie: Il Diritto come "relazione": per un' analisi metafisica.** (Conference presentation)

Di C.'s contribution to the Lateran Canonical Interdisciplinary day is to use the Aristotelian concepts of "being" seen as substance and accidents to allow the categorising of law as an "accident".

**Ap LXXIX 1-2 (2006), 105-117: Paolo Grossi: Storicità del Diritto.** (Conference presentation)

G. maintains that it is necessary to insist on the historicity (understood as the authentic history) of law to avoid the deformation that arises from recent theories associated with the French Revolution and legal positivism that sustain those in power. Thus law has restored to it the essential function of preserving order in a society.

**Ap LXXIX 1-2 (2006), 119-133: Antonio Livi: Metafisica del Diritto e costruzione dei rapporti giuridici.** (Conference presentation)

L. reminds us that philosophy has as its task that of drawing the distinction between theoretical and actual knowledge of things. Law falls into the latter character since it is aimed at establishing systems of human reality.

**Ap LXXIX 1-2 (2006), 135-162: Fabio Macioce: Il problema della laicità del Diritto tra categorialità e transcendentalità.** (Conference presentation)

M. states that the question whether law should be afforded the status of being a category or transcendental entity is best resolved from experience. Is law imposed on mankind by external coercion or does it arise from a need in human nature? Twentieth century existential and personalist philosophies provide an answer.

**Ap LXXIX 1-2 (2006), 163-198: Paolo Gherri: Relatività e storicità: la natura categoriale del Diritto canonico secondo T. Jiménez Urresti.** (Conference presentation)

G. notes that many students of the relationship of law and history find in the latter a simple framework in which law operates. Jiménez Urresti however holds that history serves as the origin, means and aim for canon law in serving the mission entrusted by Jesus to His Church.

**EE 82 (2007), 825-841: Celestino Carrodeguas Núñez: El concepto de persona a la luz del Vaticano II. Una reflexión desde el Derecho.** (Article)

C.N. points out that we can approach the reflection on the concept of "person" from different angles and that there are different disciplines which deal with the person. Philosophers, theologians and the different currents of thought have reached their own assessments. To arrive at the "ultimate foundation" of the origin of human dignity it is necessary to understand that, as *Gaudium et Spes*, no. 22, reminds us, "the mystery of man is made clear only in the mystery of the Incarnate Word".

**FCan II/1 (2007), 71-86: Dominique Le Tourneau: La protection de la verité dans les discours de S.S. le Pape Jean-Paul II à la Rote Romaine (1979-2005).** (Article)

See below, canon 1060.

**FCan II/1 (2007), 109-111: José da Cruz Policarpo: A justiça ao serviço da vida.** (Homily)

In this homily at Lisbon Cathedral on 31 January 2007, to mark the opening of the civil judicial year, the Cardinal Patriarch of Lisbon reflects on justice at the service of life, especially in view of the forthcoming Portuguese referendum on abortion. The relationship of truth, justice and life is not merely accidental. The relationship between justice and truth is the foundation of the ethical dimension that must preside over all lawmaking, and the application of laws.

**FI 4 (2005), 23-39: Ottavio de Bertolis: "Violenza di Stato" e diritto naturale.** (Article)

De B. looks at various distinct problems which can be grouped together under the concept of "State violence": the death penalty, abortion, and euthanasia; and he attempts to reconstruct a concept of natural law according to the thought of St Thomas Aquinas. He examines the concept of "nature", and St Thomas's understanding of *ius* as the (objectively) just division of things – *ipsa res iusta*. The role of the legislator is to translate "the just" into specific operational modalities, i.e. positive law. Any law (*lex*) that is not in accordance with *ius* is, in St Thomas's words, *non lex, sed legis corruptio*. Legal positivism would make law merely a product of the sovereign's will, seeing the State as the holder of the lawful use of violence, but in reality there would, according to this view, be no essential difference between the force of a brigand and lawful force, simply that the latter would have become legitimised historically and in practice.

**FI 4 (2005), 91-104: Wiesław Mossakowski: Relacja między Kościołem i społecznością w nauczaniu Papieża Jana Pawła II ( = The Relationship between the Church and the Lay Community in the Teaching of Pope John Paul II).** (Article)

The rejection of old concepts of relations between the ecclesial and secular communities, especially in those societies where Christianity has long been a component part of their culture, has limited the ambit of common interest on both sides. Pope John Paul II repeatedly addressed social issues and raised the subject of social policy in its Christian aspect. What can be observed in his teachings is a moving away from the importance of "free will", in favour of the "dignity of the human person". People should be able to live their lives in peace, concerned for the equitable distribution of the means indispensable for life and development. According to John Paul II, the law rests on the assumption that man is the focus of the legal system; and he does not refer to the traditional belief that positive divine law (the Decalogue) and natural law (*ius naturale*) are the fundamental references for law, instead placing greater stress on Christian anthropology than on the once focal "Deicentrism".

**IC XLVII 94/07, 441-463: Eduardo Molano: El principio de autonomía privada y sus consecuencias canónicas.** (Article)

M. deals with private autonomy as a general principle of law, and the way it is received into canon law. Its principal manifestations are to be found among the rights and duties of the faithful, especially the right of association and the right

to hold meetings, and the corresponding right to promote and support such apostolic initiatives as are proper to all Christian faithful. The need for the legislator to provide the institutional means to enable the faithful to exercise their rights has brought about a new kind of juridical person: what the Code calls "private juridical persons". Through these, the faithful can by their own free initiative promote associations and autonomous foundations which are governed by the private autonomy of the faithful, and which give rise to a true private canonical right.

**IE XIX 1/07, 13-36: Eduardo Baura: Profili giuridici dell'arte di legiferare nella Chiesa.** (Article)

B. studies legislative activity as an "art" within the prudence of government. Suárez had a decisive influence in the preparation of the canons of the 1917 Code, a number of which were taken up almost in their entirety by the 1983 Code. Although Suárez presented himself as a commentator on and disciple of Aquinas, his voluntarist understanding of the legislative act considerably differs from that of St Thomas. B.'s approach is neither philosophical nor theological, but benefits from Thomistic reflections on the law. He takes the term "art" in its classical meaning of "practical knowledge", an intellectual virtue of a person able to plan and achieve a given objective. The juridical dimension of this art is considered first of all from the perspective of the relationship between individual laws and Law in general; and then from that of the relationship between the "legislative" and "juridical" arts. Lastly B. deals with legality in the act of legislating

**LJ 159/07, 103-113: Jordan Bishop: The question of torture.** (Article)

B. addresses the question of the morality of State-sponsored torture (as opposed to individual acts of brutality) in the light of the United Nations Convention on Torture. He examines whether there are any classes of people who can be excluded from the Convention and whether the end can justify the means. He looks at Aquinas's teaching, and authorisation of torture by the Church in medieval times. He holds that torture is indefensible in ethics and in law.

**PCF IX (2007), 13-28: Wojciech Giertych: The Natural Moral Law: Problems and Prospects.** (Conference presentation)

G. gave this presentation at the conclusion of the International Congress on Natural Law (12-14 February 2007). At the outset he examines the implications of the proposed question: "New prospects for the application of the natural

moral law", as he endeavours to find a starting point for his reflections. He identifies the numerous developments, particularly in the Western world, that are raising serious ethical questions and creating moral dilemmas in every field of human activity, private, social and public. He takes "*new prospects*" to mean that there is now a renewed interest in the natural moral law and a fresh search for natural law thinking in the face of such dilemmas. In the second section, he acknowledges the contemporary birth of a new ethics, and analyses the complex ethical terms that are frequently expressed in an entirely new language. In section three, G. compares and contrasts the "*new ethics*", nebulous and ambivalent, and largely without foundation, with Thomas Aquinas's exposition of the virtues, rooted in faith and salvation history. He teases out the reasons why there is such widespread resistance today to natural law ethics. He concludes that a response to the new moral challenges facing the world requires the intellectual support of ethicists as well as "a proclamation of the new law of grace, exactly within the moral challenges and dilemmas."

### *Relations between Church and State*

**Ap LXXVII 3-4 (2004), 623-665: Giorgio Corbellini: Il governo dello Stato della Città del Vaticano e la nuova Legge Fondamentale.** (Article)

After a detailed historical review of the foundation of the Vatican City State and the development of the legal arrangements for its operation C. gives detailed consideration to the new Fundamental Law that came into force on 22 February 2001.

**CLSN 152/07, 13-18: Gordon Read: The 1701 Act of Settlement.** (Article)

The Act of Settlement of 1701 excludes from the succession to the throne of England anyone in communion with the See of Rome or anyone who would marry someone in communion with Rome and it also stipulates that the monarch is required to join in communion with Church of England. The text of the Act is reproduced, with a commentary by R. on the context in which it was written and its relevance for today. The Act has received renewed interest since the Queen's grandson proposed marriage to a Catholic (although the woman in question in fact converted to Anglicanism before the wedding). R. notes that there have been calls from various quarters for the Act to be repealed, but as he points out it is not as easy as it might appear, since the monarch is not only Head of State of the United Kingdom, but also the sovereign of such countries as Australia and Canada, who would have to be consulted and required to enact legislation were there to be any changes. He concludes that despite the language

used in the Act it is not as unreasonable as the text suggests. Finally he points out that even if the Act were changed it would still not be possible for a Catholic to marry a Protestant heir to the throne unless the requirements of canon 1125 had been met first.

**CLSN 152/07, 19-21: Nicholas Kavanagh: The Glorious Revolution and The Protestant Succession.** (Article)

K. looks at the antecedent legislation to the 1701 Act of Settlement, and also the Act's status in the light of recent legislation such as the Statute of Westminster 1931 and the European Convention on Human Rights. He points out that an attempt was made in recent years in Canada to overturn the Act, but the case was dismissed as the Act of Settlement was deemed part of the Canadian Constitution, with the result that a Charter of Rights could not take precedence over it.

**CLSN 152/07, 35-43: Gordon Read: Bishops in China.** (Article)

See below, canon 377.

**EE 82 (2007), 765-784: Félix de Luis Díaz de Monasterio-Guren: La asignación tributaria a favor de la Iglesia Católica: naturaleza, justificación y etapas de su regulación.** (Article)

The Catholic Church in Spain receives a percentage of revenues raised by the State through income tax. This article sets out the reasons that support and justify this financial contribution to the Catholic Church, with special reference to the fundamental right to religious freedom, and the contribution which the Church makes to Spanish society. A description is also given of the development of the relevant regulations over the years. See also below, *Religious freedom.*

**FCan II/1 (2007), 105-108: Bento XVI: Discurso aos participantes do LVI Congresso Nacional da União dos Juristas Católicos Italianos.** (Address)

On 9 December 2006 Pope Benedict XVI gave an audience to the participants in the 56th National Congress promoted by the Union of Italian Catholic Journalists, dedicated to the theme: "The Secularisation of the Laity". The Pope took the opportunity to recall the doctrine of the Second Vatican Council concerning relations between the State and religion, distinguishing between a

"healthy secularity" which involves the effective autonomy of earthly realities, and a negative conception of secularity which excludes religion from social contexts, and involves a vision in which there is no room for God. Such "secularity" seems almost to have become the qualifying emblem of post-modernity and especially of modern democracy. The Pope states that it is the task of all believers "to help formulate a concept of secularity which, on the one hand, acknowledges the place that is due to God and his moral law, to Christ and to his Church in human life, both individual and social; and on the other, affirms and respects the 'rightful autonomy of earthly affairs', if by this phrase, as the Second Vatican Council reaffirms, is meant man's 'gradual discovery, exploitation and ordering of the laws and values of matter and society' (*Gaudium et Spes,* no. 36)."

**FCan II/2 (2007), 93-107: João Pedro Mendonça Correia: Appontamento sobre o artigo 16.º da Concordata de 18 de Maio de 2004 entre a Santa Sé e Portugal.** (Article)

The 2004 Concordat between the Holy See and Portugal resolves the problem of the civil recognition of declarations of nullity by ecclesiastical tribunals, and Pontifical rescripts granting the dissolution of marriages *rata et non consummata*.

**FI 4 (2005), 41-59: Giovanni Lajolo: La diplomazia concordataria della Santa Sede nel XX secolo: tipologia dei Concordati.** (Conference presentation)

Over the centuries and in different parts of the world the Church has adopted various ways of conducting relations with civil authorities. Among these ways are the Concordats and other Accords between States and the Holy See, as the supreme governmental body of the Catholic Church and as a subject of international law, endowed with the *ius tractandi*. L. first looks at the development of Concordats in the second millennium, from the time of the Concordat of Worms (1122), between Pope Callistus II and the Holy Roman Emperor Henry V, to the start of the twentieth century. He then analyses the developments of the twentieth century, from the pontificate of Benedict XV (1914-1922) to our own days, highlighting in particular the influence of the Second Vatican Council and the pontificates of Paul VI, John Paul II, and Benedict XVI. Finally he studies the types of subjects with whom the Holy See has made agreements, the types of agreements (Concordats, Accords, Protocols, etc.) that have been used, and the principal contents of these agreements.

**FI 4 (2005), 61-71: Józef Kowalczyk: L'importanza del concordato del 1993 tra la Polonia e la Santa Sede per istaurare nuovi rapporti tra la Chiesa cattolica e lo stato democratico.** (Symposium presentation)

The background idea guiding negotiations towards and the formulation of the Concordat currently in force in Poland was that of creating a modern document of international law, capable of regularising and stabilising Church-State relations. The fundamental premises for the Concordat were the principles of international law and the teachings of Vatican II on religious freedom and the relations of the Church with the political community. K. gives an account of the historical context and the first contacts of the Polish government with the Church; the re-establishment of diplomatic relations in 1989 and the steps taken towards an "international accord"; the 1993 Concordat as the basis for Church-State relations; and a brief review of the current state of affairs.

**FI 4 (2005), 91-104: Wiesław Mossakowski: Relacja między Kościołem i społecznością w nauczaniu Papieża Jana Pawła II ( = The Relationship between the Church and the Lay Community in the Teaching of Pope John Paul II).** (Article)

See above (*Legal theory*).

**FI 4 (2005), 105-125: Paweł Borecki: Państwo neutralne światopoglądowo – ujęcie komparatystyczne ( = The Neutral State – A Comparative Study).** (Article)

B. analyses the historical sources for the idea of the "neutral State", which can be found as early as the late eighteenth century, prior to the adoption of the First Amendment to the US Constitution. The idea of the "separation" of Church and State is not exactly the same as the "neutrality" of the State in religious and ideological matters. Historical experience demonstrates that strict separation of Church and State results in an atmosphere which is unfavourable for religion and which discourages religious practice; whereas neutrality consists first and foremost in the impartiality of the State as regards the ideological points of view represented within its society: the State is "blind" to the content of the message of particular religions or ideologies but not to their social significance, nor to the religious needs of its citizens. B. also discusses the question of "moral" neutrality of the State and its importance for contemporary States.

**FI 4 (2005), 201-220: Carlos Corral Salvador: Los Acuerdos de cooperación (10.11.92) con la Federación de Entidades Religiosas**

**Evangélicas de España, la Federación de Comunidades Israelitas y la Comisión Islámica de España.** (Article)

C.S. looks at the Accords reached by the Spanish government with various religious confessions in Spain, following the model agreed for the Catholic Church in 1979.

**FI 4 (2005), 221-228: Tomo Vukšić: Firmato l'Accordo di base tra la Santa Sede e la Bosnia ed Erzegovina.** (Article)

V. examines the Accord signed between the Holy See and Bosnia and Herzegovina on 19 April 2006.

**For XVII/06, 287-291: Pope Benedict XVI: Church and State: together for the good of all.** (Address)

The Pope addresses the Italian President on the occasion of his first official visit, 20 November 2006. While the political community and Church are autonomous and independent of each other, both are devoted to the personal vocation of human beings, albeit under different titles. Religious freedom is not just a matter for individuals, but also of the rights of families, religious groups and the Church herself, and presupposes a commitment on the part of civil authority to create conditions favourable to the fostering of religious life. At the same time the role of the Church is not to exercise supremacy over the State, but to provide convincing responses to people's longings and questions.

**IC XLVII 94/07, 465-493: José María Vázquez García-Peñuela / Mercedes Salido López: Algunos datos nuevos sobre las relaciones Iglesia-Estado durante la II República Española.** (Article)

This article, based on materials recently made available in the Vatican Secret Archives, focuses first of all on the proclamation of the Second Spanish Republic (1931), and gives the texts of encoded communications between the Secretary of State Cardinal Pacelli, and the Nuncio Tedeschini. It then looks at the approval by the *Cortes* (the Spanish national legislative assembly) of what would eventually become article 26 of the Republican Constitution of 1931. In an extensive report Tedeschini relates the state of affairs. Historical testimonies as to the existence (Alcalá-Zamora) or non-existence (Azaña) of an agreement between the provisional government and the ecclesiastical hierarchy were contradictory. This new evidence which has recently come to light confirms that

there was indeed such an agreement: the Nuncio does not hesitate to talk of betrayal, referring in particular to Azaña.

**IE XVIII 3/06, 755-771: Stefano Testa Bappenheim: Cenni sulla costituzionalizzazione delle radici cristiane in Germania.** (Conference presentation)

This presentation was given at a convention held at the University of Perugia in May 2006. The 2003 debate on the European Constitution was of particular relevance in Germany not least because the same question had been discussed within the joint *Bundestag-Bundesrat* commission for constitutional reform in 1994. However, in 2003 it was not only the Christian Democratic Union / Christian Social Union coalition that vigorously opposed the ratification of a document which contained no reference to God, but various ecclesiastical authorities also made their voices heard. In June 2004, Cardinal Lehmann and the Protestant Bishop Huber sent a joint letter to Chancellor Schröder to stress the absolute need for some reference to God in the European Constitution. Here B. presents various aspects of his research on this matter.

**IE XIX 1/07: 269-290: Italia. Consiglio di Stato. Sezione v. Decisione 14 novembre 2006 (con *nota* di M. del Pozzo, *Il coordinamento interordinamentale tra giurisdizione civile ed ecclesiastica nell'acquisizione di cartelle cliniche nelle cause di nullità matrimoniale*).** (Civil sentence and commentary)

See below, canon 1527.

**LJ 159/07, 114-128: David McIlroy: Legislation in a context of moral disagreement: the case of the Sexual Orientation Regulations.** (Article)

See below, canon 1055.

**LJ 159/07, 129-135: John Duddington: God, Caesar and the employment rights of ministers of religion.** (Article)

D. reviews two recent UK cases concerning the status of ministers of religion (in neither case Catholic) and their rights under employment law. There is no general principle that ministers of religion have employment rights, and the matter is very complex. D. examines the broader context of relativity of secular

law and religious bodies in UK law. He notes a divergence of view among the different Churches.

**LJ 159/07, 136-141: Frank Cranmer: Government and Parliament 2006-2007.** (Article)

C. examines the areas of constitutional reform, charity law, equality legislation, and human fertilisation and embryology. In the first he looks at the position of the Established Church in the UK; in the second, the debate on the meaning of "charitable status"; in the third, the impact of recent legislation on Church activities, records, etc.; and in the fourth he highlights deep concerns at its implications.

**RDC 55 2/05, 299-324: Emmanuel Tawil: L'interprétation du droit canonique par les autorités séculières.** (Article)

State bodies can sometimes find themselves in the situation of having to take into account the internal law of religions. For secular judges it is a question of having a general overview which will permit them not to distort the law of the Church. Secular authorities have interpreted law in several areas (the nature and foundation of canon law, the hierarchical structure of the Church, marriage law and canonical procedure). If in nineteenth-century France there were lawyers particularly competent in the interpretation of canon law, today there seems to be great difficulty in understanding.

***Religious freedom***

**AkK 175 1/06, 68-90: Libero Gerosa: Religionsfreiheit und vergleichende Rechtswissenschaft – Kanonistische Überlegungen zu den Grundlagen und Perspektiven der Menschenrechte.** (Article)

In the study of comparative religious law it is nowadays more important than ever to consider the foundations of law. This is not least to end the dominance of the contemporary idea that rights are made through laws, and that the State is the sole lawgiver. Human rights give legal structure to the inalienable character of the relational nature of human beings, and enable us to reconsider the concept not only of legality, but also that of "laicity". The right to freedom of worship can be considered as the central axis around which the other human rights have developed. It falls to the scholar to examine whether an effective respect is shown for the rights of the human person.

**AkK 175 1/06, 100-112: Alfred E. Hierold: Militärseelsorge im Spannungsfeld zwishcen Kirche und Staat – Was beabsichtigen Kirche und Statt mit der Militärseelsorge?** (Article)

See below, canon 569.

**EE 82 (2007), 765-784: Félix de Luis Díaz de Monasterio-Guren: La asignación tributaria a favor de la Iglesia Católica: naturaleza, justificación y etapas de su regulación.** (Article)

See above, *Relations between Church and State*. The subject of the financial contribution made by the State to the Church should also be considered in the context of the rights of the person. State aid to the Church is a consequence of respect for the principle of religious freedom, which to be effective requires that there should be material means that enable religion to be practised. Specifically, there need to be churches where the faithful can assemble, and priests to conduct acts of worship (just as the right to education, if it is to have any meaning, demands that there should be suitable schools, and a sufficient number of qualified teachers).

**FCan II/2 (2007), 57-90: Vincenzo Buonomo: La libertà di religione "diritto del cittadino" e "diritto della persona" nel contesto del diritto internazionale e della normative europea.** (Article)

B. examines the international law and rules lying behind the intergovernmental Institutions of the European Continent, showing that religious freedom belongs to both the private and public dimensions of the person. The history of recent centuries has gradually put the human person and human rights at the core of political, legislative and cultural thinking. This has led to the conviction that fundamental rights remain the privileged instrument for ensuring an individual's unity as both person and citizen. This unity is summed up in the right to religious freedom, in spite of current attempts to separate religion from political processes and institutions. Religious freedom is being replaced by "tolerance", which in fact does not recognise the necessary distinction between the two aspects, confusing religion with culture, and religious pluralism with "non-confessional" religious teaching. The right to religious freedom in national legislation and international and European law is linked to guarantees which take the form not only of conventions, declarations, laws, etc., but also of structures and institutions. These aspects contribute to a more precise definition of the right to religious freedom, and are therefore necessary for its proper interpretation and application.

**For XVII/06, 320-322: Francesco Follo: Freedom, Dignity, Justice: The aim of freedom of expression is the fulfilment of the person and the defence of his dignity.** (Intervention)

Text of intervention by the Holy See's Permanent Observer at UNESCO on respect for freedom of expression and respect for beliefs, sacred values and religious and cultural symbols.

**For XVII/06, 323-327: Giovanni Lajolo: U.N. Human Rights Council.** (Address)

The Secretary for Relations with States of the Holy See speaks to the Human Rights Council, 20 June 2006, on the importance of the new Council, and the right to life and to freedom of conscience and religion.

**IC XLVII 94/07, 505-525: Maria J. Roca: El respeto a la libertad religiosa de los contrayentes y la obligatoriedad de la celebración civil del matrimonio previa a la religiosa. Discusión doctrinal y propuestas *de lege ferenda* en el Derecho comparado centroeuropeo.** (Article)

In connection with the system of marriage in force in Central European German-speaking countries, where discussion has taken place as to the expediency of maintaining the obligatory "primacy" of civil marriage, R. reflects on the relationship between the form of marriage and its basic structural elements, such as heterosexuality. From her study of civil marriage laws in Austria she concludes that, in order to respect the religious forms of marriage celebration, the best thing is for them to be founded on the religious freedom of the parties, rather than on institutional aspects. Luther's doctrine considers marriage to be a civil matter. Hence Evangelicals accept marriage regulations as established by the secular authority, if the elements of natural marriage are respected. In German law there are no homosexual civil unions; but if the civil law on marriage were to depart from the common elements of natural marriage, Lutheran Evangelicals would be obliged to have greater influence on the civil marriage laws, or work towards achieving a system allowing choice between civil and religious marriage.

**IC XLVII 94/07, 527-551: Santiago Cañamares Arribas: Libertad religiosa y seguridad pública en la experiencia jurídica canadiense.** (Article)

C.A. examines the way in which public security considerations may limit the exercise of religious freedom. He focuses on a specific social environment: that

of schools in Canada. His starting point is a decision of the Supreme Court of Canada which upheld the right of a Sikh student to wear a *kirpan* – a metal object resembling a dagger – in accordance with the requirements of his religion. C.A. analyses the decision and compares it to the Spanish constitutional doctrine relating to limitations on the exercise of the right to religious freedom.

**IC XLVII 94/07, 591-615: Rebeca Vázquez Gómez: Aproximación al derecho islámico y su regulación del velo.** (Article)

Islamic law or *Sharia* is the legal system by which the community of Muslim faithful is ruled. Its origins date back to the sixth century, when Islam was born. Its sources are the *Qur'an* (the sacred book containing the divine message), the *Sunnah* (a collection of sayings and actions of Mohammed), and the *fiqh* (jurisprudence arising out of the interpretation of the other two sources). It is a mistake to identify this religious law with the legal systems of Muslim countries. One of the objectives of the Islamist movements is a return to the *Sharia*, albeit adapted to the present historical moment. Because of its personal nature the *Sharia* precepts may come into conflict with those of territorial legal systems, as has happened in the case of the Muslim veil. Islamic law refers to this in various different places, but it does so in an ambiguous manner, without clearly declaring its obligatory nature.

**LJ 159/07, 153-154: Frank Cranmer: Case study concerning employment and sexual discrimination.** (Article)

The case of an Anglican diocese and the employment of a gay man is examined, outlining questions that may and may not legally be asked of an applicant.

***Social issues***

**Ap LXXVII 3-4 (2004), 667-677: Maria Pia Siciliani: La globalizzazione nel magistero di Giovanni Paulo II.** (Article)

The recent and complex phenomenon of globalisation was analysed in the last decade of his magisterium by John Paul II. The Pope at first focused upon the potential benefits to humanity but later expressed the need for caution in ensuring the significance of cultural diversity and ethical principles in the social order.

**For XVII/06, 243-246: Pope Benedict XVI: No one can dispose of human life.** (Address)

The Pope addresses a Congress organised by the Pontifical Academy for Life on 16 September 2006. In the face of the actual suppression of the human being there can be no compromises or prevarications. In the area of stem cell research a good result can never justify intrinsically unlawful means.

**For XVII/06, 306-314: World Theological-Pastoral Congress, Valencia, Spain: The Transmission of Faith in the Family.** (Document)

This document presents a summary of the conclusions of a Congress that met 4-7 July 2006. It falls in three parts: Introduction – Families Today, crisis and vitality; Current Problems and Challenges – civil legislation on marriage, family and social justice, marriage and the economy, bioethical developments, demography, ecumenism; Transmission of Faith and Christian Witness.

**LJ 159/07, 136-141: Frank Cranmer: Government and Parliament 2006-2007.** (Article)

See above, *Relations between Church and State*.

**PCF IX (2007), 13-28: Wojciech Giertych: The Natural Moral Law: Problems and Prospects.** (Conference presentation)

See above, *Legal theory*.

## HISTORICAL SUBJECTS

### *First millennium*

**RDC 55 2/05, 377-391: Aram Mardirossian: Les prémices d'une distinction entre ordre et juridiction dans l'église arménienne au 5$^{e}$ siècle: une théorie sans lendemain.** (Article)

M. states that in the West, it was only in the second half of the twelfth century that the distinction between order and jurisdiction appeared, especially as the result of the desire to solve the problem of investitures. It was for similar reasons, *mutatis mutandis*, that in the fifth-century Armenian Church the premises of a distinction between order and jurisdiction appeared. This distinction revealed the wish of the ecclesiastical authorities to control the appointment of clergy, which up to then had largely been out of their hands. More precisely, this theory was intended to counter the hereditary principle which in large part governed ecclesiastical appointments. However, the reform was widely unsuccessful, as it would have meant upsetting political and social structures that were too profoundly part of the nation.

**Brian Edwin Ferme: Introduction to the History of the Sources of Canon Law: The Ancient Law up to the *Decretum* of Gratian.** (Book)

The history of canon law is traditionally divided into three distinct but closely interconnected parts: the history of the sources, the history of the science of canon law, and the history of the institutes. This book is dedicated to the history of the sources of the first millennium, that is to say, up until the Decree of Gratian (around 1140 AD). To a large extent the book is dependent for its structure on the standard reference text for the study of the sources of canon law, the *Historia Fontium Iuris Canonici* of Cardinal Alfons M. Stickler, which F. modernises and completes in his own formulation, reorganising some topics and including new editions and bibliographies. After an introductory chapter the book is divided into two major sections: the Patristic era, covering the first eight centuries and including the pseudo-Apostolic collections, the collections of the Councils, and the development of those collections; and the period from the eighth century era to Gratian, including the collections of the Carolingian reform, the post-Carolingian and Imperial reform, and the pre-Gregorian and Gregorian reforms. There is a final chapter on canonical science in the first millennium. (For bibliographical details see below, Books Received.)

***Classical period***

**Ap LXXVIII 1-2 (2005), 429-461: Maria Rita Vitale: Sviluppi teologici e giuridici della dottrina medievale sulla *disparitas cultus:* da Pietro Lombardo alla Glossa Ordinaria al *Decretum Gratiani*.** (Article)

See below, canon 1086.

**Ap LXXVIII 1-2 (2005), 579-604: Ciro Tammaro: Alcuni rilievi sul concetto di diritto secondo i Maestri della scolastica francescana.** (Article)

T. proposes three elements that he holds to be characteristic of the Franciscan school of theologians in the thirteenth century in their teaching on law. He then gives detailed comments on the opinions held by Alexander of Hales; John of Rochelle; William of Middleton; St Bonaventure; Blessed John Duns Scotus.

**FCan II/1 (2007), 161-169: Joaquim de Assunção Ferreira: Judeus e Mouros nos Sínodos Diocesanos Portugueses.** (Article)

F. looks at the texts of various Portuguese synods at Lisbon, Braga and Guarda between the thirteenth and sixteenth centuries, to study how the question of Jews and Moors was dealt with. Recurring themes are those of usury and coexistence with these two races. Given the predominantly Catholic population, it was considered necessary to eliminate anything that might bring the Catholic religion into ridicule; and if Jews or Moors wished to be baptised, they would be allowed to do so provided they received suitable doctrinal preparation in regard to the main truths of the faith.

**J 67 (2007), 285-310: Szabolcs Anzelm Szuromi: Ivonian Intention to Collect the "Ancient Canons" Together With New Decretal Materials.** (Article)

At the dawn of the Middle Ages the Gregorian Reform of the ancient canons prompted other collections such as Ivo's *Panormia, Decretum* and *Tripartita.* S. is mainly concerned here with the *Panormia* and *Decretum.* The *Panormia* is logical and symmetrical and had a serious influence on later canonical literature. The *Decretum* is not a canon law book but rather a perfect reading book for the cathedral chapter. S. agrees with the dating of Ivo's work as the turn of the tenth and eleventh centuries. The main obstacle to freedom of disposal to anyone or in any other way came from the Decree of Gratian which insisted on the

principle that "the last will and testament of the deceased must be observed with respect".

**J 67 (2007), 311-340: John Wippel: Godrey of Fontaines on the Medieval Custom of Dividing the Bodies of Certain Prominent Persons for Burial in Separate Places.** (Article)

W. describes a) the format for the *Quidlibet* debate in the medieval university of Paris; b) the different ways in which people (especially people of fame) who died a long way from home had their bodies disposed of elsewhere, either in whole or part; c) the value of bodies (or their parts) to family, country, kings, churches, and dioceses. The main obstacle to disposing freely of human bodies was Gratian's Decree which enshrined the binding force of the will of the deceased. In 1298 the death of Philip III in the south of France created problems. His son decided that his body, instead of being transported to Paris, should be buried in the Dominican church in the south of France. This led to conflict with the diocese of Narbonne, the Dominicans and Paris. The disposal of saintly persons' bodies also gave rise to difficulties through the demand for relics. The remainder of the article shows how Godfrey skilfully used the *Quodlibet* format to sidestep the obstacles that Gratian's Decree posed for the disposal of bodies from afar.

**J 67 (2007), 520-534: Lawrence G. Wrenn. The Life, Death, and Possible Resurrection of the Summary Process.** (Article)

See below, canons 1656-1670.

**RDC 55 2/05, 341-353: Henri Hénaff: Les conservateurs apostoliques d'après le concile de Vienne.** (Article)

The Council of Vienne (1311-1312) is a time of paramount importance for apostolic curators (these were a category of delegated judge, named by the Pope to defend the rights and privileges of certain physical and moral persons). Pope Boniface VIII had given exceptional powers to three curators appointed to defend the interests of Papinianus, bishop of Parma. A few years later, the Council of Vienne took even broader measures, in particular allowing them to make habitual use of summary procedures, the rules of which had not yet been clearly established, even though they soon would be. Thus there came into being a method of naming curators known as *forma concilii Viennensis*. This manner of appointing curators remained in place for decades.

***16th-18th centuries***

**CLSN 152/07, 19-21: Nicholas Kavanagh: The Glorious Revolution and The Protestant Succession.** (Article)

See above, General Subjects (*Relations between Church and State*).

**ETL 83 4/07, 339-358: Edward N. Peters: Accidental Parricide during the *Ius Novissimum* – How Canonical Commentary Mitigated Rigorous Law.** (Article)

For several centuries preceding the 1917 Code of Canon Law, that is, during those periods in canonical history known as the *ius novum* and *ius novissimum*, a three-year penalty (including one year on bread and water) was applicable against parents whose infant child died while sleeping with them. In his article P. traces down the centuries the mitigation of this parental liability. This was the work of canonists as they developed their teaching on *De Infantibus*, and by their interpretations they eventually led Church authority to allow this issue to disappear from canonical legislation.

**J 67 (2007), 341-363: Nelson H. Minnich: The Priesthood of all Believers at the Council of Trent.** (Article)

Vatican II, in its Constitution on the Church and Decree on the Apostolate of the Laity, atributed to the laity a share in the one priesthood of Christ. Vatican II was not the first Council to speak on the subject. Trent devoted much time to Luther's ideas, but there were different approaches about how to approach the problem. There was agreement that the existence of hierarchy in the Church excluded Luther's ideas. But the seat of that hierarchy was a disputed point. Some Italians wanted an emphasis on the Pope; some Spaniards wanted the emphasis on the bishops. So the Tridentine Fathers went ahead with the doctrine that the Church was a hierarchy and spelt that out against Luther in the canons and in the Catechism of Trent which reflected the acts of the Council.

**RDC 55 2/05, 355-376: Jeanne-Marie Tufféry-Andrieu: Un aspect du pouvoir législatif de l'évêque: le synode diocésain du concile de Trent au code de 1917.** (Article)

With the Gregorian reform, diocesan synods took on importance in the twelfth century. From the Council of Trent to the Code of 1917, conciliar canons and Papal explanations become the (often debated) foundation of synod practice.

They defined the juridical nature of the diocesan synod and made it a true source of law.

### *1917 Code*

**IE XIX 1/07, 77-96: Jesús Miñambres: La nozione di "bene ecclesiastico" nella prima codificazione canonica.** (Article)

The technical notion of "ecclesiastical goods" involves difficulties of interpretation as it involves ecclesial entities of diverse types, ranging from those of a hierarchical structure to the many expressions of the autonomy of the faithful in either the associative realm or in that of foundations. M. deals first with definitions contained in the *schemata* of the 1917 Code and also in four private attempts at codification between 1873 and 1902. He then studies the definitions given in the Manuals. Among his conclusions he states that, for these authors, the term "ecclesiastical goods" had a non-technical meaning, and referred to "goods of the Church" without further precision. The doctrinal debate centred more on dominion over the goods, while neither their ecclesiality nor the power of authority over them were called into question.

**SCL III (2007), 129-240: Augustine Mendonça: A Doctrinal and Jurisprudential Approach to the Ground of Determining Error.** (Article)

See below, canon 1099.

### *20th century*

**Ap LXXVIII 1-2 (2005), 499-515: Donato Squicciarini: Storia, peculiarità e finalità della diplomazia della Santa Sede. Impegno per la pace, da parte della Chiesa e dei Papi dell'ultimo secolo.** (Article)

See below, canon 362.

***Second Vatican Council and revision of the CIC***

**FCan II/2 (2007), 167-172: Evalso Xavier Gomes: Cooperação do fiel leigo no exercicio da potestas regiminis: ex canone 129, §2.** (Article)

See below, canon 129.

**J 67 (2007), 364-431: Thomas J. Green: The 1982 Papal Consultation Concluding the 1917 Code Revision Process.** (Article)

On 22 April 1982 the Code Commission presented Pope John Paul II with the text of the proposed Code of Canon Law. The Pope decided to have it reviewed by experts, and later by a commission of bishops. Little has been written about this chapter of the revision of the 1917 Code. Between the 1982 *schema* and the Code of 1983 G. notes 175 textual changes. Some are a matter of style but others are more substantial. G. brings together in one place a list of changes which will facilitate others in this field. There is a small reduction of canons; some revisions are organisational, others more important. Following the canons, he highlights the changes in bold lettering.

## CODE OF CANONS OF THE EASTERN CHURCHES

**AkK 175 2/06, 473-485: Christoph Ohly: Gravis necessitas. Erwägungen zu einem unbestimmten Begriff der kirchlichen Gesetzbücher.** (Article)

See below, canon 844.

**Ang 84 (2007), 423-436: Lorenzo Lorusso: Servizio pastorale agli orientali cattolici in Spagna.** (Commentary)

In 2003 the Spanish Bishops' Conference approved a document entitled *Guidelines for the pastoral attention of Eastern Catholics in Spain*, based on the conciliar Decree *Orientalium Ecclesiarum*, the Code of Canons of the Eastern Churches, the Encyclicals *Slavorum Apostoli* (1985) and *Ut Unum Sint* (1995), the Apostolic Letter *Orientale Lumen* (1995), and the post-synodal Apostolic Exhortations *Ecclesia in Europa* (2003) and *Pastores Gregis* (2003). This document is not normative as it was not issued in accordance with the procedure established in canon 455; thus it leaves previous legislation intact. L. provides a commentary on the contents of the document, which deals with parishes and the parish priest; language and liturgy; the individual sacraments; reception into full communion; the role of the Apostolic See as supreme arbitrator of interecclesial relations; the role of the director of the department for the pastoral attention of Eastern Catholics; the duties of Latin and Eastern Catholics; and various pastoral initiatives.

**Ap LXXVIII 3-4 (2005), 679-735: Dimitrios Salachas: Sussidio e proposte per l'elaborazione del diritto particolare delle Chiese Orientali *sui iuris*.** (Article)

S. reminds us of the declarations of the Second Vatican Council concerning the Eastern Churches and the subsequent promulgation of the Code of Canons of the Eastern Churches, which foresees the establishment of particular law appropriate to the needs of the individual Churches *sui iuris*, i.e. those stated in CCEO canons 174-176. S. asserts that there are ten Churches where the juridical configuration lacks clarity, and then proceeds to examine the CCEO canons that call for action by the *sui iuris* Churches to establish their own particular legislation.

**ETJ 11 (2007), 178-197: Sunny Kokkaravalayil: The Particular Law of the Syro-Malabar Church: An Appraisal.** (Article)

K. looks at the challenges involved in codifying the Syro-Malabar particular law and provides a brief history of the codification process to date. He offers a number of observations on the promulgated text, which is still open to modification.

**FCan II/2 (2007), 145-158: Pablo Gefaell: Fundamentos e limites da *oikonomia* na tradição oriental.** (Article)

*Oikonomia* refers to any decision taken by a legitimate ecclesiastical authority which, in a specific case and in an exceptional and provisional way, departs from the strict application of the canons and disciplinary norms (*akribeia*), with the goal of safeguarding the common good of the Church. The Orthodox hierarchy are reluctant to establish official limits to *oikonomia*, as this would hinder the freedom of action of other bishops, acting under the assistance of the Holy Spirit. However, G. considers that this is insufficient to prevent abuses in practice. The Commission for the Revision of the Catholic Oriental Code did not want to make any specific reference to *oikonomia*, even though this decision of theirs was based precisely on the conviction that canon law has all the means to enable this principle to be followed. According to Orthodox thinking, *oikonomia* cannot contradict dogma: however, some theological expressions can be tolerated as *oikonomia* so long as the dogmatic reality is not altered. Another limit of *oikonomia* is the requirement of good dispositions on the part of those concerned: this would explain the different answers to apparently similar cases. Some authors distinguish between "internal" and "ecumenical" *oikonomia*. In the Catholic Church, ecclesial government attempts to follow the principle of *salus animarum suprema lex*, using various methods of making the law more flexible, and following the principle of legality which helps avoid the danger of allowing concessions that contradict dogma or morals. Otherwise it would not be a just way of seeking the true good of souls. There is no true charity without justice, nor true justice without truth. The Oriental tradition in theory agrees with this position, although at times some of their concrete solutions are unacceptable to the Latin Church.

**IE XVIII 3/06, 579-600: Raffaele Coppola: Ministero petrino e suo esercizio nella dottrina e nella vita della Chiesa Cattolica.** (Conference presentation)

See below, canon 331.

**IE XVIII 3/06, 839-876: Conferencia Episcopal Española, *Orientaciones para la atención pastoral de los católicos orientales en España*, 17-21 novembre 2003; *Servicios pastorales a orientales no católicos. Orientaciones*, 27-31 marzo 2006 (con *nota* di P. Gefaell).** (Documents and commentary)

The Spanish text is given of two documents from the Spanish Bishops' Conference dealing with the pastoral care of Orthodox and Eastern Catholic Christians who have settled in Spain as a result of the powerful migratory current from Eastern European countries and to a lesser degree the Middle East. In his commentary on the two documents, G. gives reasons why, even though the documents are not normative (and were not in fact issued according to the procedure established in canon 455), it would have been more appropriate for them to have been classified according to the categories in canons 31, 34 and 95. He studies several of the canonical points contained in each document, including the administration of the different sacraments to Eastern-rite Catholics in Spain, and guidelines for "ecumenical hospitality" in relation to non-Catholic Eastern-rite Christians.

**LS 31 (2006), 214-237: Taras Khomych: Eastern Catholic Churches and the Question of 'Uniatism': Problems of the Past, Challenges of the Present and Hopes for the Future.** (Article)

K. addresses a recently much debated question of "uniatism", which became a stumbling block in relations between the Catholic and Orthodox Churches. In particular, he draws attention to the problem of uniatism in the Eastern Catholic Churches. After tracing a general outline of the historical development of uniatism in the Catholic Church and providing several examples of partial unions between Rome and Eastern Christian Churches, he challenges the rather simplistic but widespread assumption that uniatism is unique to the Catholic Church. He points out that the same phenomenon exists for instance in Orthodoxy too. He suggests that Orthodox, Roman Catholics, and Eastern Catholics have first to examine thoroughly their history and their present condition. This would lay a solid foundation for a more genuine ecumenical encounter. Finally, K. underscores the importance of dialogue between all the parties affected by uniatism, and provides a few suggestions as to how the Eastern Catholic Churches can efficiently contribute to the development of that dialogue.

**RDC 55 2/05, 377-391: Aram Mardirossian: Les prémices d'une distinction entre ordre et juridiction dans l'église arménienne au 5$^{e}$ siècle: une théorie sans lendemain.** (Article)

See above, Historical Subjects (*First millennium*).

**SCL III (2007), 327-350: Jose Chiramel: Sacraments of Initiation in the Latin and Eastern Codes: a Comparative Study.** (Article)

See below, canons 849-878.

**Jesu Pudumai Doss: Freedom of Enquiry and Expression in the Catholic Church: A Canonico-Theological Study.** (Book)

See below, canon 218.

# BOOK I: GENERAL NORMS

## 17

**RDC 55 2/05, 271-297: Edoardo Dieni: Le tragique de l'interprétation dans le droit canonique.** (Article)

D. looks to the deconstructionist philosopher Jacques Derrida for the interpretation of canon law. He also speaks of a "creative" vision of interpretation, where all concerned would have the capacity to participate in determining the rules.

## 19

**IE XVIII 3/06, 551-577: Javier Canosa: I principi e le fasi del procedimento amministrativo nel diritto canonico.** (Article)

See below, canons 135-144.

## 22

**Ap LXXVIII 3-4 (2005), 651-677: Domingo Andrés Gutiérrez: Canonizatio Iuris Civilis.** (Article)

Writing in English, A.G. establishes the terminology he will employ in this study. He then develops his understanding of *canonizatio* (sic) noting the divergences between the texts of canon 22 of the CIC and canon 1504 of the CCEO. The significance of these canons, granted the safeguards to the mission of the Church enshrined in the texts, is given close attention. A brief survey of the opinions of modern authors on this topic is included together with references to the canons in both Codes that are applicable to the process of canonization of civil code dispositions.

## 22

**IE XVIII 3/06, 719-740: Andrea Bettetini: Ente ecclesiastico civilmente riconosciuto e disciplina dell'*impresa sociale*. L'esercizio in forma economica di attività socialmente utili da parte di un ente religioso.** (Article)

See below, canons 1254-1258.

## 26

**RDC 55 2/05, 251-270: Marcel Metzger: La coutume, comme modèle pour le nouveau droit liturgique.** (Article)

See below, canon 838.

## 31-33

**FI 4 (2005), 189-199: Ginter Dzierżon: Ogólne dekrety wykonawcze w kanonicznym porządku prawnym ( = General executory decrees in canon law).** (Article)

D. looks at canons 31-33, which are inserted in the title of the Code dealing with general decrees and instructions. His analysis also looks at the authority competent for issuing general executory decrees, their relationship with laws, and the manner and form in which they are issued. Although many authors see a close link between laws and general executory decrees, D. highlights certain differences between them, especially the fact that a general executory decree cannot derogate from the law.

## 34

**FCan II/1 (2007), 97-101: Elisa M. Rodrigues de Araújo: A Instrução "Dignitas Connubii" e o cân. 34 do Código de Dereito Canónico.** (Commentary)

In this brief comment on the Instruction *Dignitas Connubii* R de A. tries to arrive at a deeper understanding of the importance and scope of the document by looking at it in relation to the definition of an instruction in canon 34 of the 1983 Code. Her conclusion is that, although *Dignitas Connubii* includes some provisions which correspond to the function of an instruction as envisaged in canon 34, it cannot be regarded as a conventional instruction.

## 34

**For XVII/06, 361-384: Frans Daneels: General Introduction to the Instruction *Dignitas connubii.*** (Article)

See below, canons 1671-1691.

### 35-93

**IE XVIII 3/06, 551-577: Javier Canosa: I principi e le fasi del procedimento amministrativo nel diritto canonico.** (Article)

See below, canons 135-144.

### 87

**AkK 175 2/06, 435-451: Thomas M. Amann: Die Ausübung der Sacra potestas im kirchlichen Arbeitsgericht.** (Article)

See below, canon 274.

### 94

**AkK 175 1/06, 32-67: Ulrich Rhode: Rechtliche Anforderungen an die Kirchlichkeit katolischer Vereinigungen und Einrichtungen.** (Article)

See below, canons 114-117.

### 94-95

**IC XLVII 94/07, 657-676: Antonio Viana: Las nuevas normas estatutarias del Sínodo de los Obispos.** (Commentary)

See below, canons 342-348.

### 97-98

**Jesu Pudumai Doss: The Portrait of Youth in Church Law, in "Youth India: Situation, Challenges & Prospects", pp. 283-303.** (Article)

See below, canons 208-223.

### 113-123

**AkK 175 1/06, 113-128: Richard Puza: Die Vollmacht des Diözesanbischofs und ihre Grenzen am Beispiel der Errichtung einer diozesanen Pfründenstiftung.** (Article)

See below, canon 1272.

### 114-117

**AkK 175 1/06, 32-67: Ulrich Rhode: Rechtliche Anforderungen an die Kirchlichkeit katolischer Vereinigungen und Einrichtungen.** (Article)

Whether or not an initiative should be seen as ecclesiastical depends – in the realms of both civil and canon law – on three criteria: whether the initiative identifies itself as ecclesiastical, whether its stated goals form part of the Church's mission, and whether the initiative is placed under the competent ecclesiastical authority. It is the responsibility of the competent ecclesiastical authority to decide – in both legal realms – whether the conditions are met. The State would be in violation of the Church's constitutional right to self-determination if it were to regard the fact that an initiative does not follow certain Church laws – for example, in the area of labour law – as sufficient proof that it should not be considered as ecclesiastical.

### 115-116

**IC XLVII 94/07, 441-463: Eduardo Molano: El principio de autonomía privada y sus consecuencias canónicas.** (Article)

See above, General Subjects (*Legal theory*).

### 116

**AkK 175 2/06, 397-416: Heribert Hallermann: Die Rechstellung der Deutschen Ordensobernkonferenz im kanonische Recht.** (Article)

See below, canons 708-709.

### 119

**CLSN 152/07, 22-23: Gordon Read: New Norms on Papal Elections.** (Article)

See below, canon 349.

### 127

**IE XVIII 3/06, 601-627: Andrea D'Auria: Il concetto di Superior del can. 127: questioni problematiche aperte.** (Article)

Canon 127 states that whenever, in order to perform a juridical act, a Superior is required by the law to obtain the consent or advice of some college or group of

persons, an act which is performed without hearing their opinion, or which is contrary to the consent given, will be invalid. D'A. studies the extent of the term "Superior" in the light of the relevant canons. He then discusses the case of the Superior acting as *primum inter pares*. Bearing in mind that canon 127 provides a limitation on the free exercise of a right, he considers that, according to canon 18, it must be strictly interpreted. He studies at some length the relationship between the "advice" or "consent" to be obtained and the invalidity of the act. There will be no invalidity when the particular canon leaves the duty to consult to the discretion of the Superior; D'A. provides several examples of this from the Code (e.g. canons 317 §1, 365 §2, 524, 547, 553 §2, etc.). In another section, he deals with this obligation to consult in relation to activities or procedures, as distinct from an administrative act in the strict sense; some authors hold that canon 127 does not apply in these circumstances. Again, D'A. studies several particular examples: canons 1451 §1, 1575, 1589, etc.

### 129

**AkK 175 2/06, 435-451: Thomas M. Amann: Die Ausübung der Sacra potestas im kirchlichen Arbeitsgericht.** (Article)

See below, canon 274.

### 129

**AkK 175 2/06, 452-472: Joachim Eder: Ausschluss von Normenkontrollverfahren vor kirchlichen Arbeitsgerichten.** (Article)

See below, canon 1421.

### 129

**FCan II/2 (2007), 167-172: Evalso Xavier Gomes: Cooperação do fiel leigo no exercício da potestas regiminis: ex canone 129, §2.** (Article)

Since Vatican II one of the most significant phenomena in the Church has been the increasingly active role of the laity. This active participation by the laity in the life of the Church has deep consequences at the ecclesiological and juridical level. The 1983 Code regulates the activity of the laity in the life of the ecclesial community, as helpers of the ordained ministers in the exercise of the three *munera*: government, sanctification and teaching. G. concentrates mostly on the collaboration of the lay faithful in the exercise of the *munus regendi*, the power of government in the Church. He presents the background to canon 129 and its

canonical and doctrinal implications. He then looks at how canon 129 applies as regards accepting lay judges on canonical tribunals.

## 135

**IC XLVII 94/07, 495-503: Joaquín Llobell: La delegación de la potestad judicial «decisoria» y la reconvención en las causas de nulidad del matrimonio tras la Instr. *Dignitas connubii.* Breves notas.** (Article)

Some authors claim that the prohibition on delegating "decisive" judicial power (canon 135 §3) extends to diocesan bishops (holders of ordinary proper power). However, the Latin and the Eastern Codes do allow the diocesan bishop to delegate "decisive" judicial power, since they make explicit reference on two occasions to the delegated judges or tribunals of the diocesan bishops: canons 1495 and 1512 3º. These norms would lack any sense without the possibility of the delegation in question. The prohibition on delegating "decisive" judicial power refers only to the holders of "vicarious" judicious power. To the "compensatory" character of the classical counter action the two Codes have added another aspect based on the objective connection of the causes. This connection allows it to be used in matrimonial causes.

## 135-144

**IE XVIII 3/06, 551-577: Javier Canosa: I principi e le fasi del procedimento amministrativo nel diritto canonico.** (Article)

C. deals with the concept of administrative procedure and its regulation in canon law. Although there was originally a project for a "Law of Administrative Procedure", the Code did not include a complete body of norms in this respect; it incorporated only a small part of the contents of that project. In the CCEO there was a slight advance in the regulation of this matter. Nonetheless, the present set of norms needs to be complemented by having resort to the various means which the Code provides in order to fill the legal *lacunae*, in accordance with canon 19. Hence C. lists and succinctly explains the following principles of administrative procedure: "publicity" (referring to the public nature of administrative activity), participation, objectivity, explanation of reasons, integrity, material truth, necessary and sufficient formality, swiftness, formal stability of decisions, and the right of the interested party to a remedy. C. also deals in depth with the administrative procedural steps, grouping them in three stages: initiation, instruction, and decision.

### 149

**PCF IX (2007), 51-92: Raul T. Go: Administrative Tribunals in the Particular Church.** (Article)

See below, canon 1400.

### 187-189

**EE 82 (2007), 691-728: Urbano Valero Agúndez: General vitalicio con posibilidad de renuncia.** (Article)

See below, canon 624.

### 192-196

**CLSN 152/07, 44-47: Gordon Read: The Cumberlege Commission Report.** (Article)

See below, canon 1395.

### 197

**J 67 (2007), 503-519: Charles G. Renati: Prescription and Derogation From Prescription in Sexual Abuse of Minor Cases.** (Article)

See below, canon 1362.

## BOOK II, PART I: CHRIST'S FAITHFUL

### 204

**CLSN 152/07, 30-34: Gordon Read: CDF on "The Doctrine of the Church".** (Article)

R. comments on the document issued by the Congregation for the Doctrine of the Faith on 29 June 2007. It seeks to clarify five questions, not least of which is why the term "subsists in" (and not the simple term "is") was used in *Lumen Gentium*, no. 8 (the Church founded by Christ, "constituted and organised in the world as a society, subsists in the Catholic Church"); and whether the use of this term signifies any change in the Church's teaching, as would be claimed by those at opposites ends of the theological spectrum, such as Leonardo Boff at one extreme and the Society of Pius X at the other. The document states that the term does not change the doctrine of the Church of Christ, but brings out the fact that while there are numerous elements of sanctification and truth found outside her structure, these are gifts properly belonging to the Church of Christ.

### 204

**N XLIII 7-8/07, 385-390: Congregatio pro Doctrina Fidei: Responsa ad quaestiones de aliquibus sententiis ad doctrinam de Ecclesia pertinentibus.** (Reply)

The document follows earlier ones such as *Dominus Jesus*, and replies to five questions: 1) Did the Second Vatican Council change the Catholic doctrine on the Church?; 2) What is the meaning of the affirmation that the Church of Christ subsists in the Catholic Church?; 3) Why was the express "*subsists in*" adopted instead of the simple word "*is*"?; 4) Why does the Second Vatican Council use the term "Church" in reference to the Oriental Churches separated from full communion with the Catholic Church?; 5) Why do the texts of the Council and those of the Magisterium since the Council not use the word "Church" with regard to those Christian Communities born out of the Reformation of the sixteenth century?

### 204

**N XLIII 7-8/07, 391-397: Congregatio pro Doctrina Fidei: Responses to Some Questions regarding Certain Aspects of the Doctrine on the Church.** (Reply)

English text of the foregoing.

### 204

**N XLIII 7-8/07, 398-406: Congregatio pro Doctrina Fidei: Commentary on the Document.** (Comment)

See the two preceding entries. The Congregation is not seeking to advance doctrine, but simply give sure and certain responses to specific questions. It is clear from Papal teaching that the Council did not intend to change, and has therefore not changed the doctrine on the Church, but despite clear affirmations erroneous interpretations have continued to emerge. The comment looks closely at the origin of the term *subsistit*, and the reason for its selection, and in greater depth at each of the five questions.

### 204

**N XLIII 7-8/07, 407-415: Congregatio pro Doctrina Fidei: Articolo di commento ai "Responsa ad quaestiones de aliquibus sententiis ad doctrinam de ecclesia pertinentibus".** (Comment)

Italian text of previous item.

### 204

**SC 41 (2007), 47-63: Patrick Valdrini: Communauté et institution en droit canonique.** (Article)

In the 1917 Code, the Church was understood not as a community of the faithful but as an institution, a *societas perfecta*. The 1983 Code uses the title "People of God" from *Lumen Gentium* as its title for Book II. This article presents some reflections on the dual reality of the Church as both community of the faithful and hierarchical institution by examining canonical notions and institutes in the 1983 Code that reveal something about how the Church is understood in canon law. Particular attention is devoted to associations of the faithful and their regulation by Church authority.

### 204-207

**Javier Hervada: Introduction to the Study of Canon Law.** (Book)

See above, General Subjects (*General introductions to canon law*).

## 208-223

**Jesu Pudumai Doss: The Portrait of Youth in Church Law, in "Youth India: Situation, Challenges & Prospects", pp. 283-303.** (Article)

Youth and law, especially Church law, may seem to have little in common. P.D. attempts to discover how the Code of Canon Law looks at and projects youth, and delves into the various facets of the portrait of youth which emerges directly or indirectly from the various canons. Taking into account the canons that refer directly to youth / young people, and others that refer especially to the rights and duties that spring from various age limits, he groups the emerging contours of the portrayal of the young under the following headings: youth and their legal age; youth as subjects of integral formation; youth as choice makers; and youth as leaders. (For bibliographical details see below, Books Received.)

## 208-231

**IC XLVII 94/07, 441-463: Eduardo Molano: El principio de autonomía privada y sus consecuencias canónicas.** (Article)

See above, General Subjects (*Legal theory*).

## 213

**IE XVIII 3/06, 811-838: Pontificio Consiglio della Pastorale per i Migranti e gli Itineranti: Orientamenti per una pastorale degli zingari, 8 dicembre 2005 (con *nota* di E. Baura, *Aspetti giuridici della pastorale per gli zingari*).** (Document and commentary)

Given here is the Italian text of the 2005 document dealing with the pastoral care of gypsies. In his commentary B. points out that the document is merely illustrative and exhortative. He studies the contents of the document, before going on to look into some of the canonical principles underlying pastoral activity. In the last part of his commentary B. studies the organisation of this pastoral work, in the light of the Instruction *Nemo est* issued by the Congregation for Bishops (22 August 1969) and subsequent developments, above all the 1983 Code, as well as the 1990 CCEO.

## 215

**SC 41 (2007), 47-63: Patrick Valdrini: Communauté et institution en droit canonique.** (Article)

See above, canon 204.

**215**

**SC 41 (2007), 65-90: Maria Casey: Associations of Christ's Faithful: Possibilities for the Future.** (Article)

The right of association constitutes one of the fundamental rights of the faithful in the Church. Several pertinent factors assist the proper understanding of this right: the notion of *communio*, the new evangelisation, the diversity in the world and of human cultures, as well as the various characteristics proper to men and women of today; the role of religion in modern societies and the evolution of the concept of God. Having analysed these factors and their influence upon religious expression in our present era, C. suggests that the canonical concept of religious association allows the articulation of a possible formula to replace the present model of the parish. The present model as a regular, exclusive place of religious expression has occasioned some disenchantment among the faithful of several generations. C. concludes with several fundamental considerations.

**218**

**For XVII/06, 251-255: Pope Benedict XVI: Investigate and foster the perennial value of truth.** (Address)

Address given on 21 October 2006 at the Lateran University to mark the opening of the academic year. There needs to be a balance between "doing" and "being". The story of Icarus illustrates what happens when a taste for discovery is not safeguarded by a more profound vision. Investigating the truth must be central to university life, and the ultimate truth is God.

**218**

**For XVII/06, 260-263: Pope Benedict XVI: Scientists who 'know more' must 'serve more'.** (Address)

The Pope addresses the Pontifical Academy of Sciences. There is not an inevitable conflict between supernatural faith and scientific knowledge. Science cannot replace philosophy and revelation. Scientists must be guided by respect for the truth and acknowledgement of the limitations of the scientific method.

## 218

**Jesu Pudumai Doss: Freedom of Enquiry and Expression in the Catholic Church: A Canonico-Theological Study.** (Book)

P.D. investigates the freedom of enquiry and expression of the Christian faithful from a canonico-theological perspective, starting from canon 218 of the 1983 Code. The book is the fruit of his doctoral research at the Salesian Pontifical University in Rome. It consists of two main parts. The first part, consisting of two chapters, presents a historical and doctrinal framework, and an account of the historical development and content of freedom of enquiry and expression as proposed by canon 218 of the Latin Code and canon 21 of the Eastern Code. The second part, consisting of chapters three and four, focuses on the rapport between Magisterium and theologian, which has concrete manifestations in various juridical procedures, and presents the "new horizons" opened up by the freedom of enquiry and expression. (For bibliographical details see below, Books Received.)

## 220

**IE XIX 1/07: 269-290: Italia. Consiglio di Stato. Sezione v. Decisione 14 novembre 2006 (con *nota* di M. del Pozzo, *Il coordinamento interordinamentale tra giurisdizione civile ed ecclesiastica nell'acquisizione di cartelle cliniche nelle cause di nullità matrimoniale*).** (Civil sentence and commentary)

See below, canon 1527.

## 220

**PCF IX (2007), 117-136: Francis Nguyen: Privacy on the Internet: Issues and Implications.** (Article)

Despite its undoubted advantages in the areas of communication, information, education, entertainment, and evangelisation, the Internet and other on-line services pose dangers that cannot be ignored. N.'s study looks at the most widely-used on-line services and search engines, and he identifies the various ways in which individual users can share information about themselves, which can be accessed freely and stored by others. He examines the ethical aspects of privacy and highlights the ease with which personal privacy can be infringed by ruthless Internet users. The message is clear: knowledge is power and the more information Internet users give about themselves, the more power they give to other people over them. Hence the plea for vigilance.

**221**

**For XVII/06, 339-360: Zenon Grocholewski: The Basis of the Right of Defence.** (Article)

G. considers first the basis of the right of defence, derived from the dignity of the human person, in both State law and the Magisterium. These have divergent visions since the Church takes into account Revelation and the supernatural destiny of human beings, whereas the State considers only this life. The State therefore looks to safeguarding public order and the temporal good of human beings, whereas the Church goes beyond this to the supernatural good. This has consequences in the canonical order in terms of the procedural norms, the values defended, and also a certain relativisation of the exercise of the right of defence. Eternal salvation is the greatest good, and at times charity may demand foregoing a right. In the second part of the article G. looks at other foundational elements: fundamental subjective rights; the nature of the Church; the concept of justice; theological truths and spiritual values (e.g. marriage, the secret of the confessional).

**221**

**IE XIX 1/07, 55-75: Joaquín Llobell: Il diritto e il dovere al processo giudiziale nella Chiesa. Note sul magistero di Benedetto XVI circa la necessità di «agire secondo ragione» nella riflessione ecclesiale.** (Article)

L. begins with some considerations on the right and duty to the judicial process, taking his inspiration from the teaching of Benedict XVI on the need to act "according to reason" in ecclesial activity. On the understanding of law as an *ordinatio rationis* he looks at the ecclesial nature of the judicial process, and the positive influence of Enlightenment natural law thinking insofar as it helped bring about a "recovery" of certain elements essential to the right to a fair hearing. Finally, he considers the need to find a balance between protecting the rights of the community on the one hand, and those of the individual on the other; and the right and duty of the sacred Pastors to ensure a just process.

**223**

**PCF IX (2007), 51-92: Raul T. Go: Administrative Tribunals in the Particular Church.** (Article)

See below, canon 1400.

## 225

**For XVII/06, 292-295: Pope Benedict XVI: Promoting 'healthy secularity' not secularism.** (Address)

The Pope speaks to a Congress of Italian Catholic Jurists, whose theme is the lay state and secularity, 9 December 2006. In its origin the term "secular" referred to the state of Christians who were not clergy or religious, but now it has come to mean the exclusion of religion and its symbols from public life. The task of believers is to help formulate a concept of secularity that acknowledges the place due to God and his moral law, to Christ and his Church, while affirming the rightful autonomy of earthly affairs.

## 225

**PCF IX (2007), 233-242: Leonardo Y. Medroso: Separation of Church and State: Its Impact on the Arena of Politics.** (Article)

See below, canon 285.

## 226

**Ap LXXVIII 3-4 (2005), 765-811: Pierluigi Ciarafica: L'«obbligo gravissimo» dell'educazione dei figli: dal can. 226 a una progettualità educativa genitoriale.** (Article)

C. lays the foundation for his study (which is part of a doctoral thesis) by reviewing education of their children by parents in contemporary culture coupled with the focus in Vatican II on the human person. He gathers references from Scripture, Vatican II documents and Papal teaching to indicate the foundations of the canons respecting the rights and duties of parents in educating their children.

## 226

**EE 82 (2007), 785-805: José Mª Martí Sánchez: La educación para la ciudadanía, ¿amenaza contra la libertad de los padres y de la sociedad?** (Article)

It is the duty of parents to give their children an education which makes it possible for them to give a personal answer to the unknowns of life and trace their own destiny. The function of the public powers is to support this right-duty of the family. Therefore, when those powers exceed the limits marked out by the national and international law, there is the danger of trying to impose a

given model of how people ought to be. In the Spanish regulations governing the teaching of "Citizenship", in spite of certain positive points, grievous signs of that danger are detected.

**226**

**For XVII/06, 233-234: Pope Benedict XVI: Be faithful to the marriage vocation.** (Address)

In his *Angelus* address of 8 October 2006 the Pope encourages couples to be witnesses to the world through their faithful love, something possible only when supported by divine grace and prayer.

**226**

**For XVII/06, 235-239: Pope Benedict XVI: Promoting authentic love, life family.** (Homily)

Homily given at a special Mass for Families in Valencia on 9 July 2006. We have all received the gift of life and its basic truths from others. Behind this lies a loving plan of God. Faith is not merely a cultural heritage but God's grace at work. Parents need to cultivate this gift of God in their children. It is not a task imposed on them from without, but an expression of the sacramental grace poured on them in marriage.

**226**

**For XVII/06, 299-305: Pontifical Council for the Family: Marking 25 years: looking back and ahead.** (Document)

This short document summarises the conclusions of the 17th Plenary Assembly of the Pontifical Council for the Family, May 2006. It reviews achievements, including numerous publications, and lists some current challenges, especially the doctrinal enfeeblement of many people, and projects, in particular reflection on the Encyclical *Deus Caritas Est.*

**226**

**For XVII/06, 306-314: World Theological-Pastoral Congress, Valencia, Spain: The Transmission of Faith in the Family.** (Document)

See above, General Subjects (*Social issues*).

## 231

**IE XVIII 3/06, 741-754: Arturo Cattaneo: I ministeri non ordinati nel rinnovamento della parrocchia.** (Article)

See below, canon 517.

## 231

**J 67 (2007), 432-460: Rose McDermott: *Co-Workers in the Vineyard of the Lord*: A Canonical Analysis.** (Article)

McD. points to the twenty-five years that the bishops of the USA researched and published the document entitled *Co-Workers in the Vineyard of the Lord*. It is a theological and pastoral reflection on a very complex and developing phenomenon. McD. gives a short summary of the document and its three parts. For each part she offers a summary of the resource document: for each segment she offers a response and recommendations to new realities. The resource guide focuses on lay ministers in the parish. McD. envisages a wider and deeper role for the laity. She notes the complexity of the participation of the laity in the Church and the many canons that refer to their role in the secular realm, ecclesial functions that are also performed by clergy, offices to which the laity may be appointed, and offices which they can carry out only when sacred ministers are physically or morally absent.

## 238

**CLSN 152/07, 24-29: Gordon Read: Resignation of Boston's Seminary Rector**. (Article)

R. looks the issues involved when the rector of St John's seminary, Boston, resigned in protest at the sale of property adjoining the seminary by the Archdiocese of Boston. What is not particularly clear, as R. points out, is whether the seminary owned the property in question or not. If it did, but the board of trustees approved the sale, then it would have been lawful despite any opposition on the part of the rector.

## 245

**ICST 9 (2007), 5-15: Mylo Huber C. Vergara: Pastoral Charity: Goal of Priestly Formation in the Light of *Deus Caritas Est.*** (Article)

V. examines the meaning of pastoral charity in Pope John Paul II's Apostolic Exhortation *Pastores Dabo Vobis*, before exploring the service of charity as

dealt with by Pope Benedict XVI in the Encyclical *Deus Caritas Est*. The seeds of pastoral charity and the service of charity are planted in seminary formation, and it is for formators to urge seminarians to be aware of the social realities inside and outside the seminary structure.

## 245

**PCF IX (2007), 251-257: Orlando B. Quevedo: Notes on the Human Formation of Priests.** (Article)

Two questions exercise Q.'s mind as he writes these notes: (i) What kind of priests are to be formed in and for Asia? (ii) What kind of formation should they undergo? Rather than provide answers to each of these questions, and writing from the perspective of a former seminary formator and of a pastor, Q. describes the pastoral situations which give rise to the questions. His article is organised under three headings: "Lights and shadows of priestly life and ministry in Asia"; "Some observations on priestly formation"; "A vision of the priest in and for Asia". While acknowledging that his observations may apply to many parts of Asia, Q. confines himself to Southern Mindanao, Philippines. His pastoral experience in rural areas where the population was almost equally divided between Muslim and Christian gives him an insight into the challenges facing priests and the type of formation which is necessary to prepare them for these challenges.

## 252

**Ap LXXVII 3-4 (2004), 667-696: Paolo Gherri: Teologia del Diritto canonico: elementi per una fondazione epistemologica.** (Article)

The academic year 2003/4 saw the introduction of a new discipline in the Lateran faculty of Canon Law following the reform of September 2002. G. examines the opinions of diverse schools of canonists before presenting his own convictions as to the distinctive nature of this new discipline and how it should be developed.

## 255

**PCF IX (2007), 251-257: Orlando B. Quevedo: Notes on the Human Formation of Priests.** (Article)

See above, canon 245.

## 257

**AkK 175 2/06, 473-485: Christoph Ohly: Gravis necessitas. Erwägungen zu einem unbestimmten Begriff der kirchlichen Gesetzbücher.** (Article)

See below, canon 844.

## 265-272

**SCL III (2007), 241-272: Robert Kaslyn: Two Incardination Processes: Initial and Subsequent Alteration.** (Article)

The Latin and Eastern Codes require incardination in or ascription to a particular Church/personal prelature, or institute of consecrated life or society which has this faculty. K. does not study the history, but the current law. The first part of the article sets out how initial incardination occurs through ordination to the diaconate, or membership of a religious institute or society of apostolic life, and the situation of members of secular institutes. He then considers change in incardination, both by formal process (canon 267), and tacitly, by virtue of the law itself (canon 268 §1). He notes that for the latter what is required is five years' legitimate residence, not ministry. This simply means that neither bishop has issued a precept to return to the diocese of origin – a simple letter expressing a preference or desire does not suffice. The requirement of a reply within four months refers to receipt of the request and not time in addition to the five years. His argumentation draws on the Miami decision of the Signatura published in *Communicationes* X 2/78 152-158. He concludes by looking at the effect of entry into or exit from a religious institute or society, with the disparity of three years' exclaustration but five years' residence, and what happens when a new diocese is created.

## 273-289

**IC XLVII 94/07, 415-438: Juan González Ayesta: Algunas consideraciones sobre la actual regulación de los derechos y deberes de los diáconos permanentes.** (Article)

G.A. examines the current norms regulating the permanent diaconate, which in certain respects can give rise to some confusion. He considers the relationship between the clerical state and conjugal life; the professional work of permanent deacons; and their participation in politics. He takes as his starting point the canons dealing with the rights and obligations of clerics (273-289) and the 1998 Directory of the Congregation for Clergy on the ministry and life of permanent deacons, which offers a partially different perspective in some important respects. He also looks at some particular legislation on permanent deacons,

especially the Directories of the episcopal conferences of the USA and Brazil which have been approved *ad experimentum* by the Holy See in recent years.

### 273-289

**SCL III (2007), 29-40: Pontifical Council for Legislative Texts: Explanatory Note: Elements to Establish the Area of Canonical Responsibility of the Diocesan Bishop on Clerics Incardinated within the Diocese and who Exercise their Ministry within it.** (Document)

See below, canon 384.

### 274

**AkK 175 2/06, 435-451: Thomas M. Amann: Die Ausübung der Sacra potestas im kirchlichen Arbeitsgericht.** (Article)

The Constitution of the Federal Republic of Germany guarantees Churches the right to regulate and make laws for their own affairs. On this basis the German Bishops' Conference, having obtained a Papal mandate, has established tribunals for resolving conflicts concerning matters involving ecclesiastical labour law. Diocesan and interdiocesan labour tribunals, as well as the ecclesiastical labour Court, exercise *potestas regiminis*. The Code of Canon Law links this power to sacramental ordination; but this was not adequately taken into account when establishing the ecclesiastical labour tribunals. These therefore do not comply with Church law. There are however alternatives which do conform to the Code.

### 274

**FCan II/2 (2007), 167-172: Evalso Xavier Gomes: Cooperação do fiel leigo no exercício da potestas regiminis: ex canone 129, §2.** (Article)

See above, canon 129.

### 277

**AkK 175 1/06, 129-140: Jan Vries: Der Zölibatsbegriff im Recht der Lateinische Kirche.** (Article)

V. discusses celibacy in the Latin-rite Church from the standpoint of canon law and develops a definition of the concept.

## 277

**SCL III (2007), 437-444: Victor D'Souza: A Question of Compatibility of Adoption of Children by Priests with their Commitment to Celibacy.** (Opinion)

See below, canon 285.

## 281

**AkK 175 1/06, 113-128: Richard Puza: Die Vollmacht des Diözesanbischofs und ihre Grenzen am Beispiel der Errichtung einer diozesanen Pfründenstiftung.** (Article)

See below, canon 1272.

## 285

**PCF IX (2007), 233-242: Leonardo Y. Medroso: Separation of Church and State: Its Impact on the Arena of Politics.** (Article)

Taking the situation in the Philippines as his reference point, M. proposes to examine and answer the question: "What does separation of Church and State mean?" from the point of view of canon law and conciliar teachings. He gives a brief overview of the Church in the Philippines and its participation in politics and other socio-economic activities, and how this changed following the Second Vatican Council. With the new understanding of Church as the People of God, the Church in the Philippines has never wavered in its commitment to participate in the political affairs of the country. Its main motivation is "integral evangelisation" and the conviction that politics has moral and religious dimensions which the Church has to address and be involved with. Graft and corruption with their consequences for governance, morality, and for society, are so rampant that the Church feels obliged to be actively, vocally, and visibly involved in political affairs. M. emphasises that "it is through the laity that the Church is directly involved." For this reason the Church is seriously concerned that they be prepared and encouraged to participate actively so that the Church can be a leaven in the political arena and a counter-sign to a growing "pluralistic mentality" that could lead eventually to "cultural relativism". He notes that, since it is the role of the clergy to promote union and community, participation in partisan politics, for them, would be counter to the unity they symbolise.

## 285

**SCL III (2007), 437-444: Victor D'Souza: A Question of Compatibility of Adoption of Children by Priests with their Commitment to Celibacy.** (Opinion)

In recent times there have been several instances of celibate clergy seeking to adopt children. Some have argued that it is a right in natural law, and not explicitly prohibited by the Code. In Law, both civil and canon, the relationship of adoption parallels natural parenthood, e.g. creating an impediment to marriage (canon 1094). Canon 110 allows for a single person as well as a couple to adopt. However, canon 277 speaks of the motivation of celibacy as being to enable the sacred minister to devote himself to God's service with undivided heart, and involves a renunciation of natural paternity. There are also things that while not "unbecoming", are foreign to the clerical state. The intention might be noble, but it does not seem compatible with the values celibacy seeks to protect. This position has been upheld in a private response of the Congregation of the Clergy, undated but printed in *Roman Replies and CLSA Advisory Opinions 2004* (cf. *Canon Law Abstracts*, no. 94, p. 30).

## 287

**PCF IX (2007), 233-242: Leonardo Y. Medroso: Separation of Church and State: Its Impact on the Arena of Politics.** (Article)

See above, canon 285.

## 294-297

**Ap LXXVIII 3-4 (2005), 921-938: Ciro Tammaro: Profili storici della *Mission de France* nel contesto organizzativo ecclesiastico.** (Article)

T. traces the origins of the *Mission de France* from the inspiration of Cardinal Suhard with a seminary located at Lisieux to the personal prelature and finally to the *Loi propre de la Mission de France* of 18 June 1988. He indicates the legal difficulties that had to be overcome in establishing a proper basis in law for this trailblazing institution.

## 294-297

**PCF IX (2007), 243-250: Agustin T. Opalalic: A Proposed Ecclesiastical Structure to Respond to the Pastoral Needs of the Filipino Overseas Workers.** (Article)

The context of this article is the increasing scale of migration of Filipino Workers (OFWs) to overseas countries and the challenges this presents to the Catholic Bishops' Conference of the Philippines and its Commission for the Pastoral Care of Migrants and Itinerant People. While migration of itself has a positive outcome for the economic stability of the Philippines, it comes at a price both for the migrants themselves and for their families left behind. Two questions exercise the writer of this article: (i) is the Church in the Philippines sufficiently organised and equipped to respond adequately to the pressing pastoral needs of OFWs and their families?; and (ii) is there any ecclesiastical structure, besides chaplaincies and pastoral centres, provided by the 1983 Code of Canon Law that would enable an appropriate response? Amongst the provisions of the Code are personal dioceses or prelatures for the pastoral care of migrants. While acknowledging the ecclesiastical structures that already exist, O. examines the provisions of canons 294-297 with regard to personal prelatures, and he strongly recommends that a serious case should be made for the establishment of a Personal Prelature for OFWs.

## 298

**Ap LXXVII 3-4 (2004), 809-833: Paolo Gambi: Cavalleria e nobiltà nell'ordinamento canonico vigente. Cenni minimi.** (Article)

Starting with a presentation of a classification of the equestrian Orders associated with Holy See, G. then gives a detailed examination of each Order. In a concluding section he indicates the difficulty in seeking to classify the equestrian Orders under the current Codes of Canon Law's dispositions for associations of the faithful.

## 298-329

**AkK 175 1/06, 32-67: Ulrich Rhode: Rechtliche Anforderungen an die Kirchlichkeit katolischer Vereinigungen und Einrichtungen.** (Article)

See above, canons 114-117.

### 321-326

**IC XLVII 94/07, 441-463: Eduardo Molano: El principio de autonomía privada y sus consecuencias canónicas.** (Article)

See above, General Subjects (*Legal theory*).

# BOOK II, PART II: THE HIERARCHICAL CONSTITUTION OF THE CHURCH

## 331

**IE XVIII 3/06, 579-600: Raffaele Coppola: Ministero petrino e suo esercizio nella dottrina e nella vita della Chiesa Cattolica.** (Conference presentation)

In this presentation, given at the XVII Congress of the Society of Eastern Church Law (September 2005), C. studies the indisputable novelty of the inheritance left by John Paul II to his successor, namely, the courageous proposal of reviewing the exercise of the Petrine ministry both within and outside the one Church of Christ. He looks first at some aspects of the relationship between the primacy of jurisdiction and the institutionalised forms of the exercise of collegiality. In particular he studies episcopal conferences and synods of bishops, following the canons of both the CIC and the CCEO. He goes on to consider the ecumenical perspectives in the CCEO; and then explores the joint dogmas of primacy and infallibility in the evolution of Catholic doctrine. As Paul VI asserted less than two years after the Council, the primacy of the successor of Peter continues to be "the most serious obstacle on the path to ecumenism". C. also examines the considerations of the Congregation for the Doctrine of the Faith regarding the primacy and ministry of the Church. Finally he ponders the thought of Benedict XVI regarding the value of spiritual ecumenism in mutual charity and in truth.

## 332

**CLSN 152/07, 22-23: Gordon Read: New Norms on Papal Elections.** (Article)

See below, canon 349.

## 332

**FCan II/2 (2007), 123: Benedict XVI: Motu Proprio *De aliquibus mutationibus*.** (Document)

The Latin text is given of the document dated 11 June 2007 modifying the provisions of no. 75 of the Apostolic Constitution *Universi Dominici Gregis* concerning the necessary majorities for the election of the Roman Pontiff.

### 342-348

**IC XLVII 94/07, 619-655: Ordo Synodi Episcoporum, 29.IX.2006.** (Document)

The Latin and Spanish text is provided of the 2006 Order of the Synod of Bishops, which consists of a Preface and three main parts: I: The Supreme Authority and the Participants at the Synod of Bishops; II: General Norms; III: Procedure. (See following entry.)

### 342-348

**IC XLVII 94/07, 657-676: Antonio Viana: Las nuevas normas estatutarias del Sínodo de los Obispos.** (Commentary)

In examining the 2006 Order of the Synod of Bishops (see previous entry), V. concentrates on certain selected issues: the nature of the new Order (which he considers to be more appropriately classified under canon 94 (statutes) rather than canon 95 (ordinances); the nature and competences of the Synod of Bishops (its consultative function; the representation of particular Churches; the synodal *propositiones*; the possible deliberative power of the Synod); membership of the Synod; organisation of the Synod; collegial activity of the Synod.

### 349

**CLSN 152/07, 22-23: Gordon Read: New Norms on Papal Elections.** (Article)

Since the time of Pope John Paul II's Apostolic Constitution *Universi Dominici Gregis*, dealing with Papal elections, concern has been expressed over what would happen if there were to be an election where the number of Cardinal electors eligible exceeded 120. Another concern was that to reduce the two-thirds majority required because of a deadlock ran the risk of a divided Church as a result of a Pope being so elected. Pope Benedict XVI alludes to this in his *motu proprio* of 11 June 2007 in which he makes minor revisions to the existing legislation. Norm no. 74 of *Universi Dominici Gregis*, relating to the number of ballots to be held, is retained, but no. 75 is revised to the effect that that after all the ballots in no. 74 have taken place without resulting in an election, balloting is to continue until a candidate obtains a two-thirds majority. R. is not sure this is the best approach as it does not allow for a switch to a third or compromise candidate should balloting continue to be deadlocked by two groups of electors.

## 360

**SC 41 (2007), 91-116: Kurt Martens: *Curia romana semper reformanda*: Le développement de la curie romaine avec quelques réflexions pour une réforme éventuelle.** (Article)

The first sections of this article review the history of the Roman Curia, particularly the major reforms of Popes Sixtus V, Pius X, Paul VI, and John Paul II, as well as developments in law on this subject following *Pastor Bonus* in 1988. In a final section, M. raises the question whether a new reform is needed. He attempts to develop some criteria that might inspire a restructuring of the Curia and suggests some examples of possible changes in its current organisation.

## 362

**Ap LXXVIII 1-2 (2005), 499-515: Donato Squicciarini: Storia, peculiarità e finalità della diplomazia della Santa Sede. Impegno per la pace, da parte della Chiesa e dei Papi dell'ultimo secolo.** (Article)

After considering the nature of diplomatic representation S. gives a brief survey of the activity of the Holy See in this field before and after the sixteenth century. He draws our attention to the distinctive character of the Holy See's diplomatic activity with a special orientation in the twentieth century to the promotion of peace.

## 368

**Ap LXXVIII 3-4 (2005), 883-919: Carlo Fabris: Aspetti ecclesiologici della diplomazia pontificia.** (Article)

F. opens his study with a review of the critics, both during and after the Second Vatican Council, of the Papal Diplomatic Service. He vigorously answers these critics and then proceeds to offer a justification for the Service, the composition of its senior personnel from clerics only and its manner of acting.

## 374

**AkK 175 1/06, 5-31: Peter Krämer: Krise und Kritik der Pfarrstruktur.** (Article)

See below, canons 515-552.

### 375-411

**Ap LXXVIII 1-2 (2005), 137-326: Congregazione per i Vescovi: Direttorio per il ministero pastorale dei Vescovi.** (Document)

Text in Italian of the Directory *Apostolorum Successores* on the pastoral ministry of Bishops issued 22 February 2004.

### 375-411

**Ap LXXVIII 1-2 (2005), 375-398: Fabio Fabene: Il nuovo Direttorio per i vescovi: *Apostolorum Successores.*** (Article)

In analysing the Directory *Apostolorum Successores* F. reminds his readers that it is thirty years since the publication of *Ecclesiae Imago,* the first pastoral Directory for bishops. The Apostolic Exhortation *Pastores Gregis* that followed the tenth Ordinary Assembly of the Synod gave an impetus to the publication of the new Directory coupled with the progress in the Church following Vatican II. F. pays close attention to the *tria munera*: *docendi, sanctificandi et regendi* that are specific to the bishop's vocation. He reviews the status of the document with reference to canon 34 of the 1983 Code and finds that it in no way alters or gives authentic interpretations of the general law.

### 377

**CLSN 152/07, 35-43: Gordon Read: Bishops in China.** (Article)

R. looks at the situation in China concerning relations between the underground Church and the State-recognised Church, whose bishops belong to the Patriotic Association. He also examines the prospects of the Catholic Church building good relations with the Chinese government. A possible bone of contention will be the appointment of bishops, and whether the Chinese government could be allowed a say in who is chosen or have a veto over a candidate preferred by the Church. Reviewing the history of episcopal appointments R. points out that to allow the Chinese government a say would not be without historical precedent, but it would be something the Church would be reluctant to concede today.

## 383

**SC 41 (2007), 117-151: Thomas Green: The 2004 Directory on the Ministry of Bishops: Reflections on Episcopal Governance in a Time of Crisis.** (Article)

This article considers selected aspects of the ministry of bishops as the principal leaders of dioceses, which are viewed as sacramental communities of believers. G. raises theological and canonical questions about episcopal leadership in the local Church. What kind of episcopal leadership is required to deal responsibly with the problems facing the Church today? The article highlights certain interrelated factors that are pertinent to ecclesially responsible episcopal governance. As a key point of reference, G. uses the 2004 Directory on the Pastoral Ministry of Bishops, *Apostolorum Successores*, with some comparison to its 1973 predecessor, *Ecclesiae Imago*.

## 384

**SCL III (2007), 29-40: Pontifical Council for Legislative Texts: Explanatory Note: Elements to Establish the Area of Canonical Responsibility of the Diocesan Bishop on Clerics Incardinated within the Diocese and who Exercise their Ministry within it.** (Document)

This comprises in parallel columns the Italian text of the Note published in *Communicationes* XXXVI 1/2004, 33-38 and an English translation prepared by Rev. V. D'Souza, and revised by Rev. A. Mendonça. The Council first sets out the ecclesiological basis of the relationship between priest and bishop deriving from the sacrament of Orders and incardination. This is wider than the obligations mentioned in canons 273 and 384. However, it is a hierarchical obedience limited to the requirements of a priest's responsibilities in carrying out his office. The priest does not work for the bishop as an employee. The Note then explores the implications of this in terms of the bishop's duty of both solicitude and vigilance, the level of autonomy enjoyed by the priest, and the extent to which a bishop can be held responsible for misconduct by a priest. In conclusion, a bishop cannot be held responsible for the misconduct or delicts of one of his priests. It is the priest who is responsible for any penal consequences or financial indemnity. The only exception would be when a bishop showed little interest in providing necessary assistance to the priest, or knew of transgressions and did not take adequate pastoral remedies. The Note was signed by the President and Secretary on 12 February 2004.

### 399-400

**For XVII/06, 269-276: Pope Benedict XVI: The Discourse to the Bishops of Switzerland.** (Address)

The Pope welcomes the Swiss Bishops, whose Pastoral Visit in 2005 had been cut short. Many problems need to be discussed, and here he highlights a few starting points: faith in God (rather than in a bundle of beliefs); we are part of a community of faith; development without nourishing the soul can cause harm; Catholic education, in particular exegesis, and the limitations of the historical-critical method, and also catechesis; the proper celebration of the Eucharist, and the role of the priest; the sacrament of Penance; the right relationship between particular and universal Church. The discourse was given on 7 November 2006.

### 399-400

**For XVII/06, 277-282: Pope Benedict XVI: The Discourse to conclude the Meeting with the Bishops of Switzerland.** (Address)

On 9 November 2006 the Pope speaks again to the Swiss Bishops returning to the principal subjects they have discussed. God is love and God is reason. He is not just a philosophical hypothesis. Focus on the spiritual dimension and prayer is central. Liturgy is a school of prayer where both silence and celebration are important. There is a need to reconnect morality with religion instead of seeing the latter as something metaphysical and individualistic.

### 399-400

**For XVII/06, 283-286: Pope Benedict XVI: Discourse to the German Bishops.** (Address)

Address given to a group of German Bishops on *ad limina*, 10 November 2006. Secularisation means the figure of Christ and a sense of his uniqueness is fading. The Church in Germany must face this challenge with courage. Particularly important are the curriculum for religious teaching, which must be inspired by the Catechism, and adult formation. This is especially important for those admitted to seminaries, who often now lack a traditional Catholic background.

## 401

**FCan II/2 (2007), 109-113: Elisa Maria Rodrigues de Araújo: A renúncia do Bispo diocesano por causa grave – o caso de Monsenhor Wielhus (comentário ao cân. 401 do Código de Dereito Canónico).** (Article)

A diocesan bishop assumes the exercise of the office entrusted to him with the appointment and the taking of canonical possession of the diocese. Canon law strongly recommends that this taking of canonical possession be done within a liturgical act in the cathedral church, with the clergy and people gathered together. One of the reasons for retirement from office is a "grave cause". A diocese becomes vacant only if the Roman Pontiff accepts the resignation. Monsignor Wielgus resigned because of a "grave cause" very shortly before he was due to take canonical possession. The Roman Pontiff accepted his resignation. Again canon law shows its supreme law: the *salus animarum.*

## 401-402

**CLSN 152/07, 48-50: Gordon Read: The Resignation of Archbishop Ncube.** (Article)

The resignation in September 2007 of Pius Ncube as Archbishop of Bulawayo, Zimbabwe, is R.'s starting point in reflecting on the process to be used when a bishop is accused of some offence or delict. Although the Code reserves the trial of bishops to the Roman Pontiff, this was not always the case. R. looks at how such trials and were handled in the past. The present system has the advantage of speed, confidentiality and independence, but it may be deficient in helping bishops to face up to the failings of one of their brother bishops. Prescinding from the specific case of Archbishop Ncube, R. suggests that the way in which bishops were dealt with in the past may have lessons for today as regards how to deal with bishops accused of a serious criminal offence.

## 401-402

**FCan II/1 (2007), 149-158: João Alves: Os Bispos Eméritos no pós-Concílio.** (Article)

A., Emeritus Bishop of Coimbra, Portugal, deals with the question of bishops who become emeritus on account of reaching the age limit prescribed by law. He analyses the etymology of the word "emeritus" and considers the status of the emeritus bishop in the documents of the Second Vatican Council, especially *Christus Dominus* and *Lumen Gentium*, and the 1983 Code. During the Council there was lively debate over the question of the age at which bishops should retire. *Christus Dominus*, no. 21, mentions the topic but without specifying the

age. Canon 401 §1 stipulates that a diocesan bishop reaching the age of seventy-five must offer his resignation to the Supreme Pontiff, who, taking into account all the circumstances, will make appropriate provision. Canon 402 §1 states that a bishop whose resignation is accepted acquires the title "emeritus" in the diocese, and may live there. A. considers that the emeritus bishop has an important role in the universal and particular Church, especially in his most recent diocese, where he continues to perform a range of pastoral activities: preaching retreats, conferences, prayer, administration of the sacraments, and other functions.

### 447

**Ap LXXVIII 1-2 (2005), 463-497: José Ignacio Alonso Pérez: Il nuovo Statuto canonico della Conferenza Nationale dei Vescovi del Brasile.** (Article)

P. notes that the Episcopal Conference of Brazil is the largest in the world, in 2004 comprising 416 bishops. Founded in 1951/2 it has undergone a number of organisational changes. After discussion with the Roman authorities a new Statute came into force on 31 March 2002 followed by a *Regolamento* composed and approved by the Conference on 17 April 2002. P. studies selected parts of the Statute including the position of emeritus bishops, and gives detailed attention to what he sees as a possible conflict between some of the provisions of the *motu proprio Apostolos Suos* and the Brazilian Statute in the matter of authentic teaching.

### 455

**AkK 175 2/06, 435-451: Thomas M. Amann: Die Ausübung der Sacra potestas im kirchlichen Arbeitsgericht.** (Article)

See above, canon 274.

### 455

**AkK 175 2/06, 452-472: Joachim Eder: Ausschluss von Normenkontrollverfahren vor kirchlichen Arbeitsgerichten.** (Article)

See below, canon 1421.

### 460

**RDC 55 2/05, 355-376: Jeanne-Marie Tufféry-Andrieu: Un aspect du pouvoir législatif de l'évêque: le synode diocésain du concile de Trent au code de 1917.** (Article)

See above, Historical Subjects (*16th-18th centuries*).

### 515-552

**AkK 175 1/06, 5-31: Peter Krämer: Krise und Kritik der Pfarrstruktur.** (Article)

Parish structure has undergone many changes in the history of the Church. Important incentives to renewal arose from the Second Vatican Council, and were incorporated into the 1983 Code. Under current legislation, each diocese is to be divided into parishes, though other forms of subdivision are also possible. The fundamental character of the parish is established by the active role played by the Christian faithful, its stability over time, and the pastoral care of the priest to whom it is entrusted. In view of the structural reforms currently under way in German dioceses, K. deals with the flexible options available for constituting a parish. He takes into account the Pope's warning that parishes' pastoral plans are not to be taken as the measure of what the Holy Spirit is allowed to do.

### 517

**IE XVIII 3/06, 741-754: Arturo Cattaneo: I ministeri non ordinati nel rinnovamento della parrocchia.** (Article)

The non-ordained ministries offer a contribution to new forms of parish life. This is a task not yet clarified, as proved by the fact that a commission was constituted after the 1987 Synod with the task of examining Paul VI's *Ministeria Quaedam* "to provide an in-depth study of the various theological, liturgical, juridical and pastoral consideration which are associated with the great increase today of the ministries entrusted to the lay faithful," and its "conclusions are still awaited." C. studies what he calls lights and shadows in the development of non-ordained ministries, and laments the widespread failure to distinguish between the common and ministerial priesthood, or to be aware of the "clericalisation" of the laity and their transformation into "professional" pastoral workers. He examines the Apostolic Letter *Novo Millennio Ineunte* (2001) in which Pope John Paul II looks forward to a blossoming of non-ordained ministries.

## 517

**J 67 (2007), 432-460: Rose McDermott: *Co-Workers in the Vineyard of the Lord*: A Canonical Analysis.** (Article)

See above, canon 231.

## 524

**PCF IX (2007), 205-223: Augustine Mendonça: The Requirement of "Hearing" the Vicar Forane before Appointing a Parish Priest.** (Article)

A bishop who had been consulting only the priests' personnel board before appointing parish priests was advised that canon 524 required him to "hear" the vicar forane before making an appointment. Understandably concerned, he posed the following questions: In the light of canon 524, which vicar forane should he "hear": that of the deanery of the priest's present parish or that of the vacant parish? Does failure to "hear" the vicar forane invalidate his act? If the act is invalid, what is the juridical status of acts performed by the parish priest, such as marriages? If they are invalid, how may they be sanated? M. provides a systematic response by referring to the relevant canons of the Latin and Eastern Codes and explaining the elements of canon 524. He cites the views of several commentators, pointing out any differences between the various interpretations. Then he traces the *iter* of canon 524 from canon 459 of the 1917 Code, through the pertinent documents of the Second Vatican Council and the various *schemata* of the Preparatory Commission for the Revision of the Code, up to its present formulation. M. concludes that, because of divergent interpretations of the law, and in the absence of an authentic interpretation from the Pontifical Council for Legislative Texts, there is in this case a positive and probable doubt of law. Consequently it can safely be assumed that the appointment of a parish priest where the vicar forane is not "heard" is valid, and hence acts placed by him are valid.

## 528-530

**J 67 (2007), 461-484: James A. Coriden: Parish Pastoral Leaders: Canonical Structure and Practical Questions.** (Article)

C. focuses on parishes where the *de facto* and primary pastoral responsibility has been entrusted to someone other than a priest. His argument is that such leaders should exercise all the pastoral duties that they are empowered to do under the supervision of their pastor, priest moderator, priest parochial administrator, priest team leaders and the diocesan bishop. The motive behind this is to endorse the integrity of the local Christian community. C. reports on

recent data, and looks at the canonical meaning of "pastoral care", especially in canons 528-530. He deals with practical questions such as discussions before appointing these ministers. He favours a permanent deacon when he is the best qualified person. He treats of a variety of questions and concludes that the pastoral leader is not the pastor of the parish but serves in the parish, acts like a pastor, plays a role analogous to that of a pastor, and should function like a pastor insofar as possible. He concludes: "The Church must learn from this experience. This vital development will be influenced by tradition and theology but it will be shaped from lived experience."

## 548

**SCL III (2007), 273-306: Victor D'Souza: The Parochial Vicar: A Subaltern Figure in the Parish?** (Article)

D'S. compares and contrasts the provisions of the 1917 and 1983 Codes on parochial vicars. For many centuries the appointment was made not by the bishop but by the parish priest, who was responsible for his financial support. This changed in 1917, but the bishop was obliged to consult the parish priest first, something now left to the bishop's discretion. D'S. then looks at the powers entrusted to a parochial vicar and various possible configurations of the office. Canon 548 specifies the sources from which the obligations and rights of a parochial vicar are derived. The relationship with the parish priests needs further specification in the letter of appointment or diocesan statutes. The Code envisages cooperation and co-responsibility under the authority of the parish priest, but the parochial vicar is no longer appointed to assist the parish priest, but rather to the parish. D'S. looks in some detail at the concrete obligations and rights such as residency and vacation. He notes that there is a lacuna in the law. In certain circumstances the diocesan administrator can appoint a parish priest, but not remove or transfer him. He can, however, remove a parochial vicar, but not appoint one!

## 564

**For XVII/06, 315-319: Pontifical Council for the Pastoral Care of Migrants and Itinerant People: Plenary Meeting stresses dialogue, education.** (Final document)

This document summarises the 17th Plenary Meeting of the Council, May 2006, on the theme of Migration and itinerancy from and to countries with a Muslim majority. The first part presents summaries of the various interventions, the second part (that printed) conclusions and recommendations under various subject headings.

## 564

**For XVII/06, 335-338: Nicholas DiMarzio: Tracking the causes, helping the people.** (Intervention)

Bishop DiMarzio addresses the United Nations General Assembly on 15 September 2006 on the subject of migration. While the Holy See recognises the sovereign right of nations to determine who may enter and remain in their territories, States have a grave duty to protect the rights of all persons, even irregular migrants, and to readmit those who are obliged or wish to return. He considers in particular the question of forced migration and the need for greater inter-governmental consultation.

## 564-572

**QDE 20 (2007), 227-239: Massimo Calvi: La cappellania: una forma rinnovata di assistenza spirituale.** (Article)

The article examines the canonical profile of a "chaplaincy" in previous and current legislation, especially in the light of Vatican II's impulse for the provision of new forms of pastoral care for modern needs and specific situations. The Code offers no definition of chaplaincy, which is a flexible term applied to many diverse pastoral realities, varying from the pastoral team surrounding the chaplain to a distinct community. C. proposes that the elements which form the juridical definition of a chaplain may form the basis for identifying the juridical profile of a chaplaincy. The first clear development is the recognition of the chaplaincy as a community, as distinct from the previous legislation which identified it as a place of worship. What distinguishes the faithful of a chaplaincy from the parish community is stability. The chaplain must be a priest because he exercises full pastoral care of souls. The appointment of the chaplain by the local Ordinary underlines the chaplaincy's communion with the local Church. Because of the diverse circumstances in which chaplaincies emerge the Code allows for flexibility in the manner of appointing chaplains and the faculties they can enjoy, to be addressed by particular law. The jurisdiction of a chaplain and a parish priest is cumulative. The article underlines that because of the ongoing emergence of new pastoral challenges and developments the canonical profile of chaplaincies has not yet completed its canonical evolution.

## 564-572

**QDE 20 (2007), 256-269: Carlo Azzimonti: La cappellania ospedaliera in Italia.** (Article)

A. examines the juridical functions of a hospital chaplaincy in Italy in the context of the document *Preach the Gospel and Cure the Sick.* This document, the universal norms and the particular legislation governing the relationship of chaplaincies with regional authorities provided for in the revised Lateran Treaty, form the context in which the role of a chaplain in an Italian hospital must be examined. A. points out that these documents do not offer a clear definition of chaplaincy in general, or of hospital chaplaincy. He proposes that the norms of the 47th Diocesan Synod of the Diocese of Milan (1995) are of help in addressing these lacunae. These norms are explored in the article.

## 566

**QDE 20 (2008), 240-255: Davide Salvatori: Le facoltà dei cappellani secondo il can. 566 e la normative speciale.** (Article)

S. highlights and explores the innovative content of canon 566 vis-à-vis previous legislation with regard to the faculties enjoyed by chaplains who provide a pastoral care for the faithful and who because of their specific needs or circumstances may not be able to avail themselves of ordinary pastoral care in a parish. The minimum five specific faculties enjoyed by all chaplains by virtue of being priests are examined. Chaplains also have the faculty to dispense certain censures in the internal forum when the faithful who are the object of their pastoral care are unable to approach the canon penitentiary. A chaplain in some cases is called to exercise functions which exceed the office of a parish priest. The ultimate term of reference for determining the faculties to be given to a chaplain is the qualification stated in can. 566 §1 – proper pastoral care – which may transcend the ordinary care of parish priests. This gives the ecclesiastical authority the discretion to give a chaplain the necessary faculties balancing always the good of the individual with the good of the community. The article also examines some of the faculties enjoyed by chaplains who have pastoral care for those who travel by sea or air, migrants, nomads, tourists and pilgrims.

**569**

**AkK 175 1/06, 100-112: Alfred E. Hierold: Militärseelsorge im Spannungsfeld zwishcen Kirche und Staat – Was beabsichtigen Kirche und Statt mit der Militärseelsorge?** (Article)

A regularised military chaplaincy is a relatively recent development, all the more so in relation to cooperation between Church and State. Military chaplaincy is a means for them both to pursue their different aims. The first recorded reference, a letter of Pope Innocent X of 26 October 1645, sought primarily to resolve disagreements over areas of competence. In Germany in the nineteenth century the State wished to use the military chaplaincy as a political tool of the Kaiser. Nowadays the chaplaincy concerns itself with safeguarding freedom of worship for service personnel, as laid out in the German Constitution. Papal and conciliar legislation seek to guarantee that servicemen and women in their particular situations have access to appropriate pastoral care.

**569**

**For XVII/06, 256-259: Pope Benedict XVI: The value of the person and the value of peace.** (Address)

This was given to the Fifth International Congress of Military Ordinariates to mark the twentieth anniversary of the Apostolic Constitution *Spirituali Militum Curae* on 26 October 2006. The Pope draws attention to the Introduction of the document, which highlights two values, that of the person and that of peace. Putting people first means giving priority to the Christian formation of the soldier, but also encouraging brotherhood and community life.

# BOOK II, PART III: INSTITUTES OF CONSECRATED LIFE AND SOCIETIES OF APOSTOLIC LIFE

## 573

**AkK 175 2/06, 486-499: Stephan Haering: Caritas und Ordenscharisma. Bemerkungen aus kirchenrechtlicher Sicht anläßlich der Enzyklika *Deus caritas est.*** (Article)

H. deals with the charitable mission of the Church and its realisation by religious orders that have a corresponding charism in particular areas. The background to H.'s canonical reflections is formed by Pope Benedict XVI's Encyclical *Deus Caritas Est* and the relevant provisions of the law.

## 573

**For XVII/06, 225-228: Pope Benedict XVI: Be credible and luminous signs of the Gospel.** (Address)

Text of an address given to Superiors General of Institutes of Consecrated Life and Societies of Apostolic Life on 22 May 2006. The service of authority demands a persevering presence. Belonging to the Lord means being on fire with love, and making courageous choices, and so being a credible witness to the world.

## 577

**AkK 175 2/06, 486-499: Stephan Haering: Caritas und Ordenscharisma. Bemerkungen aus kirchenrechtlicher Sicht anläßlich der Enzyklika *Deus caritas est.*** (Article)

See above, canon 573.

## 579

**PCF IX (2007), 29-50: Elias L. Ayuban: Charism and Foundation: Canonical Aspects in the Establishment of Institutes of Consecrated Life.** (Article)

A. acknowledges the various resources available to him as he presents this outline of the procedures involved in the establishment of an institute of consecrated life. He identifies two "crucial constitutive moments" and four

"important stages" in the juridical formation of a religious institute. The two moments are the so-called charismatic and canonical foundations, while the four stages include inspiration, association, diocesan erection, and pontifical recognition. A. explains the various terms used in the process: charism, public and private association, competent authority, etc. He concludes with some suggestions regarding the role of the diocesan bishop in the light of canon 579; and the importance of discerning new charisms and facilitating the union of similar charisms in order to avoid an unnecessary multiplication of congregations that may have no real prospect of flourishing. He recommends that it may be useful, in the Philippine context, to take advantage of the canonical assistance provided by the episcopal conference. He also suggests that the moderators of various associations could help each other by forming an association along the lines of the Association of Major Religious Superiors in the Philippines.

## 579-594

**AkK 175 1/06, 32-67: Ulrich Rhode: Rechtliche Anforderungen an die Kirchlichkeit katholischer Vereinigungen und Einrichtungen.** (Article)

See above, canons 114-117.

## 587

**SC 41 (2007), 153-172: Francis Morrisey: Certaines questions pratiques au sujet du droit propre des instituts religieux.** (Article)

This article considers certain practical questions regarding the revision of proper law in the light of realities faced by religious institutes today. M. draws on his long experience and his broad knowledge of the law and contemporary situations in religious life to sketch some practical solutions to new problems that need attention in proper law. His treatment covers several levels of governance in religious life and various categories of proper law: constitutions, rules, and directories at the general, provincial, and local levels.

## 598

**Ap LXXVIII 1-2 (2005), 517-525: Alfonso Marini Dettina: La professione negli Ordini Cavallereschi.** (Article)

D. draws attention to the teaching enshrined in the Code of Canon Law of the consecrated life being based on the profession of the three evangelical counsels. He reminds his readers of the various forms that consecrated life can take and

may yet develop before considering other forms of commitment found in the Equestrian Orders, specifically that of conjugal chastity. Apart from the Knights of Malta he finds that professions made in the other Orders should be regarded as based on private vows.

## 600

**SCL III (2007), 95-128: Rose McDermott: Stewards of Gifts to be Shared: The Vow of Poverty in Religious Life.** (Article)

McD. looks briefly at the concept of poverty in the Scriptures, and in Church tradition with regard to the faithful in general and to secular clergy before turning to religious vowed to Evangelical poverty. She considers first the theology of poverty for religious life, and then the practical norms that safeguard it, with detailed attention to canon 668, and its equivalents in CCEO, concerning the act of cession, disposition of use and revenue, and last will. She then looks at the temporal goods of the institute, and responsibility of the institute for its members (canon 670). She looks briefly at other questions such as the habit, and the prohibitions on religious who are clerics (canons 285-286), before examining exclaustration and separation from the institute.

## 602

**AkK 175 2/06, 486-499: Stephan Haering: Caritas und Ordenscharisma. Bemerkungen aus kirchenrechtlicher Sicht anläßlich der Enzyklika *Deus caritas est.*** (Article)

See above, canon 573.

## 609

**PCF IX (2007), 29-50: Elias L. Ayuban: Charism and Foundation: Canonical Aspects in the Establishment of Institutes of Consecrated Life.** (Article)

See above, canon 579.

## 617-661

**AkK 175 1/06, 32-67: Ulrich Rhode: Rechtliche Anforderungen an die Kirchlichkeit katholischer Vereinigungen und Einrichtungen.** (Article)

See above, canons 114-117.

**624**

**EE 82 (2007), 691-728: Urbano Valero Agúndez: General vitalicio con posibilidad de renuncia.** (Article)

According to the Constitutions of the Society of Jesus, the Superior General is elected for life. However, foreseeing the possibility of his being in situations that render him seriously and definitively incapable of governing the Society with the result that the common good suffers notably, the Constitutions offer solutions for these cases. In the course of time, it has seemed fitting to address situations which may not be of extreme gravity but in which the General may find himself permanently impeded from fulfilling the tasks of his office. The 31st General Congregation (1965-66), while maintaining the lifetime character of the General's term of office, authorised him to resign in such circumstances, after following a detailed procedure. His resignation does not take effect until it is accepted by the Society at a General Congregation.

**630**

**RfR 66 3/07, 320-325: E. McDonough: Sharing Information in Confidential Matters.** (Article)

M. discusses confidentiality with particular reference to different types of "secrets".

**630**

**RfR 66 4/07, 429-433: E. McDonough: Conscience and Confidentiality from the Members' Perspective.** (Article)

M. addresses a very delicate subject which must balance the individual's right to confidentiality with the needs of a community when difficulties are experienced.

**638**

**SC 41 (2007), 173-198: Jean-Paul Durand: Perpétuer des institutions sanitaires, sociales et médico-sociales fondées et transférées par des instituts religieux.** (Article)

This study explores the canonical issues pertaining to temporal goods when religious institutes wish to transfer to the laity the ownership and control of their health care, social, and related institutions. It also considers how these same lay faithful may perpetuate in some way the charism of the founding institute, or at

least the Catholic or Christian character of the institution. D. stresses that the goods of the religious institute are "ecclesiastical goods" and are governed not only by civil law but also by canon law, which requires the permission of the competent authority for their alienation.

## 668-670

**SCL III (2007), 95-128: Rose McDermott: Stewards of Gifts to be Shared: The Vow of Poverty in Religious Life.** (Article)

See above, canon 600.

## 693

**SCL III (2007), 367-374: Supreme Tribunal of the Apostolic Signatura: Removal and Incardination, Defamation, Economic Rights and Damages. Decision *coram* Schotte, 30 November 2002 (Salzburg, Austria).** (Sentence)

This case concerned an exclaustrated Carmelite. The Congregation for Institutes of Consecrated Life and Societies of Apostolic Life had extended the period of exclaustration and granted the Archbishop of Salzburg the faculty to receive him, thereby relieving him of his vows and incardinating him. However the priest proved a demanding character, making many financial demands and creating friction with the Sisters with whom he lived. As a result the Archbishop terminated his pastoral work and refused to incardinate him. He now sought revocation of this decision, restitution of his good name, immediate incardination, and financial compensation and remuneration. The Congregation had rejected his recourse in July 2000. He did not contest dismissal from the Carmelites which had followed. The Archbishop had informed him of refusal to incardinate within the five-year period established by canon 693. There was no evidence of any decree on the question of remuneration, and so the presupposition for recourse did not exist. As for the current financial predicament of the appellant, this was due mainly to his own conduct and disobedience in refusing to return to his religious community. His claims could not be sustained.

**695**

**SCL III (2007), 351-366: Supreme Tribunal of the Apostolic Signatura: Dismissal from a Religious Institute. Decision *coram* Coccopalmerio, 22 June 2002 (Bogotá, Colombia).** (Sentence)

This case concerned a priest of the Society of Jesus dismissed on account of allegations of sexual relationships with one or more women, in which the elements required by the Jesuit manual were verified: persistence in sin; external; contumacious; with scandal. He asserted that the allegations were false and the involvement was only emotional. While recourse was pending his superior issued a precept with regard to residence and also to presenting himself as a priest of the Society of Jesus. He had refused this, and sought recourse also against this. When the Congregation upheld these decisions, he brought an action before the Signatura. C. sets out the criteria for mandatory dismissal, and the procedure to be followed. There was no doubt that what was alleged constituted the offence claimed, but the appellant's rights had been denied by the failure to make known the proofs to him. Moreover, the proofs produced were insufficient to establish that the relationship had in fact been sexual. This did not mean that action could not be taken by him for actions not in accordance with celibacy, provided that the procedural norms were upheld.

**695**

**SCL III (2007), 425-436: Augustine Mendonça: Dismissal of a Religious from the Religious Institute for the Delict of Abortion.** (Opinion)

A religious priest in a long-standing relationship with a woman made her pregnant, and then insisted on and paid for an abortion. She complained to the superior, and the priest admitted the truth of the complaint. Assuming that the requirements for imputability are fulfilled, he incurs automatic excommunication. He is irregular for the exercise of orders. It is the responsibility of the competent authority to declare this after establishing the facts by due process. There is a further penalty specific to religious, *viz*. mandatory dismissal, again following due process. The difficulty in such cases lies less in establishing the facts than full juridic imputability, e.g. there may have been grave fear of the consequences of being discovered. M. sets out the steps to be followed for the process of mandatory dismissal.

## 708-709

**AkK 175 2/06, 397-416: Heribert Hallermann: Die Rechstellung der Deutschen Ordensobernkonferenz im kanonische Recht.** (Article)

H. deals with the newly-founded German Conference of Religious Superiors (*Deutsche Ordensobernkonferenz* – DOK), and comments on its history and its canonical status as a juridical person. He also explores certain general and specific questions arising out of the Constitutions of the DOK. He thus draws attention to an ecclesiastical institution that wishes to act, as before the Church and civil society, on behalf of the entire body of religious and their communities.

# BOOK III: THE TEACHING OFFICE OF THE CHURCH

## 747-748

**PCF IX (2007), 189-204: Trang Trong Dung: The Juridico-Canonical Foundation of the Rights of the Church in the Social Communication Apostolate.** (Article)

The relationship between the Church and the media of social communication has been a complex one. Generally speaking, however, the Church strives to understand these media and to recognise them as God-given gifts which, rightly used, can facilitate the fulfilment of her mission. She also encourages the faithful to use them to promote human development, justice and peace. In this study, D. explores the juridical dimension of the Church's right to use the media of social communication. This right is based on three grounds: (i) safeguarding the integrity of faith and morals; (ii) fulfilment of the Church's mission; and (iii) promoting the legitimate freedom and rights of the faithful. D. identifies and discusses the various canons, ecclesial and Papal documents, and other commentaries, which underpin this right.

## 750

**Ap LXXVII 3-4 (2004), 773-807: Luis Gahona Fraga: La problematica dell'*Ad tuendam fidem* alla luce della dottrina di San Tommaso d'Aquino.** (Article)

The *motu proprio Ad Tuendam Fidem* (18 May 1995) effected a change in canon 750 of the 1983 Code. G.F. examines the history of the doctrinal issues that underlie the new text, and develops a detailed examination of the Angelic Doctor's teaching on divine faith. In G.F.'s judgement the doctrine presented by St Thomas offers the best way so far discovered to resolve the problems associated with the assent of faith.

## 750

**PCF IX (2007), 189-204: Trang Trong Dung: The Juridico-Canonical Foundation of the Rights of the Church in the Social Communication Apostolate.** (Article)

See above, canons 747-748.

## 751

**AkK 175 2/06, 353-373: Marcus Nelles: Der Kirchenaustritt – kein „actus formalis defectionis".** (Article)

N. examines the way in which the German and Austrian Bishops' Conference have dealt with the circular letter from the Pontifical Council for Legislative Texts (13 March 2006) on the meaning of the concept of *actus formalis defectionis ab Ecclesia catholica*. He makes clear that the common practice in German-speaking countries of leaving the Church through a process involving the civil authorities is not a matter of formal apostasy, even though it would be understandable to regard such as an act as schismatic and therefore incurring excommunication. [Editor's note: for a different view see *Canon Law Abstracts*, no. 99, pp. 27-28.]

## 755

**AkK 175 1/06, 91-99: Gerhard Ludwig Müller: Der Bischof und die Ökumene.** (Conference presentation)

Given here is the text of a lecture given by M. in Rome on 20 September 2006, in which he deals with the duties of bishops in relation to ecumenical issues, in the light of recent magisterial teaching.

## 756-761

**PCF IX (2007), 189-204: Trang Trong Dung: The Juridico-Canonical Foundation of the Rights of the Church in the Social Communication Apostolate.** (Article)

See above, canons 747-748.

## 760

**For XVII/06, 247-250: Pope Benedict XVI: Fostering 'obedience to the truth'.** (Homily)

Text of homily concluding the Plenary Assembly of the International Theological Commission, 6 October 2006. Making the word present to the world involves purification of both thoughts and words, something that presupposes silence and contemplation. God is not the object of theology, but its subject. God speaks through theology. Obedience to the truth is the fundamental virtue for the theologian. St Thomas Aquinas spoke of his words as "straw", but

this must not be misconstrued. Straw bears the grain of wheat, and that makes it worthwhile.

### 767

**Ap LXXVIII 3-4 (2005), 737-763: Roberto José Follonier: Aspectos canónicos de la instrucción «Redemptionis Sacramentum».** (Article)

F. reviews the contents of the 2004 Instruction *Redemptionis Sacramentum* and gives more detailed consideration to the reservation of the duty of preaching the homily to ordained ministers.

### 781

**For XVII/06, 229-232: Pope Benedict XVI: Build a better world as 'signs of hope'.** (Message)

Text of message dated 22 May 2006 and addressed to the Second World Congress of Ecclesial Movements and New Communities. The Pope recalls the previous Congress in 1998, and takes up the current theme of the beauty of being Christian and the joy of communicating it. There can be no beauty without truth.

### 795

**Jesu Pudumai Doss: The Portrait of Youth in Church Law, in "Youth India: Situation, Challenges & Prospects", pp. 283-303.** (Article)

See above, canons 208-223.

### 796-821

**AkK 175 1/06, 32-67: Ulrich Rhode: Rechtliche Anforderungen an die Kirchlichkeit katolischer Vereinigungen und Einrichtungen.** (Article)

See above, canons 114-117.

## 807

**FCan II/1 (2007), 87-94: Eurico Dias Nogueira: O Ensino do Direito Canónico em Portugal.** (Address)

D.N., Emeritus Bishop of Braga, Portugal, delivered this *lectio sapientiae* at the Portuguese Catholic University, Lisbon, on 16 October 2006, to mark the official commencement of the licence in canon law. He first sets out the current situation concerning the teaching of canon law in Portugal. After referring to the juridical structure of the Church, he provides a historical survey from the beginning of Portuguese nationality until 1910, explaining developments and difficulties concerning canon law and ecclesiastical teaching in Portuguese universities during that period. After 1910 there followed a long period without canon law teaching at university level, except in major seminaries. From the 1940s on there were a number of initiatives to promote knowledge of canon law; and in 1989 the Centre of Canon Law Studies was created in the Portuguese Catholic University. On 21 December 2004 the Holy See canonically erected the Higher Institute of Canon Law and approved the licence course in canon law, which started in 2006-2007.

## 807-814

**LS 31 (2006), 238-258: Lieven Boeve: The Identity of a Catholic University in Post-Christian European Societies: Four Models.** (Article)

B. reflects on four possible strategies for responding to the growing secularisation that is threatening Catholic universities both from without and from within. These include the abandonment of all claims to Catholic identity; the reassertion of a distinctively confessional identity; the promotion of the university as a place where so-called Christian values, and humanitarianism in particular, are promoted; and the option to promote Catholic identity in all its particularity by means of an ongoing dialogue with the contemporary pluralistic context. Each of these options says something about both the university's self-understanding and its perception of its relationship to the culture in which it finds itself. In B.'s opinion the fourth would do more justice to the tradition, and offer more hope for the future, of Catholic universities in an increasingly pluralistic and post-secular context.

## 807-821

**FCan II/1 (2007), 47-69: Vincenzo Zani: Le università in Europa: Il "Processo de Bologna" e lo spazio comune europeo.** (Article)

Z., Undersecretary of the Congregation for Catholic Education, explains the main features of the "Bologna Process" and its aim of creating a "European Higher Education Area" by the year 2010 (see *Canon Law Abstracts*, no. 97, p. 55; no. 98, p. 59). After looking at the reasons behind the Bologna Process, he sets out the Holy See's position, taking into account the Church's efforts over the centuries to establish her own higher education institutions everywhere (cf. canon 807). The Holy See's adherence to the Bologna Process has a direct impact on ecclesiastical universities and faculties in Europe. Catholic universities are also affected, through the university systems of the different countries whose laws they follow. Z. offers a first evaluation of the steps taken to date in relation to the Process, and concludes with a consideration of cultural and pastoral possibilities for the future.

## BOOK IV: THE SANCTIFYING OFFICE OF THE CHURCH

### 834

**N XLIII 9-10/07, 543-555: Francis Arinze: Some Liturgical Insights from Joseph Ratzinger.** (Presentation)

A. offered this presentation to a Summer School on 28 July 2006, and picks out the following themes: centrality of liturgy; essence of Christian worship; Holy Eucharist; liturgical rites, formulation and inculturation; direction of Christian prayer; music and liturgy; body and liturgy; sacramental and liturgical theology.

### 834

**N XLIII 11-12/07, 611-636: Albert Ranjith: Bellezza e liturgia: quando l'arte diventa preghiera.** (Article)

R. considers the role of beauty in the Old Testament, and beauty and prayer in the New Testament. He then looks at comments by Origen, Augustine and Aquinas, before moving to the role of art in the Church, and how art becomes prayer.

### 838

**N XLIII 11-12/07, 600-610: Francis Arinze: The Role of Liturgical Norms in the Eucharistic Celebration.** (Article)

A. considers the development of liturgical norms, and their connections with the truths of Faith. They help preserve the vertical orientation of the Mass, healthy ecclesiology, unity and harmony in the Church, and encourage interest on the part of non-Catholics. Lack of observance brings harm, and is contrary to Scripture.

### 838

**RDC 55 2/05, 251-270: Marcel Metzger: La coutume, comme modèle pour le nouveau droit liturgique.** (Article)

M. argues that legislative practice does not seem adapted to the question of the way liturgical texts are received. In his opinion it is the model of custom which corresponds best to the episcopal conferences' role of regulating liturgical prayer and its expression in different languages.

**838**

**SCL III (2007), 17-23: Pope Benedict XVI: Apostolic Letter *Summorum Pontificum* issued Motu Proprio.** (Document)

This is the unofficial Vatican Information Service translation of the Latin text of the Apostolic Letter *Summorum Pontificum* (7 July 2007). After a preamble on the concern down the centuries of Popes for the sacred liturgy, culminating in the reforms promulgated by Pope Paul VI, the Holy Father refers to the continuing attachment of some to the previous liturgical forms, and permissions granted in 1984 and 1988. He then sets out new norms regulating the use of former liturgical books henceforth to be considered as the "extraordinary form" alongside the reformed books, which are the "ordinary form". According to circumstances, whether the celebration is public or private, for individuals, or for communities, permission is given for the use not just of the Missal of Pope John XXIII, but also the other liturgical books. The Pontifical Commission *Ecclesia Dei* is to supervise the application of these norms, and may have additional duties assigned to it.

**838**

**SCL III (2007), 23-26: Pope Benedict XVI: Letter to the Bishops of the World to Present "Motu Proprio" on the Use of the Roman Liturgy prior to the Reforms of 1970.** (Document)

In an accompanying Letter, also dated 7 July 2007, the Pope explains the reasons for the *motu proprio Summorum Pontificum*. He clarifies the relationship between the two forms of the one Roman Rite, and seeks to set aside fears that the liturgical reforms of Vatican II will be undermined. He emphasises the positive experiences arising from the granting of permission and reconciliation of groups by virtue of the 1988 legislation, and that the co-existence of the two forms should be mutually enriching. The primary motivation is to enable reconciliation at the heart of the Church, but there is also a desire to foster and preserve the riches of the Church's liturgical traditions.

# BOOK IV, PART I: THE SACRAMENTS

## 840-848

**William H. Woestman: Canon Law of the Sacraments for Parish Ministry.** (Book)

W.'s stated purpose with this book is to provide a reference work for anyone involved in pastoral ministry in parishes; it will also serve as a text book for seminarians and candidates for the permanent diaconate as they prepare to dedicate themselves to ministry in parishes. The book is divided into a preliminary chapter on the sacraments in general (including worship in common and general norms for the sacraments) followed by separate chapters for each sacrament, the titles and subtitles mirroring those of Book IV Part I of the 1983 Code, although with the addition of numerous additional sections dealing with specific practical and pastoral considerations. There are also seven Appendices, dealing with Churches without valid baptisms; the use of mustum and low-gluten hosts or wine alone; *latae sententiae* penalties; internal forum remission of censures; defection from the Church by a formal act; Pope Benedict XVI's *motu proprio Summorum Pontificum* (2007); and sample form letters concerning the administration of the sacraments. There is also a short bibliography, and a glossary of terms. (For bibliographical details see below, Books Received.)

## 844

**AkK 175 2/06, 473-485: Christoph Ohly: Gravis necessitas. Erwägungen zu einem unbestimmten Begriff der kirchlichen Gesetzbücher.** (Article)

O. deals with the term *gravis necessitas* in both the Latin and Eastern Codes. Canon 257 §1 of the Latin Code speaks of preparing seminary students to be ready to devote themselves to particular Churches which are "beset by grave need"; canon 844 §4 allows certain forms of sacramental sharing when there is some "grave and pressing need" (cf. canon 671 §4 of the CCEO); canon 961 §1 2º deals with general absolution when "there exists a grave necessity" (cf. canon 720 §2 2º of the CCEO); and canon 1263 talks of the bishop's right to impose an extraordinary tax "in grave necessity". With the help of two criteria of judicial language – certainty and uniformity – O. examines the various ways in which the terms *necessitas* and *gravis necessitas* are used, in order to put forward a proposal from the point of view of judicial language. He stresses the need to define the content of this vague term in a univocal manner, especially in so far as it relates to sacramental law.

### 844

**CLSN 152/07, 30-34: Gordon Read: CDF on "The Doctrine of the Church".** (Article)

See above, canon 204.

### 844

**ELJ IX 9/07, 264-287: Eithne D'Auria: Sacramental Sharing in Roman Catholic Canon Law: A Comparison of Approaches in Great Britain, Ireland and Canada.** (Article)

D'A. examines the framework established by the Catholic Church for sacramental sharing between Christians genuinely prevented from receiving the sacraments in their respective Churches and ecclesial communities. She first considers the Catholic canonical requirements for sacramental sharing, and then addresses the approach taken in the ecclesiastical jurisdictions in Great Britain and Ireland, comparing it with that of Canada. Finally, suggestions for reform are considered.

# BOOK IV, PART I, TITLE I: BAPTISM

## 849-878

**SCL III (2007), 327-350: Jose Chiramel: Sacraments of Initiation in the Latin and Eastern Codes: a Comparative Study.** (Article)

C. sets out in summary form a comparison between the norms of the Latin and Eastern Codes on the sacraments of initiation, baptism, confirmation or chrismation, and reception of the Eucharist. He notes the desire expressed in the 1996 Instruction from the Congregation for the Eastern Churches for a return to the traditional practice, particularly where some Eastern Churches, e.g. the Syro-Malabar Church, currently delay reception of the Eucharist until the age of reason.

## 849-878

**William H. Woestman: Canon Law of the Sacraments for Parish Ministry.** (Book)

See above, canons 840-848.

## 872-874

**FCan II/1 (2007), 133-148: Abel Braga Arantes de Faria: Padrinhos de Baptismo: História, Actualidade e Desafios.** (Article)

F. deals with certain aspects of the history and current canonical legislation on baptismal sponsors, looking in particular at the sponsors as guarantors of good intentions and faith; the godfather and godmother as a second father and mother; the need for sponsors; the qualifications for this role; and challenges for the new evangelisation.

## 874

**FI 4 (2005), 159-188: Janusz Gręźlikowski: Wymiar prawny pozostawania katolika w związku niesakramentalnym ( = The legal aspects of a Catholic in a non-sacramental relationship).** (Article)

See below, canon 915.

## BOOK IV, PART I, TITLE II:
## THE SACRAMENT OF CONFIRMATION

### 879-896

**SCL III (2007), 327-350: Jose Chiramel: Sacraments of Initiation in the Latin and Eastern Codes: a Comparative Study.** (Article)

See above, canons 849-878.

### 879-896

**William H. Woestman: Canon Law of the Sacraments for Parish Ministry.** (Book)

See above, canons 840-848.

### 893

**FI 4 (2005), 159-188: Janusz Gręźlikowski: Wymiar prawny pozostawania katolika w związku niesakramentalnym ( = The legal aspects of a Catholic in a non-sacramental relationship).** (Article)

See below, canon 915.

## BOOK IV, PART I, TITLE III: THE BLESSED EUCHARIST

### 897

**Ap LXXVIII 1-2 (2005), 9-64: Congregatio de Culto Divino et Disciplina Sacramentorum: Instructio.** (Document)

Text in Latin of the Instruction *Redemptionis Sacramentum* concerning the discipline to be observed with regard to the Blessed Eucharist, approved by Pope John Paul II and issued by the Congregation for Divine Worship and the Discipline of the Sacraments on 25 March 2004.

### 897

**Ap LXXVIII 1-2 (2005), 329-373: Natale Loda: L'Eucaristia, sacramento della redenzione e l'istruzione *Redemptionis Sacramentum* (su alcune cose che si devono osservare ed evitare circa la Santissima Eucharistia).** (Article)

L. locates the 2004 Instruction *Redemptionis Sacramentum* in the context of Pope John Paul II's encyclical *Ecclesia de Eucharistia* (2003). He presents the liturgical and juridical frames of reference together with the purpose of the Instruction before giving some detailed analysis of the text. The study is completed by references to its impact on certain groups both within and outside the Church, including the Instruction's ecumenical significance.

### 897

**Ap LXXVIII 3-4 (2005), 737-763: Roberto José Follonier: Aspectos canónicos de la instrucción «Redemptionis Sacramentum».** (Article)

See above, canon 767.

### 897

**N XLIII 7-8/07, 442-448: Raymond Burke: The Instruction "Redemptionis Sacramentum" I.** (Comment)

Excerpts from a series of articles published by Archbishop Burke, covering the purpose of the Instruction, the reality and sources of liturgical abuses, authority over the liturgy, and the liturgical rights of the faithful.

### 897

**N XLIII 9-10/07, 556-576: Raymond Burke: The Instruction "Redemptionis Sacramentum" II.** (Comment)

A second series of extracts from articles by Archbishop Burke, covering the matter of the Eucharist, the Eucharistic Prayer, other parts of the Mass, Readings and Homily, other norms, joining other rites to the Mass, roles of lay people, especially pastoral assistants and extraordinary ministers, preaching, and celebrations in the absence of a priest.

### 897

**PCF IX (2007), 137-160: Augustine Mendonça: The Eucharist in the Life and Mission of a Canonist.** (Article)

This study is in four sections: I. The Eucharist as a Sacrament of God's love; II. The Eucharist in the life and Mission of the Church; III. The Eucharistic Dimension of Canon Law; and IV. The Eucharist in the Life and Mission of Canonists. Drawing on, amongst other sources, the pertinent decrees of the Second Vatican Council, the Code of Canon Law, and the encyclicals and allocutions of Pope John Paul II, M. is personally convinced that since canon law is rooted in the nature of the Church, and the Eucharist is the "centre" or "heart" of the Church, it follows that canon law necessarily has a Eucharistic dimension. He emphasises that Eucharistic values must permeate every aspect of ecclesial legislation, since both ecclesial law and the Eucharist have as their ultimate goal the *salus animarum*. Accordingly, the ministry "not only of a judge but also of every person involved in the interpretation and application of canon law will be void and lifeless unless it is sustained by a life of prayer rooted in the Eucharistic devotion in and outside the Mass."

### 897-933

**SCL III (2007), 327-350: Jose Chiramel: Sacraments of Initiation in the Latin and Eastern Codes: a Comparative Study.** (Article)

See above, canons 849-878.

### 897-958

**William H. Woestman: Canon Law of the Sacraments for Parish Ministry.** (Book)

See above, canons 840-848.

## 902

**N XLIII 9-10/07, 535-542: Congregatio de Cultu Divino et Disciplina Sacramentorum: Le grandi celebrazioni: una riflessione in corso.** (Article)

The 2005 Synod of Bishops asked for study of concelebration with a large number of concelebrants (Proposition 37). In March 2007 the Congregation organised a meeting to consider this. The principle must be that such a celebration is truly a moment of prayer and an authentic manifestation of the hierarchically ordered Church. Preparation is essential. Participation must not just be external. With large numbers there are various practical difficulties, e.g. confining the music to a choir, minimal bodily gestures, hearing the word, silence and recollection. Liturgical space can be subordinated to pastoral logic. Consideration needs to be given to location, also decorum and liturgical discipline. There can be particular problems when concelebrants are at a great distance. The Holy See would welcome input in the light of local experience over the next year.

## 915

**FI 4 (2005), 159-188: Janusz Gręźlikowski: Wymiar prawny pozostawania katolika w związku niesakramentalnym ( = The legal aspects of a Catholic in a non-sacramental relationship).** (Article)

From the teaching and legislation of the Church on the sacramentality and indissolubility of marriage it is clear that those who live in non-sacramental relationships remain members of the Church, which does not distance itself from them but is greatly concerned about their situation. According to Church law, persons living in non-sacramental relationships are not allowed to receive the sacraments of Penance or the Eucharist because they live in the sin of adultery or at least in a constant occasion of sin. Nor are they allowed to be godparents or sponsors, lectors, acolytes or catechists. The faithful living in civil relationships after breaking off from the sacramental community may undertake different tasks in the Church, within the limits prescribed and specified by canon law. Priests need to show understanding and goodwill, and help to create a climate for bringing them back to sacramental life. The teaching and legislation of the Church also recommend that Church tribunals and priests help spouses living in non-sacramental relationships to apply – in justified cases – for a declaration of invalidity of their first marriage. They should be aware of their legal situation.

## 915

**IE XVIII 3/06, 629-665: Giorgio Zannoni: Eucaristia e Communio: pastorale dei « fedeli irregolari ».** (Article)

In the light of the 2005 Synod of Bishops and some recently published material, Z. deals with the question of the reception of Communion by divorced faithful who have contracted a new civil marriage. He addresses the problem from the point of view of theology, anthropology, the various aspects of marriage and the matrimonial process, and pastoral and penitential praxis, before offering some conclusions under the heading of tolerance and truth.

## 915

**RDC 55 2/05, 393-421: Claire Senon-Duplessis: L'Église Catholique et les fidèles divorcés remariés: les huit thèses du cardinal Ratzinger (1ère partie).** (Article)

See below, canon 1055.

## 916

**IE XIX 1/07, 37-53: Carlos José Errázuriz M.: Le disposizioni richieste per ricevere l'Eucaristia, alla luce del canone 916 del Codice di Diritto Canonico.** (Lecture)

The purpose of this lecture to the Fathers of the Apostolic Penitentiary was to deal with moral questions that may arise in the penitential ministry in relation to canon 916. As a canonist, E. feels a certain degree of concern, firstly at being asked to comment on matters of a moral nature, and secondly at the fact that the Code includes non-canonical matters such as the duty to strive for sanctity in canon 210. He also believes that it is good to avoid the reduction of moral demands to the realm of merely juridical duties, that is, of intra-ecclesial justice. Separately he studies the background to the canonical precept of canon 916 and its interpretation.

## 951

**FCan II/2 (2007), 159-166: Sebastião Pires Ferreira: Missa *pro populo* e suas atinências.** (Article)

A minister who is validly ordained and not impeded, and who observes the canonical norms, may celebrate the Eucharist and apply it for any person living or dead. By the third century Mass was already being celebrated for the

"people". This practice for bishops and pastors was later transformed into the canonical norm, based on a duty of justice which almost amounts to a contract: the pastor receives benefits and accepts the office on condition that he spontaneously offers the Mass for his flock. In the eighth century, when stipends were already in use, but more especially in the time of the Council of Trent, the Church, which had always allowed stipends but never imposed them, issued precise norms so as to avoid even the slightest appearance of trafficking. P.F. deals with the question of whether a priest who is obliged in justice to celebrate a Mass *pro populo*, and who celebrates another Mass that day, may receive a stipend for that second Mass. This doubt appeared because of differences between the 1917 and 1983 Code. The interpretations of various authors are presented.

## BOOK IV, PART I, TITLE IV:
## THE SACRAMENT OF PENANCE

### 959-997

**William H. Woestman: Canon Law of the Sacraments for Parish Ministry.** (Book)

See above, canons 840-848.

### 961

**AkK 175 2/06, 473-485: Christoph Ohly: Gravis necessitas. Erwägungen zu einem unbestimmten Begriff der kirchlichen Gesetzbücher.** (Article)

See above, canon 844.

### 987

**FI 4 (2005), 159-188: Janusz Gręźlikowski: Wymiar prawny pozostawania katolika w związku niesakramentalnym ( = The legal aspects of a Catholic in a non-sacramental relationship).** (Article)

See above, canon 915.

## BOOK IV, PART I, TITLE V:
## THE SACRAMENT OF ANOINTING OF THE SICK

### 998-1007

**William H. Woestman: Canon Law of the Sacraments for Parish Ministry.** (Book)

See above, canons 840-848.

## BOOK IV, PART I, TITLE VI: ORDERS

### 1008-1054

**William H. Woestman: Canon Law of the Sacraments for Parish Ministry.** (Book)

See above, canons 840-848.

### 1044

**SCL III (2007), 425-436: Augustine Mendonça: Dismissal of a Religious from the Religious Institute for the Delict of Abortion.** (Opinion)

See above, canon 695.

## BOOK IV, PART I, TITLE VII: MARRIAGE

### 1055

**CLSN 152/07, 51-66: Exclusion of the Bonum Coniugum, *coram* Turnaturi, 13 May 2004 (Italy).** (Sentence)

See below, canon 1101.

### 1055

**For XVII/06, 385-434: Héctor Franceschi: "Bonum prolis" in the married state of life and the canonical consequences in case of separation or nullity of marriage.** (Article)

See below, canon 1136.

### 1055

**IE XIX 1/07, 99-136: Tribunale della Rota Romana. *Spiren*. Nullità del matrimonio. Dolo. Sentenza definitiva, 31 gennaio 2002, Erlebach, *Ponente* (con *nota* di H. Franceschi F., *Il fondamento giuridico del dolo come causa di nullità del matrimonio e la questione della retroattività o meno del canone 1098*).** (Sentence and commentary)

See below, canon 1098.

### 1055

**LJ 159/07, 114-128: David McIlroy: Legislation in a context of moral disagreement: the case of the Sexual Orientation Regulations.** (Article)

In the light of these recent UK Regulations, McI. examines the disagreement regarding both homosexuality and religion as an identity. Religion is increasingly seen as a matter of personal choice, not at the heart of one's identity, and therefore homosexuality has priority as being part of one's identity. Christians hold a distinction between preferences, identity and conduct. McI. examines the implication of this disagreement, and the Church's concern at the effect of legal recognition of "civil partnerships" on the Christian concept of marriage.

## 1055

**PCF IX (2007), 267-282: Exclusion of Sacramental Dignity. Decision *coram* Boccafola, 6 May 2004 (Czech Republic). (Sentence)**

The only ground pleaded in the case presented here was that of exclusion of the sacrament of marriage by both parties. The respondent was cited twice but did not respond, and was therefore declared absent from the trial. The petitioner's brother and parents testified as witnesses. On 6 October 1997, the first instance tribunal gave an affirmative decision, declaring the nullity of the marriage. The defender of the bond appealed against this decision. The appeal tribunal admitted the case to an ordinary examination in the second instance. The respondent was interviewed. On 7 December 1998 the appeal tribunal overturned the affirmative decision of the first instance. The petitioner appealed against this decision and the case was referred to the Apostolic Tribunal of the Roman Rota. On 6 May 2004, the Rota declared, in a sentence *coram* Kenneth E. Boccafola, that there was no proof of invalidity of marriage on the alleged ground.

## 1055

**RDC 55 2/05, 393-421: Claire Senon-Duplessis: L'Église Catholique et les fidèles divorcés remariés: les huit thèses du cardinal Ratzinger (1ère partie).** (Article)

In 1998 the Congregation for the Doctrine of the Faith published a book on the pastoral care of divorced and remarried persons. In his introduction, Cardinal Ratzinger sums up in eight theses the Catholic doctrine on the situation in the Church of divorced and remarried persons. These theses take up four themes in turn: the ecclesial situation of divorced and remarried faithful (theses 1 and 2), the proposal for active participation in the life of the Church (theses 3 to 5), possible means of regularisation of their situation (theses 6 and 7), and lastly the question of the future (thesis 8). S.-D. proposes to present these theses and comment on them, bringing out the questions they raise in law, theology and pastoral care. In this article she examines theses 1 to 4.

## 1055

**RTL 38 (2007), 518-534: André Haquin: Le nouveau rituel du mariage (2005).** (Article)

See below, canon 1108.

## 1055

**SCL III (2007), 11-16: Pope Benedict XVI: Allocution to the Members of the Tribunal of the Roman Rota.** (Allocution)

In his address to the Rota for 2007 the Pope picks up the theme of the hermeneutic of continuity. Many of the faithful are influenced by relativism and juridical positivism, and this is seen when the teaching of *Gaudium et Spes*, no. 48, is understood as a rupture with the past. The teaching of Popes Paul VI and John Paul II, and the legislative activity of the Church, emphasise renewal in continuity. Indissolubility of marriage is intrinsic to the bond established by the Creator, not just an expression of the commitment of the parties. Love and Law are interwoven. The juridical nature of marriage belongs in the context of justice in interpersonal relations. Tribunals can contribute to overcoming the crisis in the meaning of marriage by upholding the hermeneutic of continuity and the truth about marriage that Jesus taught.

## 1055

**SCL III (2007), 53-72: Kenneth Boccafola: Reflections of a Rotal Auditor on the *Bonum Coniugum.*** (Article)

B. does not seek to set out a comprehensive treatment, but his own understanding of how the "good of the spouses" became part of the 1983 Code, and its juridical nature. He prefers to speak of the "good of spouses" as an "end" of marriage, but "ordination to the good of spouses" as an essential element. Some jurisprudence has treated it as independent of the three traditional goods, but if this is true psychologically, it does not mean they are ontologically different, or that it is not subsumed within them. He explores the implications in terms of canons 1095 3° and 1101 §2, but thinks it less applicable in 1095 2°. He concludes by looking briefly at two Rotal decisions discussed by Mendonça in *The Jurist* 62 (2002), 378-420 (cf. *Canon Law Abstracts*, no. 93, pp. 73-74).

## 1055

**SCL III (2007), 307-326: Luigi Sabbarese: Faith, Intention and Sacramental Dignity in Marriages among the Baptized.** (Article)

S. summarises the views of experts on the lack of faith and exclusion of the sacrament, and then looks as Rotal jurisprudence on the subject, beginning with a decision by Serrano in 1986. Jurisprudence has not been uniform, and there has been a certain development over the years. Faith is not required for validity, only consent, but total absence of faith, or its rejection may result in the

exclusion of sacramentality, a ground for nullity either as error determining the will (canon 1099) or simulation, whether partial or total (canon 1101 §2).

### 1055-1057

**EE 82 (2007), 807-824: Juan José García Faílde: El consentimiento matrimonial, desde la fisiología y patología del acto libre.** (Article)

G.F. recalls the fundamental notions concerning marital consent and examines the elements of the free act, from the point of view of the understanding and will and their possible pathologies, bearing in mind the psychosomatic reality of the human person. He looks at how freedom may be affected by lack of due discretion, fear, or some psychopathology affecting the will but not preventing the intellect from making the act of deliberation. He then dedicates a section to factors that may affect the will, dwelling in particular on affectivity and pathological motivations.

### 1055-1165

**William H. Woestman: Canon Law of the Sacraments for Parish Ministry.** (Book)

See above, canons 840-848.

### 1057

**PCF IX (2007), 323-330: Hermogenes E. Bacareza: Homosexuality as an Invalidating Ground of Marriage.** (Sentence)

On 21 June 2002, a petitioner, convinced that his marriage had not been validly contracted, appealed for a declaration of nullity on the ground of force and fear. One year later, the first instance tribunal issued a negative decision because of lack of evidence to corroborate the petitioner's claim. The petitioner appealed against the decision to the National Appeal Tribunal in Manila, requesting a re-examination of the case. On 7 January 2006, the doubt was formulated with homosexuality as the new ground of nullity. The judges of the National Appeal Tribunal declared that the nullity of marriage had been proven with moral certitude on the ground of homosexuality on the part of the respondent.

## 1060

**FCan II/1 (2007), 71-86: Dominique Le Tourneau: La protection de la vérité dans les discours de S.S. le Pape Jean-Paul II à la Rote Romaine (1979-2005).** (Article)

"The task of every legal system is to serve the truth." This statement of Pope John Paul II is illustrated in two points through his Addresses to the Roman Rota, which even if they are not normative, must be considered part of the authentic Magisterium and an expression of the mind of the legislator. First, Le T. deals with the demands of the truth in relation to causes of nullity of marriage, limiting the field of truth to its relationship with the law, and considering its basis, the starting point for which is a correct philosophical and theological anthropology. He then approaches the truth in processes of declaration of nullity of marriage, the outcome of which is not to be decided in advance. The *ministerium veritatis* of the judge must be taken into account first, before reviewing the role of all the other parties in the process, who should be aware that they dealing with a sacred reality and an issue which concerns the salvation of souls.

## 1078

**QDE 20 (2007), 320-333: Mauro Rivella: I matrimoni fra cattolici e musulmani in Italia. Le indicazioni della Presidenza della CEI.** (Article)

See below, canon 1086.

## 1086

**AkK 175 2/06, 353-373: Marcus Nelles: Der Kirchenaustritt – kein „actus formalis defectionis".** (Article)

See above, canon 751.

## 1086

**AkK 175 2/06, 374-396: Ludger Müller: Die Defektionsklauseln im kanonischen Eherecht. Zum Schreiben des Päpstlichen Rates für Gesetzestexte an die Vorsitzenden der Bischofskonferenzen vom 13. März 2006.** (Article)

According to the Declaration of the Pontifical Council for Legislative Texts (13 March 2006) concerning an *actus formalis defectionis ab Ecclesia catholica* in reference to canons 1086 §1, 1117 and 1124 of the 1983 Code, the act of

defection has to be made before the ecclesiastical authority. A manifestation before a government authority is not enough. This Declaration, approved by the Supreme Pontiff Benedict XVI, provides a basis for ecclesiastical administration and jurisprudence and it cannot be altered by any decisions made by the bishops' conference. The assumption that the Declaration leads to no changes in the legal situation in Germany is, in view of the ecclesiastical marriage law, incorrect.

## 1086

**Ap LXXVIII 1-2 (2005), 429-461: Maria Rita Vitale: Sviluppi teologici e giuridici della dottrina medievale sulla *disparitas cultus:* da Pietro Lombardo alla Glossa Ordinaria al *Decretum Gratiani*.** (Article)

V. traces the development of the thinking of theologian and canonists of the twelfth and thirteenth centuries faced with marriage issues arising from the Muslim presence in the Mediterranean countries. She concludes by reminding us that the basis of the current canonical discipline is to be found in medieval times.

## 1086

**IE XIX 1/07: 245-268: Pontificio Consiglio per i Testi Legislativi: Actus formalis defectionis ab Ecclesia Cattolica, 13 marzo 2006 (con *nota* di F. Marti, *Quali novità riguardo all'atto formale di defezione dalla Chiesa cattolica di cui ai cc. 1117, 1086 §1 e 1124? Un commento alla Lettera Circolare del PCTL del 13 marzo 2006*).** (Document and commentary)

The "formal act of defection" is new in canonical legislation. It differs from the "notorious" act of defection in canons 171, 694, and 1071, or the simply "public" act of defection in canons 194 and 316. The Pontifical Council for Legislative Texts specifies what the term means for the purposes of canons 1086, 1117 and 1124. In his commentary M. points out that the structure of the document – a circular letter addressed to the presidents of episcopal conferences – is such as to suggest that it is intended principally for practitioners of canon law. It sets out the criteria and the procedures to be followed regarding exemption from canonical form for those who have formally defected. Foreseeing further doubts and questions regarding the effects of the document on the canonical order, M. puts forward some practical considerations.

## 1086

**QDE 20 (2007), 320-333: Mauro Rivella: I matrimoni fra cattolici e musulmani in Italia. Le indicazioni della Presidenza della CEI.** (Article)

The increasing number of Muslim immigrants in Italy in recent years has presented many difficulties with integration, mutual understanding and acceptance. In this context the Italian Episcopal Conference issued directions entitled *Marriages between Catholics and Muslims in Italy* in 2005. The document is not a juridical document, nor is it a magisterial document on behalf of the Italian Bishops. Its primary purpose is to furnish pastors and the faithful with useful information in order to understand better the situation facing a couple entering an interreligious marriage in the Church. It also aims to foster a more homogeneous pastoral practice in Italy in relation to Catholic-Muslim marriages. Recent pastoral experience has found such marriages to be problematic and any preparation must familiarise the couple with the potential difficulties and challenges which they will face. The document addresses the pastoral context, the Christian vision of marriage, the preparation recommended for an interreligious marriage and the celebration of the marriage. The appendix explains the nature of the impediment of disparity of cult, the Muslim faith, and marriage in the Islamic tradition. The directions contained in the document are aimed at assisting priests and catechists who do not feel qualified enough to prepare Catholics and Muslims who wish to marry each other. R. examines the dispensation of the impediment from disparity of cult in the light of the pastoral and cultural issues explored in the document, which must avoid both a mistaken pastoral benevolence to grant all requests and a blanket refusal of such requests which would undermine the Catholic party's natural right to marriage.

## 1088

**RDC 55 2/05, 325-339: Rémy Lebrun: L'empêchement du canon 1088.** (Article)

In canon law marriage and the vows consecrated by profession are two mutually exclusive states. Canon 1088 declares that the marriage of individuals bound by a public perpetual vow of chastity in a religious institute would be invalid; this is referred to as "the impediment due to vow". However, history reveals that initially the impediment did not derive from the vow itself but from religious profession. L. therefore concludes that, to be more precise, it should be said that it is the marriage of perpetually professed religious that is invalid.

### 1095-1096

**EE 82 (2007), 807-824: Juan José García Faílde: El consentimiento matrimonial, desde la fisiología y patología del acto libre.** (Article)

See above, canons 1055-1057.

### 1095-1103

**SC 41 (2007), 237-277: Anne Asselin: L'interrogation des parties et des témoins dans la cause en nullité de mariage selon la formulation du doute.** (Article)

See below, canon 1428.

### 1095 2º

**Ap LXXVII 3-4 (2004), 697-732: Angelo D'Auria: Patologia della libertà e sua incidenza sulla *capacitas praestandi matrimonialem consensum.*** (Article)

D'A. indicates that the purpose of this study is to develop understanding of the "lack of due discretion in the matrimonial consent" that is employed in many marriage nullity claims. The study includes considerations on the mutual capacity of the parties; the critical capacity to appreciate marriage; the proportionate discretion and freedom, together with the consequences of defects in internal freedom and fear.

### 1095 2°

**For XVII/06, 454-483: Metropolitan Tribunal of Malta, *coram* Said Pullicino: Nullity of Marriage, Lack of Discretion (Gender Dysphoria), November 30, 2005.** (Sentence)

The petitioner had a troubled childhood and from the age of about four increasingly felt she was a boy trapped in a girl's body. She wanted to marry as soon as possible to escape home, and did so after a short courtship. Throughout the courtship and marriage she denied the respondent a sexual relationship, apart from once when she had too much to drink. This led to pregnancy, and cohabitation continued for six years, with increasingly heavy drinking on her part. P. explores the lack of development of affective maturity in the context of transsexualism and gender identity disorder. The problem arises where there is a clear genetic identity, but the person psychologically feels he or she pertains to the other gender. There is no rapport with one's own body, which is seen as a burden or enemy. There must be a strong and persistent cross-gender

identification, associated with a significant impact on ability to function. P. quotes the criteria set out in an article by Navarrete (*Periodica* LXXXVI 1/1997, 106-108: cf. *Canon Law Abstracts*, no. 80, p. 81)). It is more difficult when the person has not opted for surgery by the time of the wedding, or that of the process, since this brings into question the degree of psychological distress. The motive of the petitioner in this case was not to remarry, but to help the respondent. The decision was affirmative.

### 1095 2º

**PCF IX (2007), 283-304: Defect of Discretion of Judgement and Reverential Fear (Affective Immaturity). Decision *coram* Bottone, 15 May 2003 (Italy).** (Sentence)

On 1 June 1992, the petitioner presented a request to the competent tribunal, seeking a declaration of invalidity of his marriage on two grounds, defect of discretion of judgement on his own part, and fear inflicted on him by his parents, particularly his father. The instruction of the case was long and beset with many difficulties. On 10 April 1999 the first instance tribunal issued an affirmative decision on the ground of defect of discretion of judgement on the part of the petitioner. The tribunal, however, dismissed the ground of force and fear by a negative decision. The respondent appealed against this decision to the Roman Rota, which overturned the affirmative sentence by a decree on 24 October 2000. The case was remitted to an ordinary examination at second instance. On 15 May 2003, in a sentence *coram* Angelo Bruno Bottone, the Tribunal of the Roman Rota issued a negative sentence, declaring that there was no proof of invalidity of marriage on either of the alleged grounds on the part of the petitioner.

### 1095 2º-3º

**Ang 84 (2007), 403-422: Sebastiano Villeggiante: Ancora in tema di incapacità matrimoniale.** (Article)

V. first sets out a summary of a contribution he made in 1976 as part of the preparatory work for the revision of the Code of Canon Law, the theme in question being “matrimonial consent and psychic incapacity”. He now reflects on what he describes as the disastrous effects of an all-too-easy acceptance of any cause of a psychic nature (or any cause which in the hands of accredited experts can be turned into a cause of a psychic nature) as being proof of incapacity under canon 1095 – to the extent that many people have been led to believe that the Church now accepts divorce. For some considerable time there has been a tendency on the part of tribunals to treat “difficulty” as equivalent to

"impossibility", despite the famous Address of Pope John Paul II to the Rota in 1988, which V. describes as a "voice crying in the wilderness" since it is so often ignored in practice. He discusses the true meaning of impossibility to assume the essential obligations of marriage, distinguishing n. 3 of canon 1095, which involves the impossibility (not just "difficulty") of assuming the obligations because of some "structural" incapacity, or incapacity acquired through inveterate vice, from n. 2 of the same canon, where incapacity to assume, as such, is not relevant, since what is at issue is a lack of internal freedom, meaning that the party concerned is unable to give free consent. The phrase *ob causas naturae psychicae* in n. 3 may have given rise to the erroneous idea that there is no real difference between nn. 2 and 3, since in n. 2 there is also a cause of a psychic nature which brings about the lack of discretion of judgement: this is an incorrect understanding, as n. 3 is concerned with causes that impede the assumption of obligations even though the party in question freely expresses the desire to marry. V. is critical of various tribunal practices and abuses which result in the granting of nullity verdicts for spurious reasons. Some of these abuses he attributes to the introduction of phenomenological considerations, which have led to a rupture of the intellect-will binomial in the human person – something which was previously considered to all intents and purposes indissoluble and irreplaceable.

### 1095 2º-3º

**IE XVIII 3/06, 669-701: Tribunale della Rota Romana: *Toletana in America*. Nullità del matrimonio. Grave difetto di discrezione di giudizio. Incapacità di assumere gli oneri coniugali essenziali. Sentenza definitiva, 26 giugno 2000. Stankiewicz, *Ponente* (con *nota* di G.M. Corsi).** (Sentence and commentary)

After sixteen years of marriage and two children, aged 15 and 12, the wife respondent obtained a civil divorce. Two years later, in order to recover his free status in the canonical forum, the husband petitioner requested a declaration of nullity in the ecclesiastical tribunal. The first instance acts contained defects concerning the inspection of the assembled proofs (cf. canon 1598 §1), and the role of the defender of the bond (cf. canon 1432); in addition, the sentence made no specific reference to the grounds of nullity, the petitioner or the respondent, and the terms of the publication were restricted in spite of the respondent's clear manifestation of being ready to be reconciled to her husband (cf. canon 1615). Despite the petitioner's complaint, the interdiocesan appeal tribunal, after hearing the defender, stated that the Church's procedural laws had been adhered to at first instance, and ratified the verdict. At the petitioner's appeal, the Rota decreed the nullity of the two sentences; and by virtue of a concession granted by the Dean of the Rota, the case was heard as at first instance by the Rota

itself. A negative decision – on the grounds of lack of discretion of judgement and incapacity to assume the essential obligations of marriage in both parties – was given by the Rota. The case went on appeal to another *turnus* of the Rota. The evidence was overwhelming. The initial sentence given by the first instance tribunal shows much confusion between juridical elements and generic assertions regarding psychological immaturity, as expressed in the report of one of the two experts. In the accompanying commentary on the sentence by Gina Maria Corsi (†) particular attention is paid to the constitutive elements of discretion of judgement, and what may cause it to be lacking.

### 1095 2º-3º

**IE XVIII 3/06, 702-715: Tribunale della Rota Romana: Reg. Calabri seu Cosentina-Bisinianen. Nullità del matrimonio. Grave difetto di discrezione di giudizio. Sentenza definitiva, 6 ottobre 2005. Bottone, *Ponente*.** (Sentence)

The couple stayed together for eleven years and had two children. Their relationship prior to the marriage was very brief, and around the time of the wedding and afterwards the husband was badly affected by the death of his father. There were continuous conflicts from the beginning. The amount of time they spent together was considerably reduced, because for professional reasons they could only be with one another at weekends. Having established a relationship with another man, the wife asked for a separation, refusing reconciliation. The husband approached the ecclesiastical tribunal three years later on the ground of lack of due discretion in both parties. The first instance verdict was negative on both grounds, and after the petitioner's appeal, the second instance tribunal decided in the affirmative on the ground against the petitioner. The Rota judged only this ground and gave an affirmative verdict, adding a *vetitum*. The sentence emphasises that, with regard to his psychic condition, all the evidence from witnesses and experts refers clearly to the moment of the wedding.

### 1095 2º-3º

**SCL III (2007), 53-72: Kenneth Boccafola: Reflections of a Rotal Auditor on the *Bonum Coniugum.*** (Article)

See above, canon 1055.

## 1095 3°

**For XVII/06, 435-453: Apostolic Tribunal of the Roman Rota, *coram* Sciacca: Decree – Nullity of Marriage – Inability to Assume (Vaginism), December 16, 2004.** (Decree)

This decree ratifies the decision of the appeal court made as at first instance, the original grounds having been impotence in the female respondent, and inability to assume in the petitioner. S. comments that while the sentence was scantily written, it can still be ratified if it contains all that is necessary for the judges to reach the same conclusion. It is not the job of the Rota to subject a case to full examination simply because of the intellectual poverty of the sentence. He comments on the importance of sexuality in marriage highlighted in the *Catechism of the Catholic Church* as well as Rotal jurisprudence. In this case while intercourse may have taken place on several occasions it was always with severe psychosexual difficulties on the part of the wife. While she blamed in part premature ejaculation on the part of the petitioner, her own demeanour at interview showed she was ill at ease in talking about intimate matters. There was a pre-history of difficulty over menstruation and the need for surgical intervention to break the hymen. Both she and her mother suffered from medical problems in a breast, and her parents slept apart, all of which influenced her psychosexual maturity.

## 1096-1100

**FCan II/1 (2007), 23-45: Lourdes Ruano Espina: El error y el dolo en el matrimonio canónico.** (Article)

About error – one of the most complex grounds for nullity of marriage – there has been and still is a great deal of active debate in doctrine and jurisprudence. R.E. aims to clarify the significance of the canons regulating error in the 1983 Code, looking at the legislative antecedents of the current norms and how they have been dealt with in jurisprudence. Without doubt significant progress has been made in the legal regulation of this topic. R.E. concludes that in the present Code “error about a person” is a different and independent concept from “error about a quality”. It may be that the discussion as to the “identifying quality” in the previous tradition was justified because the true concept of “person” had not yet been properly established and the norm was too closely linked to the “corporeal” aspect alone. In the current law the prevalence of the intention of the contracting party is clear, and this is more in harmony with the consensual nature of marriage and the personalist conception of the marriage partnership presented by the Second Vatican Council.

## 1097

**FCan II/2 (2007), 25-55: José António Silva Marques: O conhecimento do cônjuge e o erro relevante.** (Article)

S.M. analyses the meaning of error in canon 1097 from the point of view of the spouse's knowledge. In the first part of the article he deals with some preliminary issues, including the values protected by the legislator in canons 1096-1100, the minimum knowledge required for matrimonial consent, *error iuris* and *error facti*, the juridical concept of person, simple error, error *causam dans contractui*, the process of choice in relation to error about a quality directly and principally intended, and the problems this can give rise to. In the second part he undertakes a systematic description of the subject, dealing with the current *status quaestionis* before looking at error about a person or *error facti*; *error redundans*; error in the person; causality as a motivating factor; error regarding a quality directly and principally intended and its diriment effect (and how it differs from *error redundans* and simple error); the direct and principal intention in the process of formation of consent; the "substantial" nature of an error about a quality directly and principally intended; proofs and related matters.

## 1097-1098

**PCF IX (2007), 305-322: Substantial Error Induced by Deceit. Decision by Nereo P. Odchimar, 22 September 2006 (Philippines).** (Sentence)

On 20 March 2006, the petitioner filed a petition before the Metropolitan Tribunal of Cagayan de Oro for a declaration of nullity of his marriage. The ground was formulated as follows: "whether there is evidence of nullity in the marriage on the ground of error of quality induced by fraud perpetrated by the woman-respondent." On 22 September 2006, the first instance tribunal issued an affirmative decision. On 27 November 2006, the National Appeal Tribunal of the Philippines ratified the decision of the first instance tribunal and confirmed the restrictive clause on the respondent as recommended by them.

## 1098

**IE XIX 1/07, 99-136: Tribunale della Rota Romana. *Spiren*. Nullità del matrimonio. Dolo. Sentenza definitiva, 31 gennaio 2002, Erlebach, *Ponente* (con *nota* di H. Franceschi F., *Il fondamento giuridico del dolo come causa di nullità del matrimonio e la questione della retroattività o meno del canone 1098*).** (Sentence and commentary)

The petitioner, a widow, married the respondent who ten years before had publicly declared that he was abandoning the Catholic Church. The wedding ceremony had taken place in church only in order to avoid the loss of the widow's pension. The marriage collapsed but the parties differed as to its cause. The petitioner claimed that she had been inveigled by deceit, since the respondent had not told her of two children he had had by another woman before the marriage, or that he had abandoned the Church. After an affirmative decision, a negative verdict was given at second instance. The *non constat* verdict was confirmed by the Rota. Although at first sight the deceit seemed to be confirmed, deeper study found the complex evidence insufficient. In his commentary, F. suggests that in cases of deceit there should be a deep study of what is involved in the *consortium vitae coniugalis*. He looks into the juridical basis of deceit and the question of whether or not canon 1098 has retroactive effect in respect of marriages celebrated prior to the coming into force of the 1983 Code. He discusses the elements of deceit as dealt with in the sentence: the *actio dolosa*, the error of the petitioner, the "quality" concerned, and the purpose of the deceitful action. He then looks at the gravity of the "quality" in relation to the *consortium vitae coniugalis*.

## 1098

**SCL III (2007), 397-424: Apostolic Tribunal of the Roman Rota: Deceit. Decision *coram* Defilippi, 4 December 1997 (Medellín, Colombia).** (Sentence)

The petitioner was a convinced Catholic, and while some of the respondent's relatives had left the Church, he seemed still attached to it, but shortly after the wedding he joined another Church, and tried to force the petitioner to do the same, at which point she left him and returned to her parents. The decision was affirmative, upholding that given at first instance. D. concurs with Burke that it is not only the deceived party whose consent is vitiated, but the deceiver's because it is contrary to genuine self-gift. He sets out clearly the criteria required for this ground to be sustained. The evaluation of the relative importance of objective and subjective elements is a matter for the judge. Religious affiliation is clearly a quality of objectively great importance, but its

ability to disturb the marriage depends on how far it is also subjectively important to the party deceived.

## 1099

**SCL III (2007), 129-240: Augustine Mendonça: A Doctrinal and Jurisprudential Approach to the Ground of Determining Error.** (Article)

This article comprises a comprehensive study of the jurisprudence on the subject of error determining the will. M. looks first at the deceptively simple formulation of canon 1084 of the 1917 Code that was so difficult in practical application. He examines its pre-Code sources in doctrine, primarily Benedict XIV's *De Synodo Diocesana*, and in jurisprudence, and its interpretation by commentators, before analysing seven Rotal judgements from Grazioli in 1932 to Anné in 1975. The weaknesses in the drafting of canon 1084 had become apparent, and the revision of the Code sought to remedy this, taking into account developments in thinking and jurisprudence. M. then considers the formulation of canon 1099, and its interpretation, especially by Navarrete. He analyses some of the most recent Rotal decisions in this area, given between 2001 and 2006. He looks in turn at error concerning the properties of unity, indissolubility and sacramental dignity. He concludes that the error mentioned in canon 1099 concerns the object of matrimonial consent and can lead the will to exclude an essential property either consciously or unconsciously. In the one case error is the motive for simulation. In the other it is the conscious choice of an object not including such a property, or "non-inclusion". Rotal jurisprudence is divided on whether juridical error of this kind is autonomous from simulation, but M. favours the conclusion that it is, and in such case marriage can be declared null on the basis of canon 1099.

## 1099

**SCL III (2007), 375-396: Apostolic Tribunal of the Roman Rota: Error Determining the Will: Polygamic Mentality. Decision *coram* Defilippi, 1 April 2004 (Nigeria).** (Sentence)

Procedurally this affirmative decision is a ratification of the first instance decision given on the ground of exclusion of indissolubility, since the second instance negative decision was regarded as lacking in any procedural substance, and therefore non-existent rather than simply null. Although baptised a Catholic, the respondent had in fact been brought up with syncretistic religious beliefs, and it was clear that Catholic teaching on marriage, particularly indissolubility and unity, had not even minimally entered the formation of his mentality. The law section deals extensively with the relationship between error

determining the will (canon 1099) and positive exclusion (canon 1101 §2). This marriage was contracted while the 1917 Code was in force, but there is substantial continuity in this area. D. argues that error determining the will was tantamount to an exclusion of an essential property, albeit virtual and implicit.

## 1101

**CLSN 152/07, 51-66: Exclusion of the Bonum Coniugum, *coram* Turnaturi, 13 May 2004 (Italy).** (Sentence)

Given here is the text of a sentence which previously appeared in *Studies in Church Law*, vol. 2 (2006) (cf. *Canon Law Abstracts*, no. 98, pp. 85-86). The parties began a relationship in 1987, both being married at the time with children from those marriages. They began living together in 1990 and were married in 1994, their respective spouses both having died by then. At that time the male petitioner was 65 and the female respondent 51. The parties separated in March 1996; a civil divorce followed. At first instance, the tribunal found the ground of exclusion of the *bonum coniugum* proven in the respondent. At second instance this decision was reversed: hence the appeal to the Rota. The Rotal judges gave an affirmative verdict, concluding that the respondent looked not for the good of the spouses but for economic advantage.

## 1101

**For XVII/06, 385-434: Héctor Franceschi: "Bonum prolis" in the married state of life and the canonical consequences in case of separation or nullity of marriage.** (Article)

See below, canon 1136.

## 1101

**IE XIX 1/07, 137-176: Tribunale della Rota Romana. *Reg. Insubris seu Mediolanen*. Nullità del matrimonio. Simulazione parziale. Esclusione del *bonum fidei*. Sentenza definitiva, 22 giugno 2006, Caberletti, *Ponente* (con *nota* di M. A. Ortiz, *La valutazione delle dichiarazioni delle parti e della loro credibilità*).** (Sentence and commentary)

After a six-month engagement the couple married in 1968; two years later they had a child. The marriage collapsed, mainly because of the petitioner husband's serious continued unfaithfulness; they separated legally in 1976, and divorced in 1982. The petitioner requested a declaration of nullity on the grounds of exclusion of the *bonum fidei* on his part. After hearing both parties and three of

the four witnesses presented by the petitioner, the first tribunal gave a negative verdict, and the appeal tribunal an affirmative one. The Rota considered the parties' convincing but conflicting evidence; and the witnesses' information was limited to a period several years after the marriage. The Rota had to take into account the respondent's naivety and the credibility of the petitioner concerning his attitude at the time of the marriage and his behaviour throughout. The judges gave an affirmative verdict, with a *vetitum* on the petitioner. In his commentary, O. states that while canons 1536 §2 and 1679 are among the major novelties they also offer room for developments in both doctrine and jurisprudence. Not everyone has accepted them peaceably, however, and there is a middle ground to be sought between the deep-rooted distrust inherited from the previous law, and a non-critical admission of the depositions which would force the judge to submit his conscience in the face of the parties' assertions. O. summarises the lines of reform in three points: the aim of overcoming the distrust of the old legislation regarding the parties' assertions; the desire to distinguish causes involving a private good from those protecting the public good; and – as a sort of a *leitmotiv* for the whole process – a determination to avoid any type of "formalism".

## 1101

**SCL III (2007), 53-72: Kenneth Boccafola: Reflections of a Rotal Auditor on the *Bonum Coniugum.*** (Article)

See above, canon 1055.

## 1101

**SCL III (2007), 375-396: Apostolic Tribunal of the Roman Rota: Error Determining the Will: Polygamic Mentality. Decision *coram* Defilippi, 1 April 2004 (Nigeria).** (Sentence)

See above, canon 1099.

## 1103

**EE 82 (2007), 807-824: Juan José García Faílde: El consentimiento matrimonial, desde la fisiología y patología del acto libre.** (Article)

See above, canons 1055-1057.

### 1103

**PCF IX (2007), 283-304: Defect of Discretion of Judgement and Reverential Fear (Affective Immaturity). Decision *coram* Bottone, 15 May 2003 (Italy).** (Sentence)

See above, canon 1095 2º.

### 1108

**IC XLVII 94/07, 505-525: Maria J. Roca: El respeto a la libertad religiosa de los contrayentes y la obligatoriedad de la celebración civil del matrimonio previa a la religiosa. Discusión doctrinal y propuestas *de lege ferenda* en el Derecho comparado centroeuropeo.** (Article)

See above, General Subjects (*Religious freedom*).

### 1108

**RTL 38 (2007), 518-534: André Haquin: Le nouveau rituel du mariage (2005).** (Article)

The new French Marriage Ritual (2005), adapted from the *editio typica altera* of the Roman Ritual (1991), contains fuller preliminary notes and a number of new texts. At the level of pneumatology, the nuptial blessings to be chosen all have an epiclesis prayer. H. considers that the new closeness between the consent expressed by bride and groom and the nuptial blessing pronounced by the Church's minister raises the question of the ministerial function in the sacrament of marriage.

### 1117

**AkK 175 2/06, 353-373: Marcus Nelles: Der Kirchenaustritt – kein „actus formalis defectionis".** (Article)

See above, canon 751.

### 1117

**AkK 175 2/06, 374-396: Ludger Müller: Die Defektionsklauseln im kanonischen Eherecht. Zum Schreiben des Päpstlichen Rates für Gesetzestexte an die Vorsitzenden der Bischofskonferenzen vom 13. März 2006.** (Article)

See above, canon 1086.

### 1117

**IE XIX 1/07: 245-268: Pontificio Consiglio per i Testi Legislativi: Actus formalis defectionis ab Ecclesia Cattolica, 13 marzo 2006 (con *nota* di F. Marti, *Quali novità riguardo all'atto formale di defezione dalla Chiesa cattolica di cui ai cc. 1117, 1086 §1 e 1124? Un commento alla Lettera Circolare del PCTL del 13 marzo 2006*).** (Document and commentary)

See above, canon 1086.

### 1124

**AkK 175 2/06, 353-373: Marcus Nelles: Der Kirchenaustritt – kein „actus formalis defectionis".** (Article)

See above, canon 751.

### 1124

**AkK 175 2/06, 374-396: Ludger Müller: Die Defektionsklauseln im kanonischen Eherecht. Zum Schreiben des Päpstlichen Rates für Gesetzestexte an die Vorsitzenden der Bischofskonferenzen vom 13. März 2006.** (Article)

See above, canon 1086.

### 1124

**IE XIX 1/07: 245-268: Pontificio Consiglio per i Testi Legislativi: Actus formalis defectionis ab Ecclesia Cattolica, 13 marzo 2006 (con *nota* di F. Marti, *Quali novità riguardo all'atto formale di defezione dalla Chiesa cattolica di cui ai cc. 1117, 1086 §1 e 1124? Un commento alla Lettera Circolare del PCTL del 13 marzo 2006*).** (Document and commentary)

See above, canon 1086.

### 1124-1129

**QDE 20 (2007), 320-333: Mauro Rivella: I matrimoni fra cattolici e musulmani in Italia. Le indicazioni della Presidenza della CEI.** (Article)

See above, canon 1086.

### 1125

**CLSN 152/07, 13-18: Gordon Read: The 1701 Act of Settlement.** (Article)

See above, General Subjects (*Relations between Church and State*).

### 1136

**For XVII/06, 385-434: Héctor Franceschi: "Bonum prolis" in the married state of life and the canonical consequences in case of separation or nullity of marriage.** (Article)

F. sets out to develop a positive vision of offspring as a "good" intrinsic to marriage. He looks first at the meaning of the phrase from two distinct standpoints, the good of the family and the good of the spouses. Marriage is a social reality. Openness to children cannot be separated from the concrete reality of children. He then explores the concept of filiation and the relationship between parental and conjugal love, before tackling acts that are contrary to the good of children and the good of spouses: abortion, sterilisation, contraception, and artificial fertilisation, or fecundity without conjugality. In the last part of his paper he considers the implications in the context of separation and nullity, focusing primarily on separation. In the context of nullity he looks not at the grounds so much as the desirability of avoiding a nullity process and safeguarding the interests of any children.

### 1136

**Jesu Pudumai Doss: The Portrait of Youth in Church Law, in "Youth India: Situation, Challenges & Prospects", pp. 283-303.** (Article)

See above, canons 208-223.

## 1141-1150

**Ap LXXVII 3-4 (2004), 835-858: Krystyna M. Amborski: Procedural Norms of the Process for the Dissolution of the Matrimonial Bond *in Favorem Fidei*.** (Article)

A. reminds the reader that the Codes of law for the Latin and Eastern Churches contain no provision for the action to be taken to process claims for applications to the Pope for a dissolution of marriage *in favorem fidei*. This lacuna had been met by regulations issued by the Congregation for the Doctrine of the Faith in 1934, amended in 1973 and now replaced in 2001 by new Norms privately circulated to diocesan bishops and eparchs. The Norms are set out in twenty-five articles, divided into two parts. After reviewing the first part, A. then gives detailed attention to the second part which contains fifteen articles on procedures to be observed.

## 1141-1150

**QDE 20 (2007), 299-319: Elena Lucia Bolchi: Lo scioglimento del matrimonio non sacramentale *in favorem fidei*.** (Article)

The article offers a concise presentation of the procedures for the dissolution of non-sacramental marriages by the Roman Pontiff. It does not explore the nature of the power exercised by the Roman Pontiff when he grants this dispensation. The focus of the article is directed to examining the historical evolution of the norms for dissolving non-sacramental marriages, analysing the current legislation issued in 2001 and the principles which are at the basis of the faculty of the Roman Pontiff to dissolve such marriages. B. gives examples of those cases which may be dissolved by the Roman Pontiff and a step-by-step commentary on the procedure to be followed to obtain the dissolution.

## 1142

**FCan II/2 (2007), 93-107: João Pedro Mendonça Correia: Appontamento sobre o artigo 16.º da Concordata de 18 de Maio de 2004 entre a Santa Sé e Portugal.** (Article)

See above, General Subjects (*Relations between Church and State*).

## BOOK IV, PART II: THE OTHER ACTS OF DIVINE WORSHIP

### 1176

**PCF IX (2007), 259-266: Javier González: Cremation: A Valid Option for Catholics?** (Article)

In the light of canon 1176 §3 and the *Catechism of the Catholic Church* (1994), G. presents responses to some frequently-asked questions on the matter of cremation. The questions are: (i) Is cremation a valid option for Catholics? (ii) What is the current stand of the Catholic Church on cremation? (iii) What reasons make people opt for cremation or for traditional burial? (iv) Are there Church guidelines on cremation in the Philippines? G. concludes that there are two reasons why cremation is seldom practised in the Philippines. Firstly, huge importance is given to the "waking" of the body, a practice that may last from four days to a week. Secondly, the interred body in the cemetery evokes living memories for the family, particularly at annual commemorations on the feasts of All Saints and All Souls.

### 1187

**ELJ IX 9/07, 301-304: Robert Ombres: The Causes of Saints: A Papal Pronouncement and New Measures.** (Comment)

At a plenary meeting of the Congregation for the Causes of Saints in 2006, Pope Benedict XVI wrote a message combining teaching and directives. O. gives a brief outline of the main themes of the Pope's message and the effect of the new provisions.

## BOOK IV, PART III: SACRED PLACES AND TIMES

### 1222

**AkK 175 2/06, 417-434: Martin Grichting: „Umnutzung“ von Kirchen? Eine Anfrage zu c. 1222 CIC/1983.** (Article)

The Council of Trent permitted the reuse for secular purposes of building material from churches that had been demolished. The 1917 Code (canon 1187) and the 1983 Code (canon 1222) expanded on this decision of the Council, permitting the use of intact churches for solely secular purposes. Seen from the perspective of a theology of church buildings, a broadly-based application of the principle of reuse to church buildings seems problematic. G. therefore proposes a new version of canon 1222: disused churches ought to be demolished if they can no longer be used for liturgical purposes (of any denomination) or in the service of apostolic work, for example, *Caritas.*

### 1222

**J 67 (2007), 485-502: Nicholas Schöch: Relegation of Churches to Profane Use (C. 1222, §2): Reasons and Procedure.** (Article)

After an introduction on the solemn rite of dedication of a church, S. surveys a variety of issues connected with changes in the use of a church, including partnerships with non-Catholic Christian communities; the leasing of churches to non-Catholic Christian communities; limitation of the liturgical part of a church; the provisional end of liturgical use; the demolition of a church building; reasons for relegation to profane use; impossibility of liturgical use; the concept of “grave reasons” in canon 1222 §2; financial reasons; churches occupied by schismatic groups; insufficient reasons; the salvation of souls; discretion of the bishop; gathering information; consultation of the presbyteral council; the decree of relegation to profane use; notification of the decree.

### 1230-1234

**FCan II/1 (2007), 113-130: Manuel Saturino Gomes: Estatuto jurídico do Santuário de Fátima.** (Documents and commentary)

S.G. offers a commentary on the new Statutes of the Shrine of Our Lady of the Rosary of Fatima, which is now transformed from a diocesan to a national shrine, in accordance with canon 1231. The Statutes were approved by the Congregation for the Clergy on 13 September 2006. The jurisdiction of the

Bishop of Leiria-Fátima is preserved, but the episcopal conference now has a greater say in the more important acts of administration.

## 1246-1248

**FI 4 (2005), 127-148: José María Díaz Moreno: El precepto dominical. Reflexión desde el Derecho Canónico.** (Article)

D.M. deals briefly with the concept and purpose of the commandments of the Church, before outlining the historical development of the Sunday precept. The gravity of the precept was generally accepted, but discussions about the obligation to "hear" the "entire" Mass gave rise to a great deal of casuistry. Vatican II, while stressing the Mass as the community celebration of the central mystery of the Christian faith, and emphasising the importance of the Liturgy of the Word and the Liturgy of the Eucharist, said nothing about the seriousness of the non-fulfilment of the Sunday precept. D.M. studies various subsequent catechetical and magisterial documents, including the *Catechism of the Catholic Church*, which describes deliberate failure to fulfil the Sunday obligations as "a grave sin" (paragraph 2181), and the Apostolic Letter *Dies Domini*, which is the most complete magisterial document on this matter. He then looks in detail at canons 1246-1248, before setting out pastoral factors that should be taken into account, and offering some reflections on the future of this law and its possible evolution.

## 1246-1248

**For XVII/06, 296-298: Pope Benedict XVI: We cannot live without Sunday Eucharist.** (Document)

This letter was addressed to Cardinal Arinze to mark a study day on the 43rd anniversary of *Sacrosanctum Concilium*. Sunday is a fragment of time imbued with eternity, and the letter cites its importance to the martyrs of Abitene.

# BOOK V: THE TEMPORAL GOODS OF THE CHURCH

## 1254

**IC XLVII 94/07, 553-589: Diego Zalbidea: El patrimonio estable en el CIC de 1983.** (Article)

See below, canons 1291-1295.

## 1254-1258

**IE XVIII 3/06, 719-740: Andrea Bettetini: Ente ecclesiastico civilmente riconosciuto e disciplina dell'*impresa sociale*. L'esercizio in forma economica di attività socialmente utili da parte di un ente religioso.** (Article)

A legislative decree of 24 March 2006 introduced into Italian law the so-called *impresa sociale* or "social undertaking", which is a non-profit making private organisation which, in a stable and principal way, carries out economic activity (relating to production, exchange of goods, or some socially useful service) which is aimed at serving the general interest. Undertakings of the Church in the areas of education, health and social welfare may be affected, and B. looks into the implications that the new law may have in the ecclesial sphere, especially in relation to the temporal goods of the Church. (The Italian text of the legislative decree is given in the same issue of IE on pp. 877-885.)

## 1254-1310

**AkK 175 1/06, 32-67: Ulrich Rhode: Rechtliche Anforderungen an die Kirchlichkeit katolischer Vereinigungen und Einrichtungen.** (Article)

See above, canons 114-117.

## 1254-1310

**Ap LXXVIII 1-2 (2005), 399-412: João Carlos Orsi: O Principio de subsidiariedade e a sua aplicabilidade no Livro V do Código de Direito Canônico.** (Article)

After exploring the nature of subsidiarity as understood in the Church with reference to its application in social teaching, economics and theology, O. considers its significance to Book V of the Code on the Temporal Goods of the Church, with special attention to civil law and the distinctive duty under the

Code of Canon Law of episcopal conferences, local Ordinaries and superiors of religious.

### 1263

**AkK 175 2/06, 473-485: Christoph Ohly: Gravis necessitas. Erwägungen zu einem unbestimmten Begriff der kirchlichen Gesetzbücher.** (Article)

See above, canon 844.

### 1272

**AkK 175 1/06, 113-128: Richard Puza: Die Vollmacht des Diözesanbischofs und ihre Grenzen am Beispiel der Errichtung einer diozesanen Pfründenstiftung.** (Article)

This article arises out of an expert opinion written by P. for the Diocese of Rottenburg-Stuttgart, concerning the erection of a diocesan stipendiary foundation which was to receive the capital of its benefices. In the light of the universal and local ecclesial legislation P. considers the manner in which the bishop may regulate the matter. He suggests a "third way", whereby the bishop could establish the foundation by means of diocesan law or statute. The abolition of the existing benefices and the transfer of capital to the foundation for the purpose of paying clerical stipends would proceed by administrative act on a case-by-case basis. The former beneficiaries would take part in the administration and leadership of the foundation. P. ends the article with a model statute for the erection of a diocesan stipendiary foundation.

### 1274

**AkK 175 1/06, 113-128: Richard Puza: Die Vollmacht des Diözesanbischofs und ihre Grenzen am Beispiel der Errichtung einer diozesanen Pfründenstiftung.** (Article)

See above, canon 1272.

### 1285

**IC XLVII 94/07, 553-589: Diego Zalbidea: El patrimonio estable en el CIC de 1983.** (Article)

See below, canons 1291-1295.

## 1291

**SC 41 (2007), 173-198: Jean-Paul Durand: Perpétuer des institutions sanitaires, sociales et médico-sociales fondées et transférées par des instituts religieux.** (Article)

See above, canon 638.

## 1291-1292

**QDE 20 (2007), 270-277: Fabio Vecchi: Un decreto per l'alienazione dei beni ecclesiastici della Conferenza Episcopale Portoghese proposto per la *recognitio*.** (Article)

This decree (7 May 2002) concerning the minimum and maximum amounts defined for the permission of the episcopal conference or the Holy See for the alienation of ecclesiastical goods as required in canon 1291 replaces the previous one (3 September 1990). V. examines the unique aspects to the Portuguese decree and contrasts it with similar decrees approved by the Holy See for the Spanish and Italian episcopal conferences.

## 1291-1295

**IC XLVII 94/07, 553-589: Diego Zalbidea: El patrimonio estable en el CIC de 1983.** (Article)

Stable patrimony is one of the principle novelties introduced by the 1983 Code in the area of patrimonial law. However, this concept had already been used to refer to the object of special protection against alienations of ecclesiastical goods, and acts treated as being equivalent to alienations. The drafting process of the 1983 Code shows how deeply-rooted the concept is in the Church's tradition and even in legislation prior to the Code. Lawful designation of goods by the competent authority as stable patrimony is the ordinary way of protecting them from arbitrary alienation. When goods form part of a stable patrimony and their value exceeds a certain amount, alienation requires the fulfilment of a number of conditions. It is for each public juridical person to establish which goods form part of this protected group in order to guarantee its own continuance. That is the principal purpose of stable patrimony.

### 1295

**QDE 20 (2007), 270-277: Fabio Vecchi: Un decreto per l'alienazione dei beni ecclesiastici della Conferenza Episcopale Portoghese proposto per la *recognitio*.** (Article)

See above, canons 1291-1292.

### 1303

**AkK 175 1/06, 113-128: Richard Puza: Die Vollmacht des Diözesanbischofs und ihre Grenzen am Beispiel der Errichtung einer diozesanen Pfründenstiftung.** (Article)

See above, canon 1272.

# BOOK VI: SANCTIONS IN THE CHURCH

## 1311

**Ap LXXVII 3-4 (2004), 859-883: Artur G. Miziński: La pena canonica come mezzo a difesa della comunione della Chiesa a dei diritti dei fideli.** (Article)

M. explores the concept of canonical penalties and the reasons for their existence and use in the Church. He analyses the typology of penalties and gives a more detailed study of penalties *latae sententiae* and *ferendae sententiae*, and penalties that are determined, obligatory or simply facultative.

## 1321

**PCF IX (2007), 161-187: Eugenio J. Fabre: Principled Irreconcilability: Either Freemasonry or Catholic Christianity.** (Article)

See below, canon 1374.

## 1342-1350

**PCF IX (2007), 51-92: Raul T. Go: Administrative Tribunals in the Particular Church.** (Article)

See below, canon 1400.

## 1357

**SC 41 (2007), 27-45: Juan Ignacio Arrieta: The Internal Forum: Notion and Juridical Regime.** (Article)

The external forum and the internal forum constitute two modes of the exercise of the power of governance in the canonical system. A. raises some questions about the notion of the internal forum. After showing that the canonical doctrine for the internal forum has its foundations in the medieval notions of the "penitential forum" and the "forum of conscience", he shows how jurists have always had some difficulty to discern its proper end as a juridical act because they see a tension between a private benefit and the common good. It is canon 130 of the 1983 Code which states the general norm which regulates the internal forum. A. shows how this norm is applied throughout the Code and how it formulates a distinction between the sacramental internal forum and the extra-

sacramental internal forum. He concludes with some brief remarks on the subject of the apostolic penitentiary and the canon penitentiary or the designated person to fulfil this role in dioceses where a chapter of canons does not exist.

## 1362

**AkK 175 1/06, 141-151: Markus Walser: Die besondere Vollmacht der Glaubenskongregation zur Derogation von Verjährungsfristen bei schwerwiegenderen Straftaten von Klerikern.** (Article)

The amendment to the *motu proprio "Sacramentorum sanctitatis tutela"* of 30 April 2001 dealing with the canonical statutory period of prescription for *delicta graviora* gives rise to questions concerning the application of laws and legislative culture. In this context W. says that the mandate of 7 November 2002 given to the Congregation for the Doctrine of the Faith to grant a derogation from the ten-year prescription period, at the (well-founded) request of individual bishops, brings about more confusion than clarity.

## 1362

**J 67 (2007), 503-519: Charles G. Renati: Prescription and Derogation From Prescription in Sexual Abuse of Minor Cases.** (Article)

Prescription in civil and canon law is a means by which one acquires or loses a subjective right or frees oneself from an obligation upon the passage of a period of time and the fulfilment of specific conditions prescribed by law. Canon 197 states that canon law accepts and will apply the laws of prescription except where specific canons of the Code decide otherwise. Canon 1362 does provide otherwise for criminal actions, including that of sexual abuse of minors by clerics. R. points out that an unfortunate comparison has been made between civil statutes of limitation and canonical prescription. The difference is substantial. Canonical prescription is entirely different in its effect. Prescription actually "extinguishes" the action itself (canons 1492, 1362). Derogation can only apply if prescription time is still running. If an act of sexual abuse of a minor is alleged to have occurred in, say, March 1980, when the applicable prescription time was five years, and no action was taken against the accused priest before April 1985, no action can be taken against him. The faculty granted to the Congregation for the Doctrine of the Faith on 7 November 2002 was not a faculty to derogate from the *effect* of prescription law, but rather to derogate from the *termini* of prescription time which has not yet expired. R. follows the history of prescription and derogation, and looks in particular at reserving of competence for the *graviora delicta* to the Congregation for the Doctrine of the Faith. (This article also appears in Patricia M. Dugan (ed.):

*Advocacy Vademecum*, for details of which see *Canon Law Abstracts*, no. 97, p. 121.)

### 1364

**AkK 175 2/06, 353-373: Marcus Nelles: Der Kirchenaustritt – kein „actus formalis defectionis".** (Article)

See above, canon 751.

### 1364

**PCF IX (2007), 161-187: Eugenio J. Fabre: Principled Irreconcilability: Either Freemasonry or Catholic Christianity.** (Article)

See below, canon 1374.

### 1374

**PCF IX (2007), 161-187: Eugenio J. Fabre: Principled Irreconcilability: Either Freemasonry or Catholic Christianity.** (Article)

In this study F. explores why and how, from a specific philosophical perspective of Kant's transcendental question of the possibility of synthetic *a priori* propositions, the Catholic faith and Freemasonry are irreconcilable. His argument is based on three central questions: Freemasonry's religious nature, and its notions of God and Truth. Having examined these, F. concludes that, in the light of the various Papal condemnations from 1738 up to the "Declaration on Masonic Associations", issued by the Congregation for the Doctrine of the Faith on 26 November 1983 and approved by Pope John Paul II, together with the 1917 and 1983 Codes of Canon Law, the Catholic faith and Freemasonry will remain irreconcilable.

### 1387

**SC 41 (2007), 199-236: John P. Beal: The 1962 Instruction *Crimen Sollicitationis*: Caught Red-Handed or Handed a Red Herring?** (Article)

The Apostolic Letter of John Paul II, *Sacramentorum Sanctitatis Tutela* (2001) publicly revealed for the first time the existence of a secret disciplinary document issued by the Sacred Congregation of the Holy Office in 1962, the instruction *Crimen Sollicitationis*. Given the context of the crisis which arose because of accusations of sexual abuse against priests and the accusations of

complicity which arose in the media after the divulgence of this 1962 document, it seems that it merits a careful examination. B. begins with an overview of the nature and weight of the instruction, describing the crime of solicitation and distinguishing it from what has come to be called the *crimen pessimum* against minors. He then describes in detail the procedures required by the norms when judging penal cases involving such crimes. Finally, he gives an evaluation of the norms themselves and, in the light of the procedural modifications which have resulted from the Apostolic Letter of 2001, he formulates certain criteria of the notion of the pontifical secret.

### 1395

**CLSN 152/07, 44-47: Gordon Read: The Cumberlege Commission Report.** (Article)

The Cumberlege Commission was set up to review the implementation of the 2001 Nolan Report. Although R. does have some reservations about it overall, he believes that the Commission's 2007 Report has gone a long way towards addressing the shortcomings of Nolan and its implementation.

### 1395

**IC XLVII 94/07, 677-683: Conferencia de Obispos católicos de los Estados Unidos: Normas sobre imputaciones de abuso sexual de menores cometidos por clérigos, 15.V.2006.** (Document)

The Spanish text is provided of the *Essential Norms* promulgated by the United States Conference of Catholic Bishops in May 2006. (See following entry.)

### 1395

**IC XLVII 94/07, 685-723: José Bernal: Las «*Essential Norms*» de la Conferencia Episcopal de los Estados Unidos sobre abusos sexuales cometidos por clérigos. Intento de solución de una crisis.** (Commentary)

In his commentary on the *Essential Norms* (see preceding entry) B. deals with the initial explosion of the crisis in the years 2000-2002 and provides statistical data and information on particular cases involving the Archdiocese of Boston. He then sets out the background to the *Charter for the Protection of Children and Young People*, approved in 2002, and the first version of the *Essential Norms*, which received the *recognitio* of the Holy See in December of the same year. A modified version of the *Essential Norms* was issued by the Episcopal Conference in May 2006. B. studies the juridical nature and content of these

norms. The amendments made between 2002 and 2006 are certainly welcome, but he feels that there is still further progress to be made, especially since the limits of the concept of sexual abuse remain unclear. There is also a need for great care as regards use of the "zero tolerance" approach, dismissal from the clerical state *ex officio*, and requests for dispensation from the time-limits for prescription of criminal actions.

### 1395

**SC 41 (2007), 199-236: John P. Beal: The 1962 Instruction *Crimen Sollicitationis*: Caught Red-handed or Handed a Red Herring?** (Article)

See above, canon 1387.

### 1395

**SCL III (2007), 351-366: Supreme Tribunal of the Apostolic Signatura: Dismissal from a Religious Institute. Decision *coram* Coccopalmerio, 22 June 2002 (Bogotá, Colombia).** (Sentence)

See above, canon 695.

### 1398

**SCL III (2007), 425-436: Augustine Mendonça: Dismissal of a Religious from the Religious Institute for the Delict of Abortion.** (Opinion)

See above, canon 695.

# BOOK VII: PROCESSES

## 1400

**For XVII/06, 361-384: Frans Daneels: General Introduction to the Instruction *Dignitas connubii.*** (Article)

See below, canons 1671-1691.

## 1400

**IE XIX 1/07, 55-75: Joaquín Llobell: Il diritto e il dovere al processo giudiziale nella Chiesa. Note sul magistero di Benedetto XVI circa la necessità di «agire secondo ragione» nella riflessione ecclesiale.** (Article)

See above, canon 221.

## 1400

**PCF IX (2007), 51-92: Raul T. Go: Administrative Tribunals in the Particular Church.** (Article)

G. begins by posing three questions: Are administrative tribunals necessary? Would they be helpful in the pursuit of justice? If so, what would be their structure and procedure? In this study, he proposes to examine the possibility of looking at the tried and tested juridical matrimonial system, perhaps borrowing from it some of the attributes that would be helpful in the operation of administrative tribunals. He suggests that the establishment of such tribunals may be of help as an expeditious and more efficient way of handling various situations in the local Church. In Part I of his article, G. traces the concept of administrative justice to its roots in the ecclesiology of the Second Vatican Council, where the fundamental equality of all the faithful and their rights and obligations were enshrined. Then, one of the principles for the revision of the Code of Canon Law asserted that there was a strongly-felt need to set up in the Church administrative tribunals of various degrees and kinds. He regrets that, despite all the changes and recommendations, administrative tribunals never materialised, beyond a few canons in the 1983 Code of Canon Law, which refer to the administrative tribunal as a means of administering justice. G. analyses the various canons and suggests that the developing administrative jurisprudence continues to fill the gap created by the absence of tribunals. In Part II, G. proposes a scenario where he looks at the nature, composition, structure, funding, competence, procedures, organisation, management, canonical-pastoral considerations, and guidelines for administrative tribunals.

He concludes that if administrative tribunals were to be established in the local Church, they would promote a sense of justice among the faithful and send out a clear signal that the Church was serious about safeguarding their rights. They would be less expensive to administer, deliver justice swiftly, and ensure confidentiality.

### 1402

**AkK 175 2/06, 435-451: Thomas M. Amann: Die Ausübung der Sacra potestas im kirchlichen Arbeitsgericht.** (Article)

See above, canon 274.

### 1405

**CLSN 152/07, 48-50: Gordon Read: The Resignation of Archbishop Ncube.** (Article)

See above, canons 401-402.

### 1414

**EE 82 (2007), 843-854: Carmen Peña García: El fuero de la conexión de causas en el proceso canónico de nulidad matrimonial. Consideraciones sobre su carácter obligatorio o voluntario.** (Article)

In dealing with judicial competence, canon law introduces, in addition to tribunals with relative competence, the forum of the connection of causes. The interpretation and application of the relevant canons presents some interesting questions. In this article P.G. looks at the forum of connection in matrimonial causes, paying special attention to the debated question as to whether such connection of causes is obligatory for the parties and judges.

### 1419-1429

**AkK 175 2/06, 435-451: Thomas M. Amann: Die Ausübung der Sacra potestas im kirchlichen Arbeitsgericht.** (Article)

See above, canon 274.

### 1421

**AkK 175 2/06, 452-472: Joachim Eder: Ausschluss von Normenkontrollverfahren vor kirchlichen Arbeitsgerichten.** (Article)

E. explores the exclusion of judicial review cases from the responsibility of ecclesiastical employment tribunals. He also deals with the particular situations of Church-based charitable organisations and religious orders.

### 1428

**SC 41 (2007), 237-277: Anne Asselin: L'interrogation des parties et des témoins dans la cause en nullité de mariage selon la formulation du doute.** (Article)

It is rare that a judge in a marriage tribunal has not, at times, in the search for truth and moral certitude concerning the validity or invalidity of a marriage bond, deplored the sparsity of proofs, more so when the cause can frequently be traced back to poor auditions of parties and witnesses. This article looks at the role of the auditor, and the proofs required when judging different grounds for nullity, and offers suggestions for the interrogation of deponents in relation to defects of psychological nature, intelligence, and of the will.

### 1445

**PCF IX (2007), 51-92: Raul T. Go: Administrative Tribunals in the Particular Church.** (Article)

See above, canon 1400.

### 1491

**IE XIX 1/07, 55-75: Joaquín Llobell: Il diritto e il dovere al processo giudiziale nella Chiesa. Note sul magistero di Benedetto XVI circa la necessità di «agire secondo ragione» nella riflessione ecclesiale.** (Article)

See above, canon 221.

### 1492

**J 67 (2007), 503-519: Charles G. Renati: Prescription and Derogation From Prescription in Sexual Abuse of Minor Cases.** (Article)

See above, canon 1362.

### 1495

**IC XLVII 94/07, 495-503: Joaquín Llobell: La delegación de la potestad judicial «decisoria» y la reconvención en las causas de nulidad del matrimonio tras la Instr. *Dignitas connubii.* Breves notas.** (Article)

See above, canon 135.

### 1512

**IC XLVII 94/07, 495-503: Joaquín Llobell: La delegación de la potestad judicial «decisoria» y la reconvención en las causas de nulidad del matrimonio tras la Instr. *Dignitas connubii.* Breves notas.** (Article)

See above, canon 135.

### 1526-1573

**QDE 20 (2007), 279-298: Tiziano Vanzetto: La fase istruttoria di una causa di nullità.** (Article)

V. offers a concise commentary, offered through the eyes of experience, on the instruction phase of a nullity case according to the Code of 1983, the Papal allocutions to the Roman Rota and the Instruction *Dignitas Connubii*. He offers a number of examples and practical suggestions when evaluating the evidence and acts of the case; the tone and approach of the notaries and judges when examining the parties; and the manner, scope and purpose of the questions. He also has some observations on *sub secreto* evidence. Citing the allocution of Pope Benedict XVI to the Roman Rota in 2006 V. underlines the role of the defender of the bond and the advocate. The criteria for documentary evidence and the judicial examination of witnesses as outlined in the Code and the Instruction are examined.

### 1527

**IE XIX 1/07: 269-290: Italia. Consiglio di Stato. Sezione v. Decisione 14 novembre 2006 (con *nota* di M. del Pozzo, *Il coordinamento interordinamentale tra giurisdizione civile ed ecclesiastica nell'acquisizione di cartelle cliniche nelle cause di nullità matrimoniale*).** (Civil sentence and commentary)

This is a decision of the *Consiglio di Stato* of the Italian Republic, rejecting an appeal against the decision of a lower tribunal to allow a diocesan tribunal to gain access to medical information for the purposes of a cause of nullity of

marriage. The case involved balancing the right of defence against that of privacy, the latter right being one which has been prominent in Italian legislation in recent years. The decision of the *Consiglio di Stato* confirms the canonical procedures regarding the use of proofs considered useful for the investigation of the case. In his commentary, del P. considers what is meant by the requisites of *utilitas* and *licitas* in canon 1527; but his primary interest is in the relationship between the civil and canonical orders concerning the question of proofs. He considers that efforts need to be made to avoid ambiguous interpretations within the realm of canon law regarding secrecy and access to information; and he explains how *Dignitas Connubii* (articles 229-235) has tried to correct some deviations in this respect.

### 1536

**IE XIX 1/07, 137-176: Tribunale della Rota Romana. *Reg. Insubris seu Mediolanen*. Nullità del matrimonio. Simulazione parziale. Esclusione del *bonum fidei*. Sentenza definitiva, 22 giugno 2006, Caberletti, *Ponente* (con *nota* di M. A. Ortiz, *La valutazione delle dichiarazioni delle parti e della loro credibilità*).** (Sentence and commentary)

See above, canon 1101.

### 1598

**For XVII/06, 339-360: Zenon Grocholewski: The Basis of the Right of Defence.** (Article)

See above, canon 221.

### 1598

**IE XIX 1/07: 269-290: Italia. Consiglio di Stato. Sezione v. Decisione 14 novembre 2006 (con *nota* di M. del Pozzo, *Il coordinamento interordinamentale tra giurisdizione civile ed ecclesiastica nell'acquisizione di cartelle cliniche nelle cause di nullità matrimoniale*).** (Civil sentence and commentary)

See above, canon 1527.

### 1620 7°

**For XVII/06, 339-360: Zenon Grocholewski: The Basis of the Right of Defence.** (Article)

See above, canon 221.

### 1620 7°

**SCL III (2007), 445-450: A. Mendonça: Denial of the Right of Defense.** (Opinion)

A respondent seeks the declaring null of the first instance decision and ratification in a marriage nullity case. She had received the initial citation, but heard no more. It transpired that subsequent correspondence from the tribunal had indeed been signed for, but without her knowledge or authorisation. M. sets out the fundamental principles and possible courses of action. Here the implication is that she was effectively excluded from the whole trial by fraud or the carelessness of the judge. This would lead to irremediable nullity of the first instance sentence, and also of the decree of ratification. It is the responsibility of the second instance court to declare the nullity of the first instance decision, as well as to set aside its decree of ratification. Established Rotal jurisprudence allows her to seek the intervention of the Rota.

### 1639

**IE XIX 1/07: 191-201: Giovanni Maragnoli: Alcune note su: cumulo di capi di domanda, "assorbimento" di un capo in un altro e concordanza del dubbio nel secondo grado di giudizio delle cause di nullità del matrimonio.** (Article)

In principle the correct application of canon 1639 leaves little room for variety in formulation of the doubt at appeal level. *Dignitas Connubii*, art. 135 §3, confirms this assertion. M. studies a number of cases meriting special attention: in particular, those where the validity of the marriage is contested and therefore judged on several grounds at first instance; and those where the first instance tribunal's pronouncement is only on some of the grounds, the others being treated as "absorbed" or otherwise dealt with under formulae such as "*iam provisum in primo*".

## 1656-1670

**J 67 (2007), 520-534: Lawrence G. Wrenn. The Life, Death, and Possible Resurrection of the Summary Process.** (Article)

W. opens his article with a view of three defining compilations of canon law that permanently changed the legal landscape: the Decree of Gratian, the Decretals of Gregory IX, and the 1917 Code. The summary process was to enable judgements to avoid excessive formality. It was enshrined in two decrees, *Saepe Contingit* (1306) and *Dispendiosam* (1311). W. quotes Lega-Bartocetti: "Before the promulgation of the 1917 Code the solemn order of trials had lapsed into desuetude and cases were being handled by the summary process". Wernz, "the prince of modern canonists", and other leading canonists are quoted for the fact that the solemn ordinary process was not used any more; the process used from the seventeenth century is the summary process. It was decided to exclude from the 1917 Code a separate summary contentious process and to include only the somewhat deformalised solemn contentious process. So the summary process as a separate procedure was now dead. W. examines the question of a possible resurrection of the summary process. The 1983 Code does contain the oral contentious process (canons 1656-1670). In the 1976 *schema* it was actually called the summary contentious process (cf. the CCEO, canons 1343-1356). But there is a major difference between this new process and the old Clementine process. The new process is hardly used at all. Indeed one of the consultors suggested that the oral contentious process be supressed because it would hardly ever be used. W. suggests that if a few canons were added it could be said that the summary process had been resurrected. He thinks that if the Clementine or summary procedure worked well for 600 years it can do so again. As Wernz pointed out, it simply means observing the solemnities required by the natural law while omitting those that retard the swift expedition of the proceeding. W. ends by saying that codifying a universal law inevitably results in a centralisation of legislative authority which can disturb the proper balance between the Petrine office and the college of bishops. He closes with an old adage that Pope John XXIII used on occasion: "in necessary things unity; in doubtful things liberty; in all things charity."

## 1671-1691

**Ap LXXVIII 1-2 (2005), 65-136: Pontificium Consilium de Legum Textibus: Instructio, *Dignitas connubii*.** (Document)

Text in Latin of the Instruction on procedures to be followed by diocesan and interdiocesan marriage tribunals, approved by Pope John Paul II and issued by the Pontifical Council for Legislative Texts on 25 January 2005 to take immediate effect.

## 1671-1691

**For XVII/06, 361-384: Frans Daneels: General Introduction to the Instruction *Dignitas connubii.*** (Article)

This article falls into three parts: a brief history of the redaction of the Instruction; what it says about its nature, purpose and structure; general observations with the intention of identifying keys to its correct reading and understanding. Two Commissions were involved in the drafting. The first, drawn from the Rota, Signatura and Pontifical Council for the Interpretation of Legislative Texts had in mind simply an interpretative Instruction along the lines of *Provida Mater*, whereas a second Interdicasterial Commission, announced in 1998, had in mind a rather broader document with legislative changes, similar to *Causas Matrimoniales.* The final document represents the former, but with some formulations taken from the second. It was felt that Pope John Paul II had not intended to derogate from existing laws. This point is emphasised in the Introduction. The intention was to make justice quicker by explaining its application rather than making changes, and overcoming the split structure of the norms in the Code. In more details D. considers the application of canon 1691, and the careful avoidance of adversarial language; great diversity among tribunals; reception of Papal Allocutions and the jurisprudence of Apostolic Tribunals; the document as a manual; seriousness and speed of the process.

## 1675

**Ap LXXVII 3-4 (2004), 759-771: Guido Lagomarsino: La trascrivibilità della sentenza canonica di nullità del matrimonio nell'ordinamento statuale *post-mortem* di un coniuge.** (Article)

L. explores the greater precision given by canon 1675 of the 1983 Code to the question of introducing a claim for nullity of marriage when one or both spouses are deceased.

## 1676

**For XVII/06, 385-434: Héctor Franceschi: "Bonum prolis" in the married state of life and the canonical consequences in case of separation or nullity of marriage.** (Article)

See above, canon 1136.

### 1679

**IE XIX 1/07, 137-176: Tribunale della Rota Romana. *Reg. Insubris seu Mediolanen*. Nullità del matrimonio. Simulazione parziale. Esclusione del *bonum fidei*. Sentenza definitiva, 22 giugno 2006, Caberletti, *Ponente* (con *nota* di M. A. Ortiz, *La valutazione delle dichiarazioni delle parti e della loro credibilità*).** (Sentence and commentary)

See above, canon 1101.

### 1681

**SCL III (2007), 41-52: Pontifical Council for Legislative Texts: Explanatory Note: Answer to 3 Questions concerning the Interpretation of the Clause *de consensu partium* of CIC Canon 1681.** (Document)

The Italian text, published in *Communicationes* XXXVII 1/2005, 107-112, is accompanied by a parallel English translation prepared by Rev. V. D'Souza, and revised by Rev. A. Mendonça. It answers three questions: whether the consent of both parties is necessary for the valid suspension of the instruction of the nullity process; if so, whether the silence of either party to the prior notification could be interpreted as assent; what should be the procedure if the respondent has been declared absent from the trial. The note examines the issues at some length, and then concludes: consent of both parties is required, but not for validity; the silence of either party can be considered assent; assent must always be sought from a respondent declared absent from the process, both in nullity cases and a request for dispensation *super rato.*

### 1689

**For XVII/06, 385-434: Héctor Franceschi: "Bonum prolis" in the married state of life and the canonical consequences in case of separation or nullity of marriage.** (Article)

See above, canon 1136.

### 1720

**PCF IX (2007), 51-92: Raul T. Go: Administrative Tribunals in the Particular Church.** (Article)

See above, canon 1400.

## 1732

**IE XVIII 3/06, 551-577: Javier Canosa: I principi e le fasi del procedimento amministrativo nel diritto canonico.** (Article)

See above, canons 135-144.

## 1740

**CLSN 152/07, 44-47: Gordon Read: The Cumberlege Commission Report.** (Article)

See above, canon 1395.

## 1742

**PCF IX (2007), 225-232: Augustine Mendonça: Consultation with Two Pastors in the Removal of a Pastor from Office.** (Article)

Alerted by parishioners to the fact that the physical and mental health of their pastor were affecting his pastoral duties, the bishop requested the pastor to resign, assuring him that he would be given a less demanding ministry. The pastor refused. In the absence of the two pastors that should be constituted by the presbyteral council specifically for consultation by the bishop in the case of the removal of a pastor from office (canon 1742 §1), the bishop discussed the matter with the Priests Personnel Committee (PPC). However, he was advised that the removal of the pastor would be invalid without the consultation required by canon 1742 §1. The bishop asked if the two pastors he should consult should be "pastors" in the strict sense or whether it was sufficient that the PPC include some pastors. M. points out that, judging by the relatively large number of cases involving the removal of pastors decided by the Apostolic Signatura in recent years, this present case is not an isolated one. The nub of the question is the lack of consultation with two pastors as specified by law. At stake is the good of the faithful as well as the pastor's fundamental rights. M. outlines the juridical and jurisprudential principles involved as well as the values the law seeks to uphold. His description of the evolution of the relevant canons through the drafting process to their present formulation leaves no doubt that the requirement to consult two pastors is an important procedural requirement which, if omitted, renders the decree of removal invalid and open to challenge through hierarchical recourse.

### 1745

**PCF IX (2007), 225-232: Augustine Mendonça: Consultation with Two Pastors in the Removal of a Pastor from Office.** (Article)

See above, canon 1742.

### 1752

**FCan II/2 (2007), 109-113: Elisa Maria Rodrigues de Araújo: A renúncia do Bispo diocesano por causa grave – o caso de Monsenhor Wielhus (comentário ao cân. 401 do Código de Dereito Canónico).** (Article)

See above, canon 401.

### 1752

**FCan II/2 (2007), 145-158: Pablo Gefaell: Fundamentos e limites da *oikonomia* na tradição oriental.** (Article)

See above, Code of Canons of the Eastern Churches.

## EXCHANGE PERIODICALS

- African Ecclesial Review
- Angelicum
- Annales Canonici
- Année Canonique
- Anuario Argentino de Derecho Canónico
- Apollinaris
- Archiv für katholisches Kirchenrecht
- Boletin Eclesiastico de Filipinas
- Claretianum
- Commentarium pro Religiosis et Missionariis
- Communicationes
- De Processibus Matrimonialibus
- Ephrem's Theological Journal
- Estudio Agustiniano
- Estudios Eclesiásticos
- Folia Canonica
- Folia Theologica
- Forum
- Forum Canonicum
- Forum Iuridicum
- Idee
- Il Diritto Ecclesiastico
- Immaculate Conception School of Theology Journal
- Indian Theological Studies
- Intams
- Irish Theological Quarterly
- Ius Canonicum
- Ius Ecclesiae
- Journal of Sacred Scriptures
- The Jurist
- Laurentianum
- Law and Justice
- Louvain Studies
- Periodica
- Philippine Canonical Forum
- Philippiniana Sacra
- Praxis Juridique et Religion
- Proceedings of the Canon Law Society of America
- Quaderni di Diritto Ecclesiale
- Review for Religious
- Revista Española de Derecho Canónico
- Revista Mexicana de Derecho Canónico
- Revue Théologique de Louvain
- Revue de Droit Canonique
- Salesianum
- Studia Canonica
- Studies in Church Law
- Studium Generale Marcianum
- Studium Ovetense
- Teología y Vida
- Theologische-praktische Quartalschrift
- Theologica Xaveriana
- Vida Religiosa
- Vidyajyoti

## LIST OF ABBREVIATIONS, PERIODICALS AND ABSTRACTORS FOR THIS ISSUE

| | |
|---|---|
| AkK | Archiv für katholisches Kirchenrecht, Mainz. (Abstracts supplied by publisher.) |
| Ang | Angelicum, Rome. Rev. P. Hayward (London). |
| Ap | Apollinaris, Rome. Bishop J. Jukes OFM Conv. (Huntly). |
| CLSN | Canon Law Society Newsletter, London. Rev. J. Conneely (London). |
| EE | Estudios Eclesiásticos, Madrid. (Abstracts supplied by publisher.) |
| ELJ | Ecclesiastical Law Journal, London. P. Barber (London). |
| ETJ | Ephrem's Theological Journal, Satna, India. Rev. P. Hayward (London). |
| ETL | Ephemerides Theologicae Lovanienses, Leuven. Canon D. Fogarty (Bognor Regis). |
| FCan | Forum Canonicum, Lisbon. (Abstracts supplied by publisher.) |
| FI | Forum Iuridicum, Warsaw. (Abstracts supplied by publisher.) |
| For | Forum, Valletta. Rev. G. Read (Colchester). |
| IC | Ius Canonicum, Pamplona. (Abstracts supplied by publisher.) |
| ICST | Immaculate Conception School of Theology Journal, Vigan City, Philippines. Rev. P. Hayward (London). |
| IE | Ius Ecclesiae, Pisa. Rev. J. D. Gabiola (London). |
| J | The Jurist, Washington. Rev. P. Corcoran SM (Dublin). |
| LJ | Law and Justice, Worcester. Canon C. J. Murtagh (Liphook). |
| LS | Louvain Studies, Leuven. (Abstracts supplied by publisher.) |
| N | Notitiae, Rome. Rev. G. Read (Colchester). |
| PCF | Philippine Canonical Forum, Manila. Sr Mary Lyons RSM (Galway). |
| QDE | Quaderni di Diritto Ecclesiale, Milan. Rev. M. Mullaney (Dublin). |
| RDC | Revue de Droit Canonique, Strasbourg. (Abstracts supplied by publisher.) |
| RfR | Review for Religious, St Louis, Missouri. Sr I. MacPherson SND (Fort William). |
| RTL | Revue théologique de Louvain, Louvain-la-Neuve. (Abstracts supplied by publisher.) |
| SC | Studia Canonica, Ottawa. Rev. P. Cogan SA (Ottawa). |
| SCL | Studies in Church Law, Bangalore. Rev. G. Read (Colchester). |

## BOOKS RECEIVED

- Brian Edwin FERME: *Introduction to the History of the Sources of Canon Law: The Ancient Law up to the Decretum of Gratian* (Gratianus series), Wilson & Lafleur Ltée, Montréal, 2007, xv + 320pp., ISBN 978-2-89127-805-8 [see above, Historical Subjects (*First millennium*)]

- Javier HERVADA: *Introduction to the Study of Canon Law* (Gratianus series), Wilson & Lafleur Ltée, Montréal, 2007, viii + 103pp., ISBN 978-2-89127-836-2 [see above, General Subjects (*General introductions to canon law*)]

- Joseph T. MARTÍN DE AGAR: *A Handbook on Canon Law* (Gratianus series), 2nd updated edition, Wilson & Lafleur Ltée, Montréal, 2007, xx + 325pp., ISBN 978-2-89127-804-1 [see above, General Subjects (*General introductions to canon law*)]

- Jesu PUDUMAI DOSS: *Freedom of Enquiry and Expression in the Catholic Church: A Canonico-Theological Study*, Kristu Jyoti Publications, Bangalore, 2007, xix + 398pp., ISBN 81-87370-41-6 [see above, canon 218]

- Jesu PUDUMAI DOSS / Francis Vincent ANTHONY / Jerome VALLABARAJ / Cyril DE SOUZA / Joseph Sagayaraj DEVADOSS (eds): *Youth India: Situation, Challenges & Prospects*, Kristu Jyoti Publications, Bangalore, 2006, ix + 349pp., ISBN 81-87370-38-6 [see above, canons 208-223]

- Pete VERE / Michael TRUEMAN: *Surprised by Canon Law*, volume 2, St Anthony Messenger Press, Cincinnati, Ohio, 2007, viii + 142pp., ISBN 978-0-86716-749-8 [see above, General Subjects (*General introductions to canon law*)]

- William H. WOESTMAN: *Canon Law of the Sacraments for Parish Ministry*, Faculty of Canon Law, St Paul University, Ottawa, 2007, xv + 406pp., ISBN 978-0-919261-58-7 [see above, canons 840-848]