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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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GENERAL SUBJECTS

Comparative law

Ap LXXXVII (2014), 487-506: Luis M. Bombín: Funzione della comparazione giuridica contemporanea. (Lecture)

The study of comparative law is a specific characteristic of the *Institutum Utriusque Iuris* of the Pontifical Lateran University, not only for civil law but also for canon law. This characteristic is important culturally and educationally, but above all "methodologically", because the law of the Church is not inherently different in its creation and development from other legal systems, with which it has been in relationship from the very beginning. "Comparative" legal reasoning helps canonists to open their minds to law as "experience", so that experience may also be a "guide" for the juridical life of the Church.

KIP 4 (17) 2015, 9-23: Magdalena Dziewicka: Zwyczaj w prawie kanonicznym i w prawie polskim (Custom in canon law and Polish law). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-2

D. looks at legal practices in the canonical legal system and in Polish law. She first sets out the general characteristics of legal traditions and their importance in contemporary legal systems. She then analyses customs in canon law, and the role of canons 23-28 of the CIC/83 in resolving issues. Next she describes customs in Polish law and the impact of customary law on civil law.

KIP 4 (17) 2015, 119-129: Anna Darnowska: Wymiar kary przy zbiegu przestępstw w prawie karnym kanonicznym i kara łączna w polskim prawie karnym (The intersection of penalty and crime in canonical penal law and the "total penalty" in Polish criminal law). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-9

W. studies the question of the application of penalties in cases where an offence in canon law is also a crime in Polish civil law.

KIP 4 (17) 2015, 131-149: Paweł Głuchowski: Kanoniczna odpowiedzialność za dokonanie przestępstwa aborcji (kan. 1398) w kontekście przesłanek dopuszczalności przerywania ciąży w prawie polskim

(Canonical responsibility for the crime of abortion (canon 1398) in the context of the conditions permitting abortion in Polish law). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-10

W. studies the penalty of excommunication for procured abortion in relation to the Polish law allowing abortions in certain circumstances.

KIP 4 (17) 2015, 171-193: Katarína Šangalová: Stosowanie zróżnicowanych wartości w procesie kanonicznym i cywilnym (Application of different values in canonical and civil processes). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-12

Š. argues that canon and civil law apply different values in conducting processes. In a civil cause, the individual is subject to a law reflecting society's as well as the legislator's values, which are not necessarily identical with the values of the individual. In canon law, the individual is supposed to share the same values as the Church. Consequently, in a canonical cause contradictory values should not collide, and the cause itself should aim to reveal the truth and achieve the main goal – the salvation of souls. By analysing values and their application in civil and canon law, Š. emphasizes the specificities and divergences of both systems of law, as well as their possible consequences for the persons they affect.

Compilations

AnCan (Chile), I (2015), 5-143: XXVII Jornadas de la Asociación Chilena de Derecho Canónico, julio 2012. (Compilation)

Given here are selected presentations from the XXVII Study Day of the Chilean Canon Law Society, held in 2012, including those of Celso Morga on religious freedom and anti-discrimination laws (pp. 5-17), and perfect and perpetual continence for the Kingdom of Heaven (pp. 19-40), and of Carmen Peña García on the instruction of the cause: declarations of the parties and witnesses (pp. 41-72), exclusion: configuration of the *caput nullitatis* and evidential requirements (pp. 73-90), the judicial *vetitum*: criteria for its imposition and removal (pp. 91-113), and the influence of sexual orientation disorders on the heads of matrimonial nullity: jurisprudence (pp. 115-143).

AnCan (Chile), I (2015), 145-231: XXVIII Jornadas de la Asociación Chilena de Derecho Canónico, julio 2013. (Compilation)

Given here are selected presentations from the XXVIII Study Day of the Chilean Canon Law Society, held in 2013, including those of Manuel J. Arroba Conde on evidential systems and the ascertaining of the truth (pp. 145-154), the proposing, accepting and obtaining of proofs (pp. 155-164); the centrality of the declarations of the parties (pp. 165-172); the special nature of expert evidence (pp. 173-185), the anthropological basis of expert reports (pp. 187-204), evaluation of the proofs (pp. 205-214), and reparative justice and penal canon law: procedural aspects (pp. 215-231).

AnCan (Chile), I (2015), 233-359: XXIX Jornadas de la Asociación Chilena de Derecho Canónico, julio 2014. (Compilation)

Given here are selected presentations from the XXIX Study Day of the Chilean Canon Law Society, held in 2014, including those of Carmen Peña García on procedural novelties in the Roman Rota (pp. 233-248), the discussion phase of the ordinary matrimonial nullity process (pp. 249-261), moral certainty, the setting out of reasons and other aspects connected to the judicial sentence (pp. 263-272), and the challenging of a valid sentence: the appeal and the shorter process, and the *nova causae propositio* (pp. 273-309); and of Antonio Viana on the problem of the laity's sharing in the power of governance (pp. 311-328), the Apostolic See impeded by the illness of the Pope (pp. 329-341), and the announced reform of the Roman Curia by Pope Francis (pp. 343-359).

AnCan (Chile), I (2015), 361-377: Inauguración Año Judicial 2015. (Compilation)

The texts are given of two lectures given to the Chilean Canon Law Society on the occasion of the start of the 2015 judicial year: David Albornoz Pavisic on the project for the reform of Book VI of the CIC/83 (pp. 361-371) and Jaime Ortiz de Lazcano Piquer, giving an annual report on the interdiocesan tribunal of the Archbishopric of Santiago (pp. 373-377).

IC 55 (2015), 837-913: José Ignacio Rubio López: Crónica de Derecho Eclesiástico en los Estados Unidos de Norteamérica (2013-2015). (Report)

R.L. provides details of the 2013-2014 and 2014-2015 United States judicial years in respect of cases involving religious freedom and other ecclesiastical law issues. He then turns his attention to government interventions and legislative initiatives.

REDC 72 (2015), 285-307: Federico R. Aznar Gil: Boletín de legislación canónica particular española, 2014. (Compilation)

A.G. provides listings of particular legislation issued in 2014 by different dioceses in Spain. His division follows the order of the books of the Code. He gives the name of the diocese, title and date of the legislation and its page reference in the appropriate diocesan publication.

Family issues

EE 90 (2015), 751-764: José M.ª Díaz Moreno: El Sínodo de la Familia. Notas marginales. (Article)

Examining from a canonical perspective the documents of the Extraordinary General Assembly of the Synod of Bishops held in 2014 as well as the preparatory documents for the XIV Ordinary General Assembly in 2015, D.M. highlights the close connection between the two Assemblies, and examines in greater depth topics such as the understanding of the family as a domestic church, civil marriages of Catholics, the reform of the procedure for declarations of matrimonial nullity, the briefer process before the bishop, lack of faith in the spouses, and brief duration of a marriage.

EIC 55 (2015), 405-423: Ilaria Zuanazzi: La famiglia come "soggetto" nel diritto della Chiesa. (Article)

See below, canon 226.

Human rights

KIP 4 (17) 2015, 151-169: Jerzy Nikołajew: Prawo osób pozbawionych wolności do wyżywienia przygotowanego według wymogów religijnych. Regulacje normatywne a trudności praktyczne (The right of persons deprived of their liberty to have their food prepared according to religious requirements. Normative regulations and practical impediments). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-11

The right of persons deprived of their liberty to have their food prepared according to religious norms is protected by international and domestic regulations, including the Polish Constitution. The Republic of Poland was

found by the European Court of Human Rights in the *Jakóbski* case to have been in breach of this obligation. N. studies various implications of this right.

KIP 4 (17) 2015, 195-214: Agnieszka Romanko: Ekspozycja chusty islamskiej przedmiotem rozstrzygnięć Europejskiego Trybunału Praw Człowieka. (The wearing of the Islamic headscarf in the jurisprudence of the European Court of Human Rights). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-13

R. analyses selected jurisprudence from the European Court of Human Rights concerning the manifestation of one's religion or beliefs, specifically in relation to the use of the Islamic headscarf. She looks at the decisions in *Dahlab v. Switzerland*, *Leyla Sahin v. Turkey* and *Dogru v. France*.

LJ 177 (2015), 263-301: Frank Cranmer – Andrew Hambler – Helen Hall – Peter Smith – Russell Sandberg: Casebook. (Compilation)

Notes are given for various cases on a range of human rights decided in 2015 by the European Court of Human Rights and by courts and tribunals in England and Wales, Scotland and Northern Ireland.

REDC 72 (2015), 95-112: José María Enríquez Sánchez: El sentido propio de los Derechos Humanos. (Article)

A proper understanding of human rights cannot be achieved from a purely historical examination or from the consideration of a single cultural context. E.S. shows how human rights are to be seen in relationship to the meaning of values and ideas such as freedom and equality, as well as human dignity and universality, which are the guiding principles for understanding human rights. He ends with an extensive bibliography of Spanish-language publications on the subject.

REHIPIP 9 (diciembre 2015), 359-363: Franciscus Romanus Pontifex: Ad Praesidem Internationalis Consilii adversum poenam capitalem, excellentissimum dominum Fridericum Mayor. (Document)

In a letter of 20 March 2015 to Federico Mayor, President of the International Commission Against the Death Penalty, Pope Francis states that the death penalty nowadays is inadmissible, and that all Christians are obliged to fight for its abolition as "the world needs witnesses of God's mercy and tenderness". (See also *Canon Law Abstracts*, no. 115, pp. 16-17.)

REHIPIP 9 (diciembre 2015), 394-397: Franciscus Romanus Pontifex: Ad Plenariam Sessionem Pontificiae Academiae Pro Vita (5 de marzo de 2015). (Address)

Addressing participants in the Plenary Assembly of the Pontifical Academy for Life, which focused attention on palliative care, the Pope stated that palliative care "is an expression of the truly human attitude of taking care of one another, especially of those who suffer. It is a testimony that the human person is always precious, even if marked by illness and old age. Indeed, the person, under any circumstances, is an asset to him/herself and to others and is loved by God."

Law reform

AA XXI (2015), 285-307: Jorge Antonio Di Nico: La Asesoría Jurídica Diocesana. Propuesta de *Lege Ferenda*. (Article)

See below, canons 469-474.

Ap LXXXVII (2014), 627-644: Erasmo Napolitano: Modifiche attuali e future al *CIC* e vita ecclesiale. (Article)

Since the promulgation of the CIC/83 the corpus of Church law has been swelled by a vast output of laws: 6 Apostolic Constitutions, 21 Apostolic Letters *motu proprio datae*, 27 authentic interpretations, as well as all the normative documents issued by the Roman Curia. Considering that "the human person is the essence of law" (Rosmini), it follows that if it is deemed necessary to modify a law for the good or the needs of the faithful, then that is what should be done, since the overriding objective of the law is the *salus animarum*. Canon law, while remaining linked to the theological foundation that endows it with reasonableness, must at the same time keep up with changing historical circumstances. It is therefore necessary to abrogate norms that prove to be antiquated, to modify those in need of amendment, to interpret those that are doubtful, and to issue laws that are suited to current needs: for example, in the areas of the *delicta graviora*; instituted ministries of women, and the streamlining of procedures for matrimonial nullity cases.

Canonist 6/1 (2015), 11-43: John Renken: Penal Law in the Church Tomorrow: Reflections on a Revision of *Book VI*. (Article)

See below, canons 1311-1399.

IE XXVII (2015), 357-374: Przemysław Michowicz: Verso la positivizzazione del diritto al buon governo nel sistema canonico amministrativo. Risultanze giurisprudenziali in relazione al diritto dei religosi. (Article)

M. presents a canonical analysis of the "right to good governance" in canonical administrative law, taking as his point of reference the decisions of the Apostolic Signatura in contentious-administrative cases involving religious. He suggests a possible new specification of the right to good governance for consecrated persons.

Per 104 (2015), 565-590: Przemysław Michowicz: Attenzione magisteriale e riferimenti dottrinali critici all'assetto giuridico dei consacrati. (Article)

See below, canon 573.

Per 104 (2015), 653-685: Roberto Aspe: El entredicho: una propuesta de censura para sancionar a quienes cometan algún delito contra el sexto mandamiento del Decálogo con un menor (can. 1395 §2). (Article)

See below, canon 1395.

QDE 28 (2015), 319-325: Alessandro Giraudo: Snellimento della prassi canonica in ordine alla dichiarazione di nullità del vincolo matrimoniale? /6. (Article)

See below, canons 1671-1691.

William L. Daniel: The Art of Good Governance. A Guide to the Administrative Procedure for Just Decision-Making in the Catholic Church. (Book)

See below, canons 50-51.

Legal theory

AC 55 (2013), 127-142: Ludovic Danto: De l'intérêt de la sociologie en droit canonique. (Article)

D. aims to demonstrate how sociology as a science can help show that canon law is true law. It can also aid reflection on the law for the purpose of bringing about modifications or improvements to the law.

Ap LXXXVII (2014), 373-404: Paolo Gherri: Discernere e scegliere nella Chiesa. (Article)

G. reflects on the discernment and choice that must precede value judgements and operational decisions. "Choice" is not a simple "option" but is the result of a complex process of discernment that involves not only the will but also intentionality and knowledge. He argues that not every decision represents a true "choice": often decisions are made without a proper assessment. This applies both to marriage and to decisions of Church leadership. It is only discernment that leads to choice in the truest sense of the term.

Ap LXXXVII (2014), 527-550: Elena di Bernardo: Il discernimento come struttura: il Processo. (Lecture)

Discernment is an activity aimed at distinguishing one thing from another, leading to a choice. It takes on a particular form in trials. In the transition from one type of uncritical acceptance of the administration of justice (trial by ordeal) to a more evolved process, procedure has made use of the category of "order", without which any form of knowledge is impossible. Di B. shows how discernment applies at the various stages of the process.

Ap LXXXVII (2014), 583-606: Antonio Iaccarino: Discernimento e pluralismo. Spunti di riflessione all'origine del senso della giustizia. (Article)

I. analyses the concepts of equality and inequality before describing the relational dynamics of law. He stresses the central role played by the individual, who forms the link between the historical complexity of reality and its deepest meaning. This interpretative task requires discernment, which shapes a person's ability to decide "according to truth". It also involves the constant exercise of dialogue which, through rationality, brings many different elements into unity.

FCan X/2 (2015), 7-26: Adriano Broleze: Uma leitura normativa das Sagradas Escrituras na Suma Teológica Ia. IIae. Q. 98 a 108. Uma contribuição à teologia do Direito. (Article)

B. studies St Thomas Aquinas's approach to the relationship of divine law and Sacred Scripture to the Church's legal norms.

FThC IV 26/18 (2015), 203-213: Carlos José Errázuriz: Sul rapporto tra teologia e Diritto canonico: il binomio dottrina-disciplina. (Article)

See below, canon 915.

IE XXVII (2015), 357-374: Przemysław Michowicz: Verso la positivizzazione del diritto al buon governo nel sistema canonico amministrativo. Risultanze giurisprudenziali in relazione al diritto dei religosi. (Article)

See above, General Subjects (*Law reform*).

Ius Comm III (2015), 171-189: Antonio M.ª Rouco Varela: El Derecho canónico: su comprensión teológica y su significado pastoral en tiempos de reforma. (Article)

50 years after the Second Vatican Council, the word "reform" has once again become topical. Every movement of conversion and interior renewal in the Church's history has treated canon law as being of key importance. A correct understanding of canon law, from and within the profound lived experience of the Mystery of the Church as *communio*, is essential in this time of new evangelization.

Relations between Church and State

AC 55 (2013), 143-157: Olivier Échappé: Les « débaptisations » devant la Cour de cassation. (Article)

See below, canon 877.

AC 55 (2013), 243-275: Marie-Bernadette Schönenberger: Les mariages mixtes en Suisse au XIX^{e} siècle. (Article)

See below, Historical Subjects (*16th-19th centuries*).

AkK 183 (2014), 5-17: Reinhard Marx: Entweltlichung und / oder Neue Evangelisierung. Zur Verhältnisbestimmung von Kirche und Staat. (Article)

M. deals with a topic of current interest concerning the Church-State relationship in Germany. The same people are affected in equal measure by the actions of the government and the Church, so that cooperation in matters of common interests and aspirations becomes inevitable. M. argues that the separation of Church and State in simultaneous joint collaborations would be good for both sides. This also applies to issues such as the Church tax system, State subsidies and that of *Caritas*. In these areas the Church needs to find an appropriate balance between separation from the State and secularization, so that she can bear witness to her faith through her institutions.

AkK 183 (2014), 18-38: Stefan Muckel: Die Entchristlichung der Gesellschaft. Eine Anfrage an das deutsche Staatskirchenrecht. (Article)

M. deals with current developments in German constitutional law on religion in the face of the progressive dechristianization of society. He sets out the foundations and pillars of German religious constitutional law, in particular its secular nature, neutrality, religious–legal parity and the principle of religious freedom. In this context he discusses the organizational form of various legal institutes recognized by the secular constitutional law of religion, paying special attention to religious education and the corporate status of Churches and religious communities, as well as existing agreements with these bodies. He describes the efforts of Churches to adapt to the changing conditions of society, in order to preserve their acceptance by the German constitutional law on religion. He concludes with some reflections on the future sustainability of the constitutional law on religion in the context of recent court judgments.

AkK 183 (2014), 76-105: Heribert Hallermann: Bekenntnisgebundene Zugangsbeschränkungen zum Theologiestudium. (Article)

See below, canons 815-821.

Ap LXXXVII (2014), 551-581: Giorgio Feliciani: Il nuovo Statuto della Commissione degli Episcopati della Comunità Europea (COMECE). (Article)

F. highlights the more important similarities and differences between the original statutes of the Commission of the Episcopates of the European

Community (COMECE), founded in 1980, and the current statutes which were approved in 2011 and which are complemented by appropriate Regulations.

EE 90 (2015), 723-749: Slawomir Andrzej Wiktorowicz: La situación actual del profesorado de religión católica en Polonia. (Article)

W. focuses on the labour laws applicable to Catholic religion teachers in Polish State schools, with particular reference to the selection of teachers, the manner in which they are appointed and dismissed, the salary they receive, and certain problematic infringements of their fundamental rights.

EIC 55 (2015), 237-264: Giuseppe Dalla Torre: Stato della Città del Vaticano e *munus petrinum*. (Article)

D.T. examines the extent to which the temporal sovereignty of the Holy See remains beneficial. An analysis of historical and historical-legal events, ancient and recent, highlights the essentially instrumental nature of what is today a tiny and temporal sovereignty. The existence of the Vatican City State removes the Pope from subjection to political powers, favours the free exercise of the *munus petrinum*, and supports the "positive neutrality" of the Holy See in the life of international society.

EIC 55 (2015), 265-305: Paolo Cavana: I rapporti tra lo Stato della Città del Vaticano, l'Italia e l'Unione europea tra continuità e innovazione. (Article)

C. addresses the delicate question of the institutional relations between the Vatican City State, the Republic of Italy and the European Union, in the light of recent Vatican legislative reforms. He analyses the juridical status of the Holy See and the Vatican City State.

EIC 55 (2015), 307-326: Juan Ignacio Arrieta: Legami inter-ordinamentali recenti tra Santa Sede e Stato della Città del Vaticano in materia sanzionatoria e di controllo finanziario. (Article)

A. examines the recent legislative reforms of the Vatican City State in the light of the relationship between the laws of the Vatican and canon law.

EIC 55 (2015), 327-356: Piero Antonio Bonnet: Lo spirito del diritto penale vaticano. (Article)

B. sets out the most important elements of the penal law of the Vatican City State. Since it is the penal law of a Catholic confessional State, it is closely linked to the Church's moral teaching, the essential nucleus of which is based on divine law. In the light of the Christian dualism between the spiritual and the temporal, and hence between Church and State, B.'s analysis of ecclesial law also takes into account the decisions of the civil courts. Despite the multiplicity of its sources, and frequent legislative interventions, Vatican penal law succeeds in achieving substantial harmony between divine and human law.

EIC 55 (2015), 357-384: Giuseppe Rivetti: Le ragioni giuridiche ed ontologiche della normativa antiriciclaggio nello Stato Città del Vaticano. La nuova architettura economico-finanziaria. (Article)

Among the major reforms affecting the laws of the Vatican during the pontificates of Popes Benedict XVI and Francis are those concerning the financial and economic sectors. R. analyses these reforms and sets out the provisions which now form the basis of the Vatican City State's law in this area.

EIC 55 (2015), 467-502: Cesare Edoardo Varalda: L'istituto del patrimonio stabile tra norme canoniche e disciplina concordataria per l'Italia. (Article)

As a result of the economic downturn of 2008 many ecclesiastical institutions found themselves in severe crisis and often unable to repay their debts. Classical Italian bankruptcy law can prove inadequate for these situations, and V. offers some suggestions for a regulatory scheme starting out from the concept of "stable patrimony" as already existing in canon law.

FCan X/2 (2015), 149-161: Miguel Assis Raimundo: Assistência religiosa em situações especiais (Forças Armadas, prisões, hospitais e outras). (Article)

Pastoral care in public services or establishments characterized by the creation of "separate communities" (prisons, hospitals, etc.) pose particular problems, which historically have been resolved by supporting those who provide such pastoral care by collaborating with them and even integrating them into the public service. This gives rise to doubts and difficulties in a context of separation of Church and State. A.R. argues for balanced solutions which respect the exercise of freedom of religion.

IC 55 (2015), 769-811: Real Decreto 594/2015, de 3 de julio, por el que se regula el Registro de Entidades Religiosas; Joaquín Mantecón: Breve nota sobre el nuevo Real Decreto del Registro de Entidades Religiosas. (Document and comment)

By royal decree of 3 July 2015 the provisions governing the registering of religious bodies in Spain are updated and brought together in a single text.

IC 55 (2015), 813-833: Real Decreto 593/2015, de 3 de julio, por el que se regula la declaración de notorio arraigo de las confesiones religiosas en España; Ángel López-Sidro: El notorio arraigo de las confesiones religiosas en España a partir del Real Decreto que regula su declaración. (Document and comment)

By royal decree of 3 July 2015 provisions are made in respect of the procedures for the declaration of established tradition (*notorio arraigo*) of religious confessions in Spain.

IE XXVII (2015), 271-294: Massimo Catterin: Aspetti politici e giuridici per un insegnamento della religione nella scuola dell'Europa interculturale. (Article)

C. looks at the issue of religious education in State schools in Europe. He presents the policies of the Council of Europe which, taking the view that religions can educate when they are taught in a comparative perspective, recommend the teaching of multiconfessional religion, or of religious ethics and culture, sometimes influencing the laws of individual nations. He then analyses the position taken by the Holy See on the question of Catholic education, through the Church's magisterium. The analysis highlights the Holy See's role in protecting religious education in the different European organizations.

IusM IX/2015, 177-191: Angela Valletta: Delibabilità delle sentenze in materia matrimoniale delle confessioni religiose diverse dalla cattolica tra ordine pubblico e prospettive interculturali. (Article)

V. addresses the question of the recognition by Italian State law of judgments in matrimonial matters affecting parties who belong to religious denominations other than the Catholic Church.

IusM IX/2015, 213-224: Szabolcs Anzelm Szuromi: Legislazione successiva alla trasformazione dei rapporti tra Chiesa e Stato nell'Europa centro-orientale. (Article)

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

LJ 175 (2015), 166-179: Andrew Caplen: The Magna Carta: A One Nation Justice Policy, Access to Justice and the Role of the Church. (Article)

In the year marking the 800th anniversary of the Magna Carta, C. points out that the vital issue of the state of the United Kingdom's justice system has been largely sidelined, notwithstanding that one of the fundamental duties of the State is to provide full and fair justice for its citizens. Here he seeks to redress that balance and, in particular, to consider the role that the Church should play in the often neglected question of how to provide access to justice to those who need it most.

RDC 65/2 (2015), 409-439: Maria Chiara Ruscazio: Quelques réflexions canoniques à propos de l'objection de conscience du fonctionnaire public. (Article)

With the gradual secularization of Western society, State standards conflict more and more with the imperatives of the ecclesial order concerning the obedience demanded of the "faithful-citizen". The difficulty arising from this dual loyalty is seen in a special way in the case of conscientious objection on the part of the "faithful-public servants". Faced with the refusal of State law to recognize the right of conscientious objection on the part of public servants, she suggests that canonical *tolerantia* can provide a solution, albeit an incomplete one.

REDC 72 (2015), 73-94: Myriam Cortés Diéguez: Las fundaciones educativas de los institutos de vida consagrada. Análisis de sus peculiaridades y de los criterios dados por la Conferencia episcopal para su constitución. (Article)

See below, canon 801.

REHIPIP 9 (diciembre 2015), 125-156: Stefano Testa-Bappenheim: Recenti sviluppi delle relazioni fra stato e chiese in Cina. (Article)

http://www.eumed.net/rev/rehipip/09/cina-religione.html

Ten years on from the 2004 laws on religious activity, the Chinese State Administration for Religious Affairs included in its yearly action plan for 2015 a project to update those laws. Included here is a collection of the most recent norms at national level in China, together with a document of the Chinese Communist Party setting out the attitudes to be adopted towards religions.

Religious freedom

AA XXI (2015), 309-327: Juan G. Navarro Floria: Libertad religiosa y de conciencia en Cuba: una aproximación. (Article)

N.F. starts by considering the principal legal instruments in Cuba touching on freedom of religion and conscience. Although that country's Constitution "recognizes, respects and guarantees freedom of religion" and "prescribes and makes punishable by law" discrimination motivated by (among other reasons) religious beliefs, in fact neither the civil nor the penal code make any provision for the implementation of these constitutional guarantees. Moreover Cuba is the only state in the whole region not to have signed the American Convention on Human Rights (*Pacto de San José*, 1969). N.F. hopes that with apparent beginnings of a more open society in Cuba this situation will gradually change, and he suggests a number of specific areas where this should take place.

AnCan (Chile), I (2015), 5-143: XXVII Jornadas de la Asociación Chilena de Derecho Canónico, julio 2012. (Compilation)

See above, General Subjects (*Compilations*).

IE XXVII (2015), 317-338: Montserrat Gas Aixendri: Allontanamento dalla Chiesa e diritti fondamentali nell'ordinamento canonico: La tutela della libertà religiosa e dello *ius connubii*. (Article)

See below, canon 1058.

IusM IX/2015, 213-224: Szabolcs Anzelm Szuromi: Legislazione successiva alla trasformazione dei rapporti tra Chiesa e Stato nell'Europa centro-orientale. (Article)

In recent decades the countries of Central and Eastern Europe have sought a legal framework for the separation of Church and State, with a view to protecting the free and public exercise of freedom of conscience and religion, and eliminating all forms of religious intolerance and discrimination. The State cannot neglect the fact that religious conviction forms part of the natural characteristics of the majority of its citizens, and it is therefore obliged to facilitate the practice of religion. It cannot adopt a neutral stance towards the activity by which its citizens enrich society, making use of their freedom of religion and conscience, as guaranteed by the Constitution and other laws.

LJ 175 (2015), 209-226: Rachel Alexander: The Constitutional Theory of Burwell v Hobby Lobby. (Article)

A. examines the role played by the Religious Freedom Restoration Act of 1993 (RFRA) in the US Supreme Court religious freedom case *Burwell* v. *Hobby Lobby Stores, Inc*. Because the Court relied on RFRA instead of the First Amendment to protect the businesses' religious liberty, *Hobby Lobby* is not permanently settled.

REDC 72 (2015), 13-32: Miguel Ángel Asensio Sánchez: Libertad religiosa del menor y relaciones paterno-filiares: conflictos. (Article)

See below, canon 793.

Social issues

EIC 55 (2015), 425-466: Michele Belletti: Le Unioni di persone dello stesso sesso – in attesa di un intervento legislativo – tra giurisprudenza costituzionale, dei giudici comuni e della Corte europea dei diritti dell'uomo. (Article)

B. sets out the principal decisions of the Italian Constitutional Court and other national tribunals concerning same-sex unions, and examines the jurisprudence of the European courts, especially the European Court of Human Rights.

HISTORICAL SUBJECTS

1st millennium

FThC IV 26/18 (2015), 153-161: Szabolcs Anzelm Szuromi: The systematic development of the Liturgy of Hours during the first centuries – based on the Jewish and Christian tradition. (Article)

The Church's Liturgy of the Hours – reformed on several occasions over the centuries – is one of the oldest links to the Jewish prayer and liturgical life. The custom of the daily recitation of psalms is one of the liturgical traditions inherited from the Jewish tradition. S. studies the interpretation of psalms by patristic authors prior to the institutionalized Divine Office, and the crystallization of the Divine Office itself. This crystallization kept together the developing Christian community and has become the institutionalized prayer which constitutes a continuous prayer of praise and petition to God.

Classical period

AA XXI (2015), 341-355: Ciro Tammaro: Brevi profili storici della *Bulla Episcopalis* quale acto giuridico-canonico medievale. (Article)

T. traces the historical origins of the *bulla*, the seal attached to a document, originally impressed on wax and later on a leaden disc, used to confirm the authority of the issuing agent. It was already used in imperial and royal chancelleries before it was adopted by the papal chancellery. There exists a design for a papal bull dating from the sixth century (the original *bulla* is lost). By the Middles Ages its use became common in episcopal chancelleries, and served to confirm in a material and visible manner the power of jurisdiction of a particular bishop or prelate.

FThC IV 26/18 (2015), 137-151: Péter Erdö: Il parroco deve conoscere la lingua dei fedeli. Osservazioni giuridico-canoniche a proposito delle Regole della Cancelleria (ss. XIV–XVI). (Article)

In the early centuries, the organization of the pastoral care of the faithful of different rites and languages needed to be harmonized only with the structures of the unitary ecclesiastical governance. Later on, from the time of the Avignon Papacy, the question of knowledge of the language became relevant to the system of pontifical grants of benefices and local ecclesiastical offices. Such

grants gave rise to pastoral problems, including local resistance in some cases, and conflicts between the interests of curial officials, the interests of local princes, and the pastoral interest, which was that the language of the local faithful should be well known by the parish priest and by anyone else receiving a benefice connected to pastoral care. If the parish priest spoke that language as his mother tongue it reinforced trust, spiritual community and the effectiveness of his mission.

IE XXVII (2015), 375-394: Thierry Sol: La notion de *ius* en droit sacramentaire chez Gratien et les Décrétistes. (Article)

Taking as his starting point the dispute between Michel Villey and Brian Tierney concerning the origins of the subjective conception of right (*ius*), S. explores the notion of *ius* which underlies the argumentation of Gratian and the decretists in sacramental law. The need to provide a practical and nuanced response to the problem of simoniacal, heretical or schismatic priests led these authors to develop distinctions, in the context of an objective conception of *ius*.

RDC 65/2 (2015), 265-291: Arnaud Fossier: Le droit d'absoudre. Concurrences juridictionnelles et communication des fors (v. 1l30–v. 1320). (Article)

The "reservation" of absolution, entitling the Supreme Pontiff to keep to himself the right to lift certain excommunications, appeared around the year 1130. After being at first associated with "sacrilege" and "*lèse-majesté*", it became one of the main instruments of the Pope's *plenitudo potestatis*. The bishops in the West then strove to redefine their sphere of activity by using the same instrument: thus the episcopal reservation and penitentiary made their appearance during the first quarter of the 13th century. However, synodal statutes from France, England and Italy reveal ambiguities in the episcopal reservation and cast new light on the history of "forums". At the end of the 13th century, it was becoming increasingly clear that the proliferation of "reserved cases" was being used as a way of protecting episcopal jurisdiction against the increasingly intrusive sphere of penitential activity of the mendicant priests and friars.

RDC 65/2 (2015), 293-312: Véronique Beaulande-Barraud: Les cas réservés dans les statuts synodaux de la province ecclésiastique de Reims, 13^{e}–14^{e} siècles. Essai d'analyse d'une catégorie canonique. (Article)

B.-B. discusses reserved cases as they are presented by the synodal statutes of the dioceses of the ecclesiastical province of Reims up to the middle of the l4th century. She deals with both pontifical and episcopal cases, but the relative

importance of the former is mitigated by this documentation, which emphasizes episcopal jurisdiction and plays down any conflict with the papal *plenitudo potestatis*. Reserved cases are presented as sins of great enormity and as crimes endangering the entire ecclesial body. They are linked to but are not to be confused with sins requiring solemn penance and/or leading to excommunication.

RDC 65/2 (2015), 313-333: Élisabeth Lusset: Confession, absolution des péchés et levée des censures. Les cas réservés chez les Cisterciens et les Chartreux (12e–15e siècles). (Article)

While the Cistercian and Carthusian rules gave abbot and prior respectively the sole power to absolve their clergy, especially from the most serious sins, they defined some cases as "reserved" to the general chapter or the head of the order. Reservation of absolution of sins and ecclesiastical censures for particular crimes enables the higher bodies of these two religious orders to assert their jurisdictional prerogatives over their members. L. analyses the progressive definition of a superior's right of reservation, and how it is positioned relative to that of the order's higher bodies and the Pope.

RDC 65/2 (2015), 335-359: Émilie Rosenblieh: Les cas réservés et le pouvoir de dispense du pape au temps de la crise conciliaire (1ère moitié du 15e siècle). (Article)

R. studies the debates on the power of dispensing and cases reserved to the Pope in the critical context of the first half of the 15th century, when the conciliar authority challenged the papal monarchy in the name of Church reform. The Council of Constance (1414-1418) aimed to strengthen the power of the metropolitan to grant pardons, and the decree *De dispensationibus* restricted the dispensations which the beneficiaries of a prelature could be granted. Pope Martin V (1417-1431) agreed to submit his power of dispensing to the control of cardinals or bishops. The audacious reforming spirit of the Council of Basel (1431-1449) resulted in that assembly granting pardons throughout Latin Christendom. In the face of these practical challenges supporters of the papacy reasserted in all its sovereignty the papal power of dispensing.

REDC 72 (2015), 53-72: Francisco Cantelar Rodríguez: Los sacramentos. Exposición crítica desde los Sínodos medievales españoles. (Article)

C.R. looks at how the medieval Spanish synods treated each of the seven sacraments in what was considered as sound doctrine for the teaching of the faithful. He comments on such issues as baptism of desire, the wide range of

possible ministers of baptism, the bishop as minister of confirmation and orders, wheaten bread for the Eucharist, the validity of clandestine marriages and certain strange medieval beliefs surrounding the sacrament of anointing of the sick.

REDC 72 (2015), 149-214: Jerónimo García Sánchez: Creación de una biblioteca pública municipal en Ciudad Rodrigo. Año 1811. (Article)

G.M.'s subject is the establishment by the invading Napoleonic administration of a public library in the Spanish city of Ciudad Rodrigo. This was achieved by the wholesale confiscation of personal and institutional libraries, in great part those of religious communities, churches and the cathedral. Most of the article consists of a transcription of the lists of books drawn up by anonymous and not always competent or knowledgeable scribes.

REDC 72 (2015), 367-382: Cecilio Raúl Berzosa Martínez: Fray Alonso de Palenzuela, obispo de Ciudad Rodrigo (1460-1470) y de Oviedo (1470-1485): Religioso, escritor, pastor, reformador y diplomático. (Article)

Alonso de Palenzuela was a noted Spanish Franciscan bishop in the latter part of the 15th century with many achievements to his credit. B.M. briefly sketches his nobiliary family background. As a Franciscan his fame as a learned and effective preacher and administrator reached the ears of King Juan II and he was chosen by the Queen, Isabel of Portugal, to be her confessor, thus becoming part of the royal court. Among other publications were his translations of the sermons of St John Chrysostom, as well as some of his own. As a theologian he taught in the Franciscan friary in Salamanca. In 1460 he was appointed bishop of Ciudad Rodrigo and in 1470 bishop of Oviedo, showing himself to be an effective pastor and administrator, despite his absences while attending to his duties at court as a royal counsellor and ambassador. He strongly supported the ecclesiastical reforms instigated by the *Reyes Católicos*, Isabel and Ferdinand, concerning the clergy and the appointment of suitable bishops. As bishop of Oviedo he was also a generous benefactor of the pilgrims on the *Camino de Santiago*.

REDC 72 (2015), 395-455: José Luis Fernández Cadavid: Laurentius hispanus. Status quaestionis. (Article)

F.C. sets out the life and work of Laurentius Hispanus and the state of present studies regarding his important legacy. From the 11th to the 13th century a rediscovery was under way of collections of Roman law and papal decretals from the first millennium, which was to form the basis of legal thinking for

almost the whole of the second millennium. Laurentius Hispanus was one of the most well-known and prolific authors of the period: so famous, in fact, that in his day he came to be known simply as *regula iuris*.

AA XX (2014), 253-269 and **REDC 72 (2015), 599-614: Ciro Tammaro: Il matrimonio nel *De Sacramentis* di Ugo di San Vittore e nelle *Sententiae* di Pietro Lombardo: brevi note teologico-canoniche comparative.** (Article)

The main purpose of T.'s article is to present the basic lines of the theological and canonical thought of Hugh of Saint Victor in his work *De Sacramentis*, and that of Peter Lombard in his *Sententiae*. The differences and points of contact are pointed out. T. concludes by supporting the thesis of Peter Lombard who, following the thought of Gratian, stated that sexual union perfects only the sacramentality of marriage but not marriage as such, that is, as a contract, which requires only consent.

16th-19th centuries

AA XX (2014), 115-161: Javier Fronza: Inspiraciones constitucionales con respecto al factor religioso en la Argentina (en torno al bicentenario patrio). (Article)

F. writes with a view to the forthcoming bicentenary of the Republic of Argentina. He looks back over those centuries giving special attention to the more important constitutional developments, especially as they touched upon the issue of the place and importance of religion in the life of the State, ranging from the 1853 Constitution to the constitutional reforms of 1994.

AA XX (2014), 243-252: Osvaldo R. Moutin: ¿Recepción creativa en el III Concilio Provincial Mexicano? (Article)

The thrust of M.'s study is to show that the third Provincial Council held in Mexico in 1585 was more than simply a repetition or reception of previous Councils celebrated elsewhere in the Spanish territories of the Americas. Its creative interpretation and application of previous legislative norms widened their scope and relevance.

AA XX (2014), 271-292: Sebastián Terráneo: La costumbre en el Derecho Canónico Indiano. (Article)

T. examines the prevalence of custom as a source of law in the Spanish domains of the Americas from the 16th to the 18th centuries. He considers the different aspects of custom, its reasonableness, duration, intentionality, consent of authority, its proof and extinction. Customary law was widespread in various aspects of the Church's life in the Americas until it began to be questioned from the mid-18th century, when greater emphasis was placed on the control exercised by ecclesiastical authorities in determining the validity or otherwise of customs.

AA XXI (2015), 357-374: Sebastián Terráneo: El oficio de juez en la Iglesia indiana. (Article)

T.'s subject is the office and function of the ecclesiastical judge in the Americas during the Spanish colonial period. The judge's function was not so much to enforce the law as to resolve with justice the particular case presented to him. The law was only one among many other factors which were to be considered in reaching a decision, such as personal or corporate status, moral theology, royal and canonical law, tradition and custom, and precedent. The intention of the justice system was not directed predominantly at punishment but at orienting right behaviour in society by showing which kind of conduct was condemned by God, the Church and the Crown. The competence of the episcopal court was very wide and varied, touching on all aspects of canonical, civil and penal law which had relation to ecclesiastical or episcopal jurisdiction, civil and penal discipline of ecclesiastics, offences against the faith, public scandal, sacramental issues, especially marriage, and all matters concerning the rights of the Church. T. describes the functions of the various officers of these courts, the bishop as sole judge, the vicar general and others appointed as judges, and vicars forane. This important aspect of Spanish colonial judicial historiography is often ignored or not recognized in many historical studies.

AC 55 (2013), 243-275: Marie-Bernadette Schönenberger: Les mariages mixtes en Suisse au XIX^{e} siècle. (Article)

S. looks at the Catholic, Protestant and State laws on mixed marriages and at solutions reached at cantonal level up to the Federal Law of 1850. The aim of this Law was to eliminate the religious factor from mixed marriages. Difficulties of application led to the complete laicization of marriage in 1874.

FThC IV 26/18 (2015), 137-151: Péter Erdö: Il parroco deve conoscere la lingua dei fedeli. Osservazioni giuridico-canoniche a proposito delle Regole della Cancelleria (ss. XIV–XVI). (Article)

See above, Historical Subjects (*Classical period*).

FThC IV 26/18 (2015), 191-200: Szabolcs Anzelm Szuromi: The effect of Pope Benedict XIV's canonical works on the ecclesiastical process law. (Article)

S. offers some general observations on the legislation of Pope Benedict XIV (1740-1758), whose ideas – especially those contained in the Constitution *Dei miseratione* of 1741 – were to bring about a reform of matrimonial processes and were to be influential in the codifications of canon law in the 20th century and the 2005 Instruction *Dignitas Connubii*. Benedict XIV's concepts and arguments were also taken into account in the preparation of the Apostolic Letter *Mitis Iudex Dominus Iesus*, even though the provisions of the latter document differ in several material respects from those of *Dei miseratione*. S. considers that in order to understand the relationship between the 1741 and 2015 regulations the intentions of the respective legislators need to be compared. He argues that the fundamental theoretical principles have not altered, and that Pope Francis' legislation does not modify the original idea of Pope Benedict XIV's legislation, namely, a transparent service of justice in order to promote the salvation of souls.

IusM IX/2015, 149-175: Pier Virginio Aimone: Il divieto di attività imprenditoriale per chierici. Norme di diritto missionario. (Article)

See below, canon 286.

REDC 72 (2015), 457-508: Jerónimo García Sánchez: Ordenanzas de la cofradía del hospital de la pasión de Ciudad Rodrigo. (Article)

In 1492 a hospital was established in Ciudad Rodrigo (Spain). In the course of the 16th century two other local hospitals were merged with it. G.S. undertakes a comparative study of the various successive statutes and regulations which governed this entity down through the centuries. The original statutes and those of 1539 have been lost, and G.S. examines those of the period from 1612 to 1786. This hospital is still in existence and is now governed by the most recent statutes approved in 2009.

1917 Code

FThC IV 26/18 (2015), 215-238: Joaquín Sedano: Dal *Corpus Iuris Canonici* al primo *Codex Iuris Canonici*: continuità e discontinuità nella tradizione giuridica della Chiesa latina. (Article)

S. explores the extent to which the CIC/17 can be said to be faithful to the Church's ancient tradition, or whether it represents a break from that tradition. He considers that it is simplistic to argue (on the authority of Cardinal Gasparri, the primary architect of the CIC/17) that it is merely the outcome of a process of development of the preceding canonical collections, so as to constitute a *novum Corpus*. On the other hand it is incorrect to regard it as completely unconnected from the preceding law. His conclusion is that the codification of 1917 represents an "internal" discontinuity but at the same time is in fundamental continuity with the Church's juridical tradition.

20th century

AA XX (2014), 55-69: Hugo Héctor Cappello: El XXXII Congreso Eucarístico Internacional en memoria de los 80 años de su celebración (1934-2014). (Article)

C. takes a retrospective look at the celebration in Argentina of the 1934 International Eucharistic Congress. Among other matters he mentions the notable increase in the preceding years of the establishment of new dioceses in the country and some canonical considerations concerning the Pontifical Legate *a latere*, Cardinal Eugenio Pacelli.

J 75 (2015), 313-385: Joseph V. McCabe: The *Missio sui Iuris*: To Be or Not To Be a Particular Church (c. 371 §1): Historical Development of the *Missio sui Iuris* in Mission Territories (1896-2002) and the Praxis of the Congregation for the Evangelization of Peoples in Erecting Them. (Article)

See below, canon 371.

Second Vatican Council and revision of the CIC and CCEO

Canonist 6/2 (2015), 203-219: Adrian Sharp: Canonical contributions of Saint John Paul II through the lens of the Apostolic Constitution *Sacrae disciplinae leges*. (Article)

S. outlines some of the canonical contributions of Saint John Paul II, taking as his starting point the Apostolic Constitution *Sacrae disciplinae leges*, by which the Pope promulgated the CIC/83. He focuses especially on the topics of the Church as People of God, the Church as communion, participation in the threefold office of Christ, ecumenism, and collegiality, finishing with a section on the necessity of the Code.

FThC IV 26/18 (2015), 239-252: Nicolás Álvarez de las Asturias: Il Codice di Diritto Canonico di 1983: *sua* storia e *nella* storia. (Considerazioni al margine sulla *quaestio* del contributo del diritto canonico alla vita della Chiesa). (Article)

A. looks at the history, and the place in history, of the CIC/83. The Code was produced in a far from easy context for the life of the Church in general and for canon law in particular. As for its place in history, this must be judged in the light of its elements of novelty and of continuity with the preceding tradition, both of which were highlighted by St John Paul II by means of two images: that of the "translation" of the Church's teaching into canonical language, and that of the "triangle" of Sacred Scripture, the Acts of Vatican II, and the new Code. A correct understanding of the CIC/83 can only be achieved by bearing in mind the fundamental objective of canon law, which is to serve and preserve justice in the Church. Hence reform of the Church's legislation should be the result not of a desire to reflect better a particular theology, but rather of wishing to guarantee in a more effective way that specific component of the *salus animarum* which is justice.

FThC IV 26/18 (2015), 253-266: Szabolcs Anzelm Szuromi: Interpretation of the Church's discipline without the former sources. (Article)

S. argues that the interpreter of the canons of the present Code is obliged to know the formal sources in order to understand the context of any specific canon. An interpretation which ignores earlier ecclesiastical sources fails to understand the real and specific meaning of the canonical provisions. The old law is an indispensable instrument for understanding the law in force, so as to get as close as possible to its essential meaning and at the same time enter into the doctrinal mystery of the Church.

IE XXVII (2015), 295-316: Massimo del Pozzo: L'annosa questione della "fondamentalità" e la portata dei diritti dei fedeli. (Article)

Del P. retraces the sequence of events leading to the recognition of the rights of all the Christian faithful. In the course of this process there were lively debates over the expression "fundamental rights", a notion opposed by those who considered it too closely connected with Enlightenment or rationalist thought and with ideas from civil law, making it incompatible with the unique nature of the Catholic Church and its legal system. With time, the notion of fundamental rights came to be widely accepted in canonical scholarship, albeit in ways that on occasion lacked precision and rigour in terms of interpretation and application. While the constitutional content of the canonical legal system is not as developed as secular constitutional law in many respects, it is still possible and desirable to seek further conceptual refinement, and achieve a greater knowledge and exercise of the rights of the faithful.

RDC 65/2 (2015), 377-407: Pierre-Marie Berthe: Les enjeux d'un débat: comment écrire l'histoire du Concile Vatican II? (Article)

The *Histoire du Concile Vatican II*, published between 1995 and 2001 under the direction of Giuseppe Alberigo, features prominently among the literature on the Council. Although the book was well received in academic circles, it was heavily criticized and even deemed ideological by Archbishop Agostino Marchetto. In fact, the historical works of Professor Alberigo and Archbishop Marchetto reveal two competing visions of the Council. This raises a number of issues. What are the requirements of a proper academic approach? Is it possible to write a perfectly objective history of the Council? What implications does the hermeneutic of continuity have at the historical level? What are the links between theology and history? Above all, how can one look fairly at the Church, which remains a mystery for believers?

CODE OF CANONS OF THE EASTERN CHURCHES

Historical

AC 55 (2013), 103-125: Cristian Crisan: La législation particulière de l'Église Gréco-Catholique Roumaine *sui iuris*: parcours historique et défis du présent. (Article)

The Romanian Greek-Catholic Church *sui iuris* forms a sort of bridge between Western and Eastern Christianity. C. examines the historical sources of its canon law and especially its *ius particulare*, from the first millennium up to the present, before exploring some of the issues that face it today.

AC 55 (2013), 233-242: Grigorios D. Papathomas: L'institution synodale durant l'époque conciliaire jusqu'au patriarcat de Photius (1er- IX^{e} siècles) et le système canonique de l'autocéphalie. (Article)

In anticipation of the Holy and Great Council of the Orthodox Church to be held around Pentecost 2016, P. looks at the institution of the synod up to the 9th century, and the development since the 11th century of the canonical system of autocephaly.

Ap LXXXVII (2014), 507-526: Giordano Caberletti: Il Matrimonio canonico nella concezione del card. Acacio Coussa. (Article)

The third volume of Cardinal Acacius Coussa's *Epitome prælectionum de Iure Ecclesiastico Orientali*, published in 1950, was intended as a commentary on the motu proprio *Crebrae Allatae Sunt* (2 August 1950). The work contains frequent references to the pre-1950 law of the Eastern Catholic Churches and the juridical traditions of the non-Catholic Orientals. Cardinal Coussa highlights the positive repercussions within the civil order of the norms established in *Crebrae Allatae Sunt*, which brings about uniformity as regards the law on marriage. Of particular relevance are the question of the binding force of the laws promulgated by non-Catholic Orientals and the authority of their tribunals. Cardinal Coussa's doctrine has frequently been quoted by the Apostolic Tribunals.

CCEO 692-698

Ius VI 1/15, 9-20: Dimitrios Salachas: Teologia e disciplina dei sacramenti della iniziazione cristiana nel CCEO – (II). (Article)

S. looks at the sacrament of chrismation with holy myron: its necessity; the matter of holy myron and its symbolism; the minister of the sacrament; and the Divine Eucharist as the completion of the *iter* of Christian initiation.

CCEO 743

Ius VI 1/15, 47-71: Jesu Pudumai Doss: "Shepherds with the Odour of the Sheep": The Role of Priest as Pastor in the Church. (Article)

In the Church, the call to be shepherds of the People of God is renewed in every sacerdotal ordination. Based on the terms found in the (Latin and Oriental) Codes of Canon Law, such as *pascere, pastor* and *pastoralis/pastorale*, D. presents some canonical considerations on the identity, formation, and ministry of priests as "pastors" or "shepherds" in the Church.

CCEO 758

IusM IX/2015, 193-212: Lorenzo Lorusso: Disposizioni pontificie sul clero uxorato orientale. (Document and comment)

Among the outcomes of the last Plenary Assembly of the Congregation for the Oriental Churches was the relaxing of the restrictive rule concerning married Eastern-rite clergy. Pontifical provisions have been issued addressing different situations: the territories in which Eastern ecclesiastical circumscriptions have been established; Ordinariates for Eastern Catholic faithful; and Eastern faithful entrusted to the care of the local Latin bishop. (See also the following entry.)

CCEO 758

J 75 (2015), 659-662: Congregation for the Oriental Churches: Pontifical Precepts on Married Oriental Clergy. (Document)

On 23 December 2013 Pope Francis approved a request to allow the pastoral service of married Eastern-rite clergy outside the traditional oriental territories, subject to certain conditions. The English translation is given of the document from the Congregation for the Oriental Churches setting out the background to this decision and the new regulations as approved by the Holy Father.

CCEO 776

Ius VI 1/15, 21-46: George Nedungatt: Divorce, Remarriage and Pastoral Practices in the Greek East. (Article)

N. presents and discusses two recent books by Basilio Petrà, an expert on Greek Orthodox moral theology, which draw attention to pastoral solutions found for irregular marriage unions in the Greek East.

CCEO 813-815

Ius VI 1/15, 73-90: Jose Marattil: Mixed Marriage: Conditions for Its Permission in CIC and CCEO. (Article)

A mixed marriage – a sacramental marriage between a Catholic and a non-Catholic Christian – is prohibited without the prior permission of the competent ecclesiastical authority. M. discusses which is the competent authority, and on what grounds the permission may be granted. He sets out the three conditions which the Catholic party has to fulfil before entering into such a marriage, and looks at the differences between the present legislation and that in force prior to 1983.

CCEO 1063

Ius VI 1/15, 91-108: Benny Tharakunnel: Patriarchal/Major Archiepiscopal Ordinary Tribunal as Tribunal of Third and Further Instances. (Article)

T. looks at the competence and actual functioning of the patriarchal/major archiepiscopal ordinary tribunal as a third instance tribunal. He identifies the possible means at the disposal of this ordinary tribunal to ensure the just and impartial administration of justice at the third and further levels of appeal. He also explains the rationale behind the non-competence of this tribunal to deal with certain reserved cases, and compares its competences with those of the Roman Rota.

CCEO 1357-1377

Canonist 6/2 (2015), 141-151: Pope Francis: Apostolic Letter, Motu proprio, *Mitis et Misericors Iesus*. (Document)

The English text is given of the Pope's Apostolic Letter of 15 August 2015 by which the canons of the CCEO pertaining to cases regarding the nullity of marriage are reformed.

CCEO 1369-1373

J 75 (2015), 539-591: William L. Daniel: The Abbreviated Matrimonial Process before the Bishop in Cases of "Manifest Nullity" of Marriage. (Article)

See below, CIC canons 1683-1687.

CCEO 1493

AC 55 (2013), 103-125: Cristian Crisan: La législation particulière de l'Église Gréco-Catholique Roumaine *sui iuris*: parcours historique et défis du présent. (Article)

See above, CCEO (*Historical*).

CCEO 1517-1520

William L. Daniel: The Art of Good Governance. A Guide to the Administrative Procedure for Just Decision-Making in the Catholic Church. (Book)

See below, CIC canons 50-51.

CODE OF CANON LAW
BOOK I: GENERAL NORMS

14

Kevin Otieno Mwandha: Doubt of Law. Juridical and moral consequences. (Book)

Canon 14 states that laws do not oblige when there is a doubt of law. In the first chapter of this book, M. sets out the historical background to this provision and explains how it came to be inserted in the CIC/17 and the CIC/83. In the rest of the book he looks at the doctrine on *dubium iuris* in general (chapter II) and its practical applications, such as authentic interpretations for resolving doubts about the law, or doubts as to whether a law has been revoked (chapter III). He also explains the main problems which doubt of law poses, and examines the answers offered by doctrine, highlighting the moral and juridical challenges that may arise from the application of the canon. (For bibliographical details see below, Books Received.)

16

REDC 72 (2015), 33-52: Federico R. Aznar Gil: El matrimonio de los bautizados «no creyentes» o «no practicantes»: fe y sacramento del matrimonio. (Article)

A growing number of Catholics declare themselves to be "non-practising" or even "non-believers", yet still seek canonical marriage. When their marriage fails they then look for a declaration of nullity, claiming they lacked faith or did not believe in the sacramentality of marriage. This has reopened the debate on the relationship between faith and the sacrament, and whether for the baptized there can exist a valid natural marriage without its being at the same time a sacramental marriage. A.G. examines the various contributions on this issue from the International Theological Commission, the 1980 Synod of Bishops, current canonical legislation, papal addresses to the Rota, Rotal jurisprudence, the interventions of Pope Benedict XVI and the Extraordinary General Assembly of the 2014 Synod of Bishops. In conclusion he states that no decisions have been taken on the issue and we are still in a period of reflection with no clear answer yet in sight.

19

AA XXI (2015), 225-240: Pio Vito Pinto: La Rota Romana como servicio al carisma petrino. Desafíos actuales en el proceso de nulidad matrimonial. (Article)

See below, canon 1101.

23-28

AA XX (2014), 271-292: Sebastián Terráneo: La costumbre en el Derecho Canónico Indiano. (Article)

See above, Historical Subjects (*16th-19th centuries*).

23-28

KIP 4 (17) 2015, 9-23: Magdalena Dziewicka: Zwyczaj w prawie kanonicznym i w prawie polskim (= Custom in canon law and Polish law). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-2

See above, General Subjects (*Comparative law*).

35-93

Canonist 6/1 (2015), 65-78: John Huels: Administrative Acts and Activity in Canon Law. (Article)

H.'s article is in three parts. The first part briefly reviews the notion and function of the singular administrative act in canon law, distinguishing acts of favourable jurisdiction (favours, provisions and permissions) and acts of coercive jurisdiction (decisions and precepts). The second part is devoted to the kinds of required administrative activity which involve the participation of others prior to placing an administrative act (consent or counsel for validity or for lawfulness, testimonials of suitability, the permission of another, and the written agreement of another). The third part focuses on administrative activity required of the administrative authority before placing an administrative act (verifications of fact, judgements of character or aptitude, visitations and inspections).

49

Canonist 6/2 (2015), 184-202: Brendan Daly: Precepts and their Application. (Article)

See below, canon 1319.

50-51

William L. Daniel: The Art of Good Governance. A Guide to the Administrative Procedure for Just Decision-Making in the Catholic Church. (Book)

In order that the Church may shine forth in the world as the Mirror of Justice, it is incumbent upon ecclesiastical authorities and those advising them to come to a deeper appreciation of the procedural implications of the art of good governance. Apart from the obvious presupposition of the life of virtue in those that govern, this art is promoted by a deep understanding of the norms governing administrative activity, or the manner of proceeding in the formation of singular administrative acts, especially in the case of coercive acts that can have a negative impact on the juridical situation of those whom they concern. In particular, these norms are stated in canons 50-51 of the CIC/83 and canons 1517-1520 of the CCEO. In this book D. aims to foster a more profound understanding of these provisions in order to aid those whose duty it is to govern well and to protect the right of Christ's faithful to a just administrative procedure. After identifying certain inadequacies in the *ius vigens*, D. puts forward a concrete proposal for reform *in iure condendo*. (For bibliographical details see below, Books Received.)

94

REDC 72 (2015), 215-234: Raquel Pérez Sanjuán: Los estatutos y normativa de las asociaciones internacionales privadas de fieles: algunas cuestiones prácticas. (Article)

Recent years have seen a notable increase in various forms of associations of the faithful, commonly described in popular parlance as "ecclesial movements", "new communities" or similar. Juridically, however, most of them have been constituted as international private associations of the faithful whose nature and identity is best contained in their own statutes. It is important, therefore, that these juridical instruments are drawn up properly and adequately not only to allow their approval by the competent ecclesiastical authority but also for the guidance of their members and others in understanding the association's *raison d'être* and *modus vivendi*. P.S.'s article considers some of the practical issues involved in drawing up such statutes.

113

EIC 55 (2015), 265-305: Paolo Cavana: I rapporti tra lo Stato della Città del Vaticano, l'Italia e l'Unione europea tra continuità e innovazione. (Article)

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

117

REDC 72 (2015), 215-234: Raquel Pérez Sanjuán: Los estatutos y normativa de las asociaciones internacionales privadas de fieles: algunas cuestiones prácticas. (Article)

See above, canon 94.

119

REDC 72 (2015), 113-148: Julio García Martín: Le elezioni ai sensi del can. 119, 1° e la loro applicazione a quelle dei delegati a un capitolo provinciale. (Article)

Although the collegiate acts of juridical persons, including elections, are mostly regulated by their own particular law or statutes, canon 119 establishes general principles which differ in some ways from previous legislation. There is required the physical presence of at least a majority of members of the collegiate body, that is, more than half, without which no election can be held. However, particular law may permit postal or proxy votes which would qualify in constituting the required forum. One important novelty concerns the absolute majority required for deciding an election or other issues. It refers to an absolute majority of those present (including postal and proxy votes as present) and not to an absolute majority of votes cast which would ignore abstentions or blank ballots.

124-126

IE XXVII (2015), 339-356: Paolo Gherri: *Petitio, remonstratio, exceptio*: cenni esplorativi sui modi di non-esecuzione degli atti amministrativi singolari. (Article)

Most of the doctrine and jurisprudence on the pathology of singular administrative acts focuses on their "unlawfulness" as determined by a contentious-administrative judgment of the Apostolic Signatura. G. looks at other possible ways of securing the "non-execution" of the act: the *petitio*, in cases where the act would have unfavourable effects (this would be a request for

a "grace", and therefore no recourse would be available in the event of its being refused); the *remonstratio*, in cases where the act is unlawful and/or its effects excessively onerous; and the *exceptio*, in cases where the act violates a law and should not only not be executed but should be removed. Awareness of these possibilities could greatly simplify issues that are often difficult to resolve through hierarchical and contentious recourses.

127

Canonist 6/1 (2015), 65-78: John Huels: Administrative Acts and Activity in Canon Law. (Article)

See above, canons 35-93.

129

AnCan (Chile), I (2015), 233-359: XXIX Jornadas de la Asociación Chilena de Derecho Canónico, julio 2014. (Compilation)

See above, General Subjects (*Compilations*).

130

Canonist 6/1 (2015), 44-64: Brendan Daly: Power of Governance in the Internal Forum and the External Forum. (Article)

The power of governance is exercised in the external and internal forums. The distinction between the external and internal forums is very important, and is reflected in a number of provisions of the CIC/83, especially those relating to the seal of confession, the seminary, penalties, and marriage. Because of the human situation it is not always possible to keep an absolute distinction between them. However, the current law maintains the distinction in a balanced manner while providing for the common good of all Christ's faithful and protecting their rights. Acts of governance placed in either the external forum or the internal forum have the same effect on the conscience of the individual.

135

CLSN 184/15, 92-106: Fredrik Hansen: Judicial Power and the Diocesan Bishop. (Article)

See below, canon 391.

144

FCan X/2 (2015), 71-98: Pedro María Reyes Vizcaíno: Relevancia canónica de los sacramentos y actos jurídicos realizados por sacerdotes de la Fraternidad Sacerdotal de San Pío X. (Article)

The Society of St Pius X (SSPX), without enjoying any recognition from the Holy See, ordains priests who exercise their ministry to adherents of the Society. To justify this they invoke the supplied jurisdiction of canon 144, combined with what they call a state of necessity. It is important to analyse these arguments, because the powers of the minister (or qualified witness) in the sacraments of marriage and reconciliation are necessary for validity. Using similar arguments the SSPX establishes tribunals and grants dispensations for marriage and even dispensations from priestly celibacy. R.V. concludes that the SSPX has become a structure which is autonomous of the lawful ecclesiastical authorities. An urgent resolution to this situation in the Church is needed.

145

Canonist 6/1 (2015), 85-100: Peter Slack: Ecclesiastical Office: Some Observations and Issues. (Article)

S. looks at the development of the notion of ecclesiastical office: its elements and attributes; its ecclesial significance; how an ecclesiastical office is established; ecclesiastical offices that are served collectively; the requirement that an office-holder be "in communion with the Church" (canon 149); the power attached to an ecclesiastical office; lay people and ecclesiastical offices; the confusion that can sometimes arise over nomenclature; and how an ecclesiastical office may be lost.

184-186

IE XXVII (2015), 451-464: Papa Francesco: Disposizioni sulla rinuncia dei Vescovi diocesani e dei titolari di uffici di nomina pontificia, 3 novembre 2014 (con commento di Fernando Puig, *Annotazioni sulla rinuncia all'ufficio di nomina pontificia*). (Document and comment)

The Italian text is given of the rescript setting out norms concerning the resignation from office of diocesan bishops and office holders nominated by the Pope, in application of the provisions contained in canons 401-402 and 411 (CCEO 210-211, 218 and 313). P. offers a series of observations on the content of the rescript. (See also *Canon Law Abstracts*, nos. 114, p. 43, and 115, p. 56.)

BOOK II, PART I: CHRIST'S FAITHFUL

204-207

Canonist 6/2 (2015), 220-249: Francis G. Morrisey: The Role of Law and the Exercise of Authority within the Church, particularly at the Parish Level. (Article)

See below, canons 515-516.

205

AC 55 (2013), 159-177: Alain Kabamba Nzwela: La vocation du théologien catholique et le droit canonique. (Article)

See below, canon 218.

208-223

IE XXVII (2015), 295-316: Massimo del Pozzo: L'annosa questione della "fondamentalità" e la portata dei diritti dei fedeli. (Article)

See above, Historical Subjects (*Second Vatican Council and revision of the CIC and CCEO*).

212

REDC 72 (2015), 509-551: Marceliano Guerrero Montero: Autoridad, obediencia, diálogo y libertad de expresión en la iglesia. (Article)

Given the emphasis in modern society, in the West at least, on freedom of expression and the need for dialogue, G.M. examines how these concepts find their place in the context of the obedience due by the faithful to the governing and teaching authority of the Church in the light of canon 212. He first looks at the sources of this canon as found in various texts of Vatican II, and then provides a commentary on the three paragraphs of the canon. He concludes that there is a need to find a balance between due obedience and the right of freedom of expression, in a harmonious tension.

218

AC 55 (2013), 159-177: Alain Kabamba Nzwela: La vocation du théologien catholique et le droit canonique. (Article)

The task of a theologian is not simply that of transmitting knowledge. He also needs to give witness of a truly Christian life, adhering to those elements which guarantee full communion: the Catholic faith, its sacraments and its lawful Pastors. N. sets out the main rights and duties attaching to the vocation of a Catholic theologian, and the principal conditions for its exercise, especially as regards the relationship with the Church's magisterium.

220

AA XXI (2015), 111-131: Ariel David Busso: El crimen de «falso» en el Derecho Canónico. (Article)

The right to a good name is a true juridical good which can be diminished or destroyed by calumny or detraction. After some initial considerations B. outlines some of the historical developments of the concept *de crimine falsi* before looking in more detail at its place in the present canonical legislation. He does so under the headings of false accusations of solicitation in the confessional, defamatory accusations made to a superior, and penal sanctions.

220

AkK 183 (2014), 106-122: Friedolf Lappen: Das forensisch-psychiatrische Gutachten als Grundlage der weiteren Einsatzplanung nach Missbrauchsvorwürfen. Bruch der Trennung zwischen *forum externum* und *forum internum*. (Article)

See below, canon 983.

224-231

KIP 4 (17) 2015, 39-53: Justyna Krzywkowska: Wybrane aspekty posłannictwa wiernych świeckich według Kodeksu Prawa Kanonicznego (Selected aspects of the mission of lay people according to the Code of Canon Law). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-4

Lay persons who have appropriate knowledge and an unblemished reputation may be allowed to hold certain offices and ecclesiastical tasks. The CIC/17 did not allow this kind of participation, but reserved all power of jurisdiction to the

clergy. The resolutions of the Second Vatican Council, expressed primarily in the Dogmatic Constitution on the Church *Lumen Gentium* and the Decree on the Apostolate of the Laity *Apostolicam Actuositatem*, had an impact on the admission of the laity to the power of ecclesiastical jurisdiction. Lay people, both men and women, are allowed to serve a number of judicial functions. Moreover, lay Catholics form part of pastoral councils (diocesan and parish) and can participate in diocesan synods. Where priests are lacking, the laity can if necessary preside over liturgical prayers, and confer the sacraments of baptism and Holy Communion. Recent times have seen the development of movements and associations of a religious nature, which implement many initiatives in the local community. The mission of the laity in the Church is being more and more frequently perceived and recognized.

226

AA XXI (2015), 133-157: Montserrat Gas Aixendri: La familia en el nuevo contexto de evangelización. Implicaciones pastorales y canónicas. (Article)

See below, canon 1063.

226

EIC 55 (2015), 405-423: Ilaria Zuanazzi: La famiglia come "soggetto" nel diritto della Chiesa. (Article)

The family is an innate institution in every human society. In the Church, the Christian family has a central role in building up the people of God, as a fundamental structure for the ecclesial community and a model of the communion of love between God and the faithful.

226

IusM IX/2015, 67-96: Andrea D'Auria: Famiglia, educazione e missione nella Chiesa. (Article)

See below, canons 793-795.

242

KIP 4 (17) 2015, 101-117: Piotr Wierzbicki: Znaczenie okresu propedeutycznego w formacji kandydatów do kapłaństwa (The importance of the propaedeutic period in the formation of candidates for priesthood). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-8

W. explains the role of the propaedeutic period in the particular Church, in the formation of candidates to the priesthood. The propaedeutic period is a response to the decision of the Fathers of Vatican Council to adapt seminary formation to the needs of the particular Church. The 1992 post-synodal Apostolic Exhortation *Pastores Dabo Vobis* shows the need for this period. A 1998 Informative Document of the Congregation for Catholic Education sets out existing models and encourages new research. The main purpose of the propaedeutic period is to compensate for shortcomings in spiritual, human and intellectual formation. Because of the diversity of spiritual and psychological needs in particular Churches, the Legislator leaves the organizational aspects to the discretion of the diocesan bishop.

268

CLSN 181/15, 80-90: Augustine Mendonça: *Ipso Iure* Incardination of a Cleric *Sede Vacante.* (Opinion)

M. sets out the requirements for *ipso iure* incardination in the case of a priest given permission by his own bishop to move to another diocese, who has nearly completed five years' service there but the see is vacant and there is an apostolic administrator. See *Canon Law Abstracts*, no. 113, pp. 47-48.

271

QDE 28 (2015), 299-310: Pierantonio Pavanello: Strumenti giuridici per la cooperazione missionaria nell'esperienza della Chiesa italiana. (Article)

P. analyses the legal structures that can be used when sending priests and lay people to do missionary work. He looks at the details of the model agreements issued by the Italian Bishops' Conference for *fidei donum* priests and for lay people; these offer precise definitions of the duties and rights of the various parties as well as making clear the ecclesial nature of the activity and granting access to the financial support of the Conference.

277

AnCan (Chile), I (2015), 5-143: XXVII Jornadas de la Asociación Chilena de Derecho Canónico, julio 2012. (Compilation)

See above, General Subjects (*Compilations*).

281

AA XXI (2015), 159-176: Javier E. González Greñón: El sostenimiento de los presbíteros a la luz de la eclesiología de comunión. (Article)

G.G. looks at the historical background to the economic and material provision for clergy from the New Testament times, through the period until the Council of Trent and its reforms, and the CIC/17 in which the benefice system played an important part. He then examines the principles established in Vatican II's *Presbyterorum Ordinis* before considering the CIC/83. The present legislation must be seen in the light of the theology of *communio* as framed in the conciliar and post-conciliar documents. Providing adequately for the clergy is not simply a matter of material and economic remuneration but is part of the wider ecclesial *communio* in its pastoral, spiritual and Eucharistic dimensions.

281

REDC 72 (2015), 615-631: Mercedes Vidal Gallardo: Progresiva equiparación del clero diocesano y los ministros de culto de otras confesiones religiosas en el régimen de cotización a la seguridad social. (Article)

An agreement between the Spanish State and the Federation of Religious Evangelical Communities which came into effect in 1999 put ministers of these religious bodies on the same level as Catholic diocesan clergy as regards access and contributions to the Social Security system and its benefits. An apparent unfairness arose when some of these ministers on reaching retirement age were unable to claim a pension; they had not made enough contributions and were not allowed to make any back payments to render them eligible. V.G. considers the development of their legal appeal which led after favourable decisions in the Spanish Supreme Court and the European Court of Human Rights to a corrective royal decree in September 2015, which put right the arbitrary nature of allowing one religious body (diocesan clergy) to make back payments while denying the same possibility to others.

286

IusM IX/2015, 149-175: Pier Virginio Aimone: Il divieto di attività imprenditoriale per chierici. Norme di diritto missionario. (Article)

In view of the particular nature of the clerical status, it is generally inappropriate for a cleric, whether secular or religious, to be involved in commercial or business activity, other than in cases agreed to by the lawful Church authority. This rule has taken on different forms down through the centuries. After Trent it acquired particular importance in missionary canon law, which in this regard anticipated and provided the inspiration for universal canon law. A. analyses two Apostolic Constitutions – *Ex debito* of Urban VIII, and *Sollicitudo* of Clement IX – which set out the rules for missionary canon law in this area.

294-297

Ius Comm III (2015), 245-259: Julián Herranz: La razón pastoral de las prelaturas personales: consideraciones a los 50 años del Concilio Vaticano II. (Article)

Vatican II exercised a strong influence on the current canon law, as is evidenced by the Code of Canon Law promulgated by St John Paul II. It also inspired the creation of hierarchical structures for the purpose of responding to the pastoral needs of the Church. H. looks at the origins of one of these structures – the personal prelature – and identifies the essential aspects which characterize it.

325

EE 90 (2015), 701-721: Raquel Pérez Sanjuán: El régimen de los bienes de las asociaciones privadas de fieles: de la normativa codicial a su concreción estatutaria. (Article)

The autonomy which private associations of the faithful enjoy at the level of governance also applies in respect of goods belonging to such associations, by virtue of canon 1257 §2. This raises the question of the scope of the *bona ecclesiastica* described in canon 1257 §1, as well as the manner in which the goods of private juridical persons are regulated, and the norms in the CIC/83 which *expresse* affect these associations. P.S. includes an examination of the statutes of several private international associations of the faithful to see how they regulate the administration of goods, and provides some general critical reflections which can help complete the overall picture offered by the Code.

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

331

RDC 65/2 (2015), 363-376: Loïc-Marie Le Bot: Étude canonique sur l'appartenance du Pontife romain à un institut religieux. (Article)

The status of religious elevated to the episcopate is regulated by the CIC/83 (canons 705-707), unlike that of a Roman Pontiff belonging to a religious institute. A religious bishop remains a member of his institute, his obligations and rights as a religious being adjusted in accordance with his episcopal ministry. However, the legislation is silent on the obligations and rights of a Roman Pontiff who belongs to a religious institute. Le B. attempts to set out the canonical status of the Pope in this regard by analogy with that of a religious bishop and in the light of the teaching of the history of canon law.

332

AkK 183 (2014), 57-75: Sebastian Klappert: Der Amtsverzicht des Papstes. Kirchenrechtliche Anmerkungen aus Anlass des Amstverzichts Papst Benedikts XVI. (Article)

K. examines, from a canonical perspective, the circumstances and significance of Pope Benedict XVI's renunciation of office, setting out the reasons for and the consequences of the renunciation. He then analyses the text of Pope Benedict's renunciation speech, going on to examine the validity and unconditional nature of the act of renouncing the office, and the place of the emeritus Pope in the Church's hierarchy. K. concludes with a consideration of the problem of justifying such papal renunciations, which he argues should be limited to truly exceptional cases; they should be made with a view to preventing a crisis in the Church (for example, where there is the risk of the Apostolic See remaining impeded for a long time).

335

AnCan (Chile), I (2015), 233-359: XXIX Jornadas de la Asociación Chilena de Derecho Canónico, julio 2014. (Compilation)

See above, General Subjects (*Compilations*).

342-348

CLSN 184/15, 169-181: Robert Ombres: The Synod of Bishops: Canon Law and Ecclesial Dynamics. (Article)

The Synod of Bishops is a new reality in the ecclesiology and canon law of the Church: a fruit of the Second Vatican Council. Here O. outlines the relevant canon law, and indicates the impact of the Synod on other structures connected with the primacy of the Roman Pontiff and the collegiality of the College of Bishops, the two subjects of supreme authority. The Synod is in dynamic relation to the Roman Pontiff and the College of Bishops, and also to Ecumenical Councils, the College of Cardinals and the Roman Curia. It is already clear from his decisions so far that with Pope Francis the Synod will, if anything, increase its impact on the life and mission of the Church.

354

IE XXVII (2015), 451-464: Papa Francesco: Disposizioni sulla rinuncia dei Vescovi diocesani e dei titolari di uffici di nomina pontificia, 3 novembre 2014 (con commento di Fernando Puig, *Annotazioni sulla rinuncia all'ufficio di nomina pontificia*). (Document and comment)

See above, canons 184-186.

360

AA XXI (2015), 177-223: Mauricio Landra: El principio de subsidiariedad aplicado a la Curia Romana. ¿La Curia Romana, requiere reforma o *aggiornamento*? (Article)

The nature and structure of the Roman Curia has developed and changed throughout the history of the Church in response to important emerging theological and pastoral principles. One of these, expressed clearly in Vatican II and post-conciliar texts, is the principle of subsidiarity. Although a philosophical and sociological rather than a theological concept, it has been shown to be a sound criterion of good government. The latter part of L.'s article studies how some of the Synods of Bishops from the 1960s onwards dealt with the issue in relation both to Episcopal Conferences and to the Roman Curia.

360

AnCan (Chile), I (2015), 233-359: XXIX Jornadas de la Asociación Chilena de Derecho Canónico, julio 2014. (Compilation)

See above, General Subjects (*Compilations*).

360

EIC 55 (2015), 307-326: Juan Ignacio Arrieta: Legami inter-ordinamentali recenti tra Santa Sede e Stato della Città del Vaticano in materia sanzionatoria e di controllo finanziario. (Article)

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

360

EIC 55 (2015), 357-384: Giuseppe Rivetti: Le ragioni giuridiche ed ontologiche della normativa antiriciclaggio nello Stato Città del Vaticano. La nuova architettura economico-finanziaria. (Article)

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

360

IusM IX/2015, 29-33: George Pell: Le finanze del Vaticano. (Article)

The Prefect of the Secretariat for the Economy explains why for years the Vatican continued to use an outdated system of accounting. He then throws some light on what caused the change and how Pope Francis responded to the problem.

360

IusM IX/2015, 35-58: Brian E. Ferme: *Fidelis dispensator et prudens*: gli statuti. (Article)

The Prelate Secretary of the Council for the Economy studies the statutes of the new financial organisms of the Holy See (the Council for the Economy, the Secretariat for the Economy and the office of General Auditor) approved by Pope Francis on 22 February 2015. He also writes on their historical background. (See also *Canon Law Abstracts*, no. 115, pp. 63-65.)

360

IE XXVII (2015), 482-503: Papa Francesco: Statuti dei nuovi organismi economici, 22 febbraio 2015 (con commento di Jesús Miñambres, *Primi rilievi sugli Statuti dei nuovi organismi economici della Santa Sede*). (Document and comment)

See preceding entry. M. offers some further considerations on the new statutes.

360

IusM IX/2015, 59-65: Mauro Rivella: L'APSA nella riforma economica della curia romana. (Article)

The Prelate Secretary of the Administration of the Patrimony of the Apostolic See See (*Apsa*) points out how the recent reform in the area of the financial administration of the Holy See affects *Apsa*. He presents the historical journey of *Apsa*, beginning with the Apostolic Constitution *Regimini Ecclesiae Universae* (15 August 1967) to the motu proprio of 8 July 2014 which transferred the Ordinary Section of *Apsa* to the Secretariat for the Economy (see *Canon Law Abstracts*, no. 115, pp. 64-65).

362-367

J 75 (2015), 297-311: Timothy P. Broglio: The Pastoral Dimension of the Office of Papal Representatives. (Article)

The article is taken from notes for the Provost Lecture given at the Catholic University of America on 19 March 2015. After a brief review of the use of emissaries by the Holy Father, B., Archbishop for the U.S. Military Services, examines the motu proprio *Sollicitudo omnium Ecciesiarum* and its implementation over the last 46 years. He places an important emphasis on the pastoral nature of this service and its lived reality in the Church. His canonical analysis also includes a presentation of the legislation that has changed the original document, but these changes are relatively insignificant considering the dramatic changes in the world around the Church since 1969.

363

IE XXVII (2015), 395-411: Fabio Vecchi: Aggiornamenti sugli organi e sulla rappresentanza della Santa Sede nelle cd. "società di diritto internazionale". Note a margine dell'accordo Santa Sede-SICA del 21 gennaio 2013. (Comment)

In 2013 the Holy See's apostolic delegate was given permanent observer status before the Central American Integration System ("SICA"), the economic and political organization of Central American States. V. offers some observations on this development.

371

J 75 (2015), 313-385: Joseph V. McCabe: The *Missio sui Iuris*: To Be or Not To Be a Particular Church (c. 371 §1): Historical Development of the *Missio*

***sui Iuris* in Mission Territories (1896-2002) and the Praxis of the Congregation for the Evangelization of Peoples in Erecting Them. (**Article)

Towards the end of the 19th century, the Sacred Congregation *de Propaganda Fide* began erecting the *missiones sui iuris* or independent missions as an alternative viable structure in areas where the mission diocese, apostolic vicariate or apostolic prefecture could not be initiated for various reasons. Although such a structure existed in limited circumstances from the time the Congregation was founded in 1622, it was after the First Vatican Council that the structure of an independent mission became more prevalent. By the early 20th century, the yearbooks of the Holy See, the *Gerarchia Cattolica* and the *Annuario Pontificio*, began listing independent missions initially with the apostolic prefectures, and later as a separate category of particular Church structure. An apparent anomaly is the historical reference published for decades in the *Annuario Pontificio* attributing this structure to the decree *Excelsum* of 12 September 1896. This decree from the Sacred Congregation *de Propaganda Fide* was addressed specifically to territories under the jurisdiction of the Oriental Churches in the Middle East, and it was never explicitly cited in any of the documentation of the general congregations of the 19th and early 20th centuries where independent missions were erected. The *missio sui iuris* was omitted in the CIC/17, but both Benedict XV and Pius Xl recognized it as one of four structures in mission territories. While the independent missions were omitted in the CIC/83, in the 1980s and until 2002 the structure was again employed for special missionary circumstances. Today there are eight independent missions listed in the *Annuario Pontificio*, and these structures continue to follow the criteria originally established for them: an ecclesial structure erected from a previous territory, with explicit boundaries, under the care of a religious community or other diocese, responding to a missionary exigency and headed by a superior nominated by the Holy See, under the aegis of the Congregation for the Evangelization of Peoples.

383

CLSN 181/15, 70-79: Diana Śliwka: A Note about the Polish Catholic Mission in England and Wales. (Article)

S. attempts to clarify some misunderstandings regarding the faculties and powers of the priests and lay people working within the Polish Catholic Mission in England and Wales, looking at the history of its formation, its assets in England and Wales, the office and role of the National Coordinator/Vicar Delegate, the secular priests and religious serving in the Polish Catholic Mission, and Polish secular priests wishing to provide ministry within the Polish Catholic Mission.

391

CLSN 184/15, 92-106: Fredrik Hansen: Judicial Power and the Diocesan Bishop. (Article)

H. discusses a series of theoretical aspects concerning the judicial power of governance, and goes on to examine this power as it is exercised by the diocesan bishop, taking into account changes introduced by *Mitis Iudex Dominus Iesus*. He studies the foundation of the bishop's judicial power as set out in the documents of Vatican II; the purpose of judicial power in general; judicial power in canon 135 §3 in relation to the principle of legality; and the judicial power of the bishop in canons 391 and 1419 §1. It is clear that the emphasis in *Mitis Iudex Dominus Iesus* on the bishop's power in the area of marriage cases is based on both conciliar teaching and canonical legislation, which clearly stress that the diocesan bishop not only possesses legislative and executive power, but that he is also entrusted with ample judicial power as the *iudex natus* of his particular Church.

393

Canonist 6/1 (2015), 79-84: Michael A. O'Dea: N.Z. Roman Catholic Bishops Empowering Act 1997 and Canon Law. (Article)

The Roman Catholic Bishops Empowering Act 1997 had four objectives: to extend the powers of the Catholic bishops as corporations sole; to enable diocesan and parish property to be vested in the diocesan bishop, with the bishop being registered as the proprietor; to provide for the variation of certain trusts; and to consolidate existing legislation. Roman Catholic bishops in New Zealand had been corporations sole for over 120 years but only in respect of land. The 1997 Act enabled the bishop of each diocese to have the rights and powers and to incur the liabilities of a natural person. The vesting of diocesan and parish property was in accordance with the provisions of already existing legislation. The Act simplified procedures and took into account the requirements of canon law. In a major area – the variation of certain trusts – the Act has a stronger requirement than that of canon law. The bishop must obtain consents rather than just consult. The power to vary trusts followed what was contained in empowering legislation given to the other Churches in New Zealand. Over the years the Roman Catholic Church in New Zealand had found, as had other Churches and denominations, that the process for varying trusts involved recourse to the High Court which was time-consuming and costly. In other situations the purpose for which a trust was established had become inappropriate or incapable of fulfilment. The 1997 Act has become a means of protecting ecclesiastical property and observing the intentions of the donor (canons 122, 1300).

401-402

IE XXVII (2015), 451-464: Papa Francesco: Disposizioni sulla rinuncia dei Vescovi diocesani e dei titolari di uffici di nomina pontificia, 3 novembre 2014 (con commento di Fernando Puig, *Annotazioni sulla rinuncia all'ufficio di nomina pontificia*). (Document and comment)

See above, canons 184-186.

411

IE XXVII (2015), 451-464: Papa Francesco: Disposizioni sulla rinuncia dei Vescovi diocesani e dei titolari di uffici di nomina pontificia, 3 novembre 2014 (con commento di Fernando Puig, *Annotazioni sulla rinuncia all'ufficio di nomina pontificia*). (Document and comment)

See above, canons 184-186.

436

Canonist 6/1 (2015), 11-43: John Renken: Penal Law in the Church Tomorrow: Reflections on a Revision of *Book VI*. (Article)

See below, canons 1311-1399.

447-459

AC 55 (2013), 179-209: Charlemagne Didace Malonga Diawara-Doré: Canonicité de la Conférence des évêques, de son attestation conciliaire à sa requalification par le motu proprio *Apostolos suos*. (Article)

This article examines the nature and competences of bishops' conferences, as initially formalized by Vatican II and implemented by Paul VI and subsequently included in the CIC/83. It then goes on to describe the development of bishops' conferences since 1983, especially in the light of the 1998 motu proprio *Apostolos suos*, as well as an explanatory letter issued in 1999 by the Congregation for Bishops relating to the functioning of bishops' conferences and their powers in doctrinal matters.

455

IusM IX/2015, 123-148: Maurizio Martinelli: La facoltà speciale della Congregazione per l'Evangelizzazione dei Popoli per la *recognitio* di Statuti e norme complementari delle conferenze episcopali. (Article)

From the theoretical standpoint of the autonomy of episcopal conferences, M. analyses the institute of the *recognitio* of the statutes and complementary norms of episcopal conferences, which is now the object of a special faculty and an instrument for the missionary governance of the Congregation for the Evangelization of Peoples. He traces the historical antecedents of *recognitio*, and studies it as an expression of the auditing and supervisory activity of the Holy See. He also looks at the more general process of promulgation of complementary norms issued by episcopal conferences.

460-468

CLSN 182/15, 19-50: John Anthony Renken: Pope Francis and Participative Bodies in the Church: Canonical Reflections. (Article)

In his Apostolic Exhortation *Evangelii Gaudium*, Pope Francis invites all communities in the Church to be in a permanent state of mission and renewal. The sole reference to the Code of Canon Law in the Apostolic Exhortation identifies 26 canons which provide legislation for seven distinct "means of participation" in the particular Church. The Pope invites the faithful to assume the task of rethinking these seven participative bodies, in order to enliven them in their missionary purpose and to promote "an ecclesial renewal which cannot be deferred" (the title to nos. 27-33 of the document). In response to this prophetic invitation of Pope Francis, this article 1. recalls anew the purpose of participative bodies in the Church; 2. considers the unique mission of each participative body in the particular Church; and 3. "rethinks" various aspects of these seven participative bodies, with an eye to modifications for future *praxes*. (See also *Canon Law Abstracts*, no. 114, p. 58).

469-474

AA XXI (2015), 285-307: Jorge Antonio Di Nico: La Asesoría Jurídica Diocesana. Propuesta de *Lege Ferenda*. (Article)

A well organized and smoothly running diocesan curia is the driving force behind major initiatives. Part of the machinery needed to bring this about is an adequate source of legal and canonical advice. N. discusses the desirability of all dioceses establishing their own juridical/canonical consultancy. He looks at the qualities its members should possess, its essentially technical function, the relationship between its director and the vicar episcopal for juridical matters,

and the situation *sede vacante* or *impedita*. He describes the aims and functions of two already established consultancies (in dioceses in Costa Rica and Colombia). Such is the importance of a diocesan canonical consultancy that N. proposes a possible text for a new law to be incorporated in the Code in the chapter dealing with the diocesan curia.

482

KIP 4 (17) 2015, 55-67: Robert Kaszak: Kompetencje kanclerza kurii diecezjalnej dotyczące archiwum według Kodeksu Prawa Kanonicznego z 1983 roku (The duties of the chancellor of the diocesan curia regarding the archive according to the 1983 Code of Canon Law). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-5

The CIC/83 indicates that one of the many duties of the chancellor of the diocesan curia is to take care of the acts in the curial archive. This task includes the proper safeguarding of the acts, and care of the archive itself, ensuring that it is a suitable place to keep documents. The chancellor keeps the key to the diocesan archive, and no one is permitted to obtain access to the archive except with the permission either of the bishop or of both the moderator of the curia and the chancellor. Similarly, it is not permitted to remove documents from the archive except for a brief time only, and with the consent either of the bishop or of both the moderator of the curia and the chancellor. Regarding the secret archive, the chancellor is to ensure that all the procedures of the law are respected; however, the chancellor himself cannot enter the secret archive without the permission of the proper authority.

503-510

AA XXI (2015), 377-408: Estatutos del Venerable Cabildo Eclesiástico Metropolitano de la Arquidiócesis de Santa Fe de la Vera Cruz. (Document and commentary)

Given here is the text of the reformed statutes of the chapter of canons of the archdiocese of Santa Fe de la Vera Cruz (Argentina), approved by archiepiscopal decree on 24 June 2015. This is followed by a commentary by Hugo Héctor Cappello. Many of the functions exercised by chapters in the past no longer pertain to them since the reforms of Vatican II. Their main function now is liturgical with the celebration of the Liturgy of the Hours and the Eucharist in the cathedral. If the bishop so decides they may also act as his college of consultors.

508

FCan X/2 (2015), 41-69: Hélder Miranda Alexandre: O Ofício de Penitenciário. (Article)

A. study of the office of the penitentiary makes it possible to acquire a deeper knowledge of the relationship between sin and delict in the Church. Through this office the Church aims to correct the penitent and prevent the offence from being made public, thereby protecting the reputation of the individual concerned and the common good, and avoiding causing scandal that would disturb those who are weakest in faith. A. sets out the Tridentine discipline, the development of the norms in the CIC/17, the CIC/83, and cases of practical application.

515

IC 55 (2015), 759-767: Sentencia del Supremo Tribunal de la Signatura Apostólica de 27 de noviembre de 2012; Antonio Viana: Consultar no es informar de una decisión ya tomada. Comentario de la Sentencia de la Signatura Apostólica de 27 de noviembre de 2012. (Sentence and comment)

On 27 November 2012 the Apostolic Signatura decided a contentious case arising out of an administrative decree of 8 February 2011 suppressing a parish by means of an extinctive union with another nearby parish. The administrator of the parish concerned asked the bishop to revoke the decree. His request was refused, and on 6 April 2011 he presented a hierarchical recourse to the Congregation for the Clergy. The Congregation rejected the recourse and confirmed the bishop's decision. The administrator then presented a contentious-administrative recourse before the Apostolic Signatura. The Signatura found that the Congregation for the Clergy's decision in resolving the hierarchical recourse had involved a violation of the law *in procedendo* (although not *in decernendo*): specifically the provision in canon 515 §2, requiring the bishop to consult the council of priests before suppressing a parish, had not been observed. Hence the Congregation violated the law in confirming the bishop's decision. In his commentary, V. looks at the reasons for the requirement of prior consultation in such cases.

515-516

Canonist 6/2 (2015), 220-249: Francis G. Morrisey: The Role of Law and the Exercise of Authority within the Church, particularly at the Parish Level. (Article)

M. examines the role of canon law in the life of the Church, outlining the Vatican II ecclesiology underlying the CIC/83 which fosters the participation of all the faithful in the triple mission of the Church. He then reviews some

principles for the exercise of authority in the Church, especially at the parish level. Finally he offers some thoughts as to where the canonical legislation may be heading.

517

AC 55 (2013), 69-102: Alphonse Borras: Quand les prêtres viennent à manquer… Quelques repères théologiques et canoniques en temps de précarité. (Article)

B. examines the resources offered by canon law and pastoral experience for situations – especially at the parish level – involving a shortage or absence of priests. He first sets out the fundamental theological considerations to be borne in mind, and then considers the possibilities offered by legislation and doctrine for the care of parishes.

520

REDC 72 (2015), 583-598: José San José Prisco: La encomienda de una parroquia a un instituto religioso o a una sociedad de vida apostólica. (Article)

S.P. considers the entrusting by the diocesan bishop of a parish to a religious institute or a society of apostolic life. While the institute or society will operate in accordance with its own particular charism it will also work within the overall diocesan pastoral framework established by the bishop. S.P. looks at some of the canonical issues and the changes in comparison with the CIC/17. He emphasizes that it is essential that a clear and accurate agreement be drawn up between the bishop and superior, not least concerning pastoral, financial and personnel arrangements. A spirit of genuine dialogue should exist in such negotiations, with the spiritual good of the faithful always in mind.

528-530

Canonist 6/2 (2015), 220-249: Francis G. Morrisey: The Role of Law and the Exercise of Authority within the Church, particularly at the Parish Level. (Article)

See above, canons 515-516.

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

573

REDC 72 (2015), 235-282: Eutimio Sastre Santos: La «Ley predicada». La tutela del espíritu de la vida consagrada en el código de 1983. (Article)

In the first part of his study S. looks at what he considers the confusions, imperfections and ambiguities in the CIC/83 concerning the consecrated life. Then from a scriptural and spiritual point of view he examines the true nature of the consecrated life as an ecclesial reality, the evangelical counsels, the intention and will of the founder, and the institute's role in building up the life of the Church. It seems at least part of this article stems from S.'s preaching to an enclosed community of Augustinian nuns, and many of his footnote references are to Sor Mariana de San José, a 17th century Spanish Augustinian whose cause for beatification is currently being pursued.

573

Ius Comm III (2015), 217-244: Velasio De Paolis: La vida consagrada mediante la profesión de los consejos evangélicos en el Concilio Vaticano II y el Código de Derecho Canónico de 1983. (Article)

The situation of difficulty and crisis in which consecrated life has found itself since the Second Vatican Council is due to some general causes affecting the Church, as well as some more specific factors. These include materialism, secularization, neglect or disregard of the theology of the Cross, falling birth-rates and an inadequate reception of Vatican II. Interior renewal and reform of life and discipline will bring out the beauty and greatness of the consecrated life. This way of life through the profession of the evangelical counsels reproduces the life of the Word of God made Man, and forms part of the very constitution of the Church, since it reveals its deepest mystery, that of the Trinity. At the same time, consecrated life is connected with and illuminates all the other vocations in the life of the Church.

573

Ius Comm III (2015), 275-301: Juan Manuel Cabezas Cañavete: Identidad y valor de la vida consagrada a la luz del Derecho canónico. (Article)

For various reasons consecrated life is suffering a number of misunderstandings at the present time. One such reason is the rejection of what C.C. describes as its

objective superiority. Another is the attempt to extend it to spouses who, through sacred bonds, profess the three traditional counsels of chastity, poverty and obedience. This, he argues, is in spite of the Second Vatican Council's having set out the theological foundations for the superiority of the consecrated life, as a way of life that produces a kind of transformation within the person called, analogous to the transformation produced by baptism, confirmation, holy orders or marriage.

573

Per 104 (2015), 565-590: Przemysław Michowicz: Attenzione magisteriale e riferimenti dottrinali critici all'assetto giuridico dei consacrati. (Article)

In November 2013, Pope Francis announced his intention to dedicate a year to those living a life consecrated to God through profession of the evangelical counsels. At the same time, the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life indicated some particular themes to be considered. In the light of these interventions, M. highlights some points to be taken into account when new law is made, either at universal or proper law. He begins by reflecting on the juridical relevance to consecrated life of some contemporary social and cultural phenomena; then he passes on to a brief consideration of the more recent contributions of the Congregation dealing with formation, life in common, the contemplative dimension of life, obedience and authority, and economic matters; he offers some observations on facts to be taken into account in the making of future law in relation to the revision of constitutions, discipline, and the relationship between bishops and consecrated persons. The final part of the article is devoted to some unresolved issues, such as new forms of consecrated life, anomalous incardinations and mixed institutes. His hope is that the year of consecrated life will help bring about a renewal in the legislation dealing with consecrated life.

573-683

CLSN 183/15, 47-64: Final Report on the Apostolic Visitation of Institutes of Women Religious in the United States of America: Reflection by Rachel M. Harrington. (Report and comment)

The text is given of the report of the Congregation for Institutes and Consecrated Life and Societies of Apostolic Life dated 8 September 2014, on "the quality of life of religious women in the United States". In her reflection on the report, H. considers that the Visitation should never have happened as it did, but if all involved learn from the experience there is hope for a future grounded in mutual trust.

586

Ius Comm III (2015), 191-215: João Braz de Aviz: Criterios sobre las relaciones entre obispos y religiosos en *Mutuae relationes*: valoración y perspectivas de futuro. (Article)

See below, canon 678.

588

Ius Comm III (2015), 217-244: Velasio De Paolis: La vida consagrada mediante la profesión de los consejos evangélicos en el Concilio Vaticano II y el Código de Derecho Canónico de 1983. (Article)

See above, canon 573.

595

Ius Comm III (2015), 191-215: João Braz de Aviz: Criterios sobre las relaciones entre obispos y religiosos en *Mutuae relationes*: valoración y perspectivas de futuro. (Article)

See below, canon 678.

597

Per 104 (2015), 591-610: Diego Pombo Oncins: La responsabilità dei Superiori nell'ammissione all'istituto. (Article)

See below, canons 641-645.

605

Ius Comm III (2015), 191-215: João Braz de Aviz: Criterios sobre las relaciones entre obispos y religiosos en *Mutuae relationes*: valoración y perspectivas de futuro. (Article)

See below, canon 678.

605

Ius Comm III (2015), 217-244: Velasio De Paolis: La vida consagrada mediante la profesión de los consejos evangélicos en el Concilio Vaticano II y el Código de Derecho Canónico de 1983. (Article)

See above, canon 573.

641-645

Per 104 (2015), 591-610: Diego Pombo Oncins: La responsabilità dei Superiori nell'ammissione all'istituto. (Article)

P.O. offers a comment on the canons of the CIC/83 dealing with admission to the novitiate in a religious institute. He does so underlining the juridical importance of such an act and the particular responsibility of the competent superiors involved to make sure that all is done in conformity with the requirements of the law.

678

Ius Comm III (2015), 191-215: João Braz de Aviz: Criterios sobre las relaciones entre obispos y religiosos en *Mutuae relationes*: valoración y perspectivas de futuro. (Article)

The 1978 document *Directives for the Mutual Relations Between Bishops and Religious in the Church*, known as *Mutuae relationes*, was a key manual and pointed the way forward for more fruitful and effective relations between bishops and the consecrated life. Three decades later the document is still valid and of great interest, rooted as it is in the teaching of Vatican II. At present it is necessary to pay greater consideration to female religious and to other forms of consecrated life, as well as the status of the lay faithful associated in some way with religious institutes or as members of ecclesial movements.

684-685

KIP 4 (17) 2015, 69-86: Rafał Zaleski: Prawne aspekty przejścia zakonnika z jednego instytutu zakonnego do innego (Legal aspects of transferring a religious from one institute to another). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-6

Z. deals with the transfer of a religious in perpetual vows from one religious institute to another. For this, the permission is needed of the supreme moderator of each institute with the consent of their respective councils. After completing a

probationary period of at least three years, the member can be admitted to perpetual profession in the new institute. If the member refuses to make this profession or is not allowed to do so by the competent superiors, he or she is to return to the original institute unless an indult of secularization has been obtained. Until a person makes profession in the new institute, the rights and obligations which the member had in the former institute are suspended, although the vows remain. Nevertheless, from the beginning of the probationary period, the member is bound to the observance of the proper law of the new institute. Through profession in the new institute, the member is incorporated into it, while the preceding vows, rights, and obligations cease.

695

J 75 (2015), 387-427: John Chrysostom Kozlowski: Understanding the *Ius Vigens* of the Mandatory Dismissal Process. (Article)

The CIC/83 contains two categories for dismissing religious from an institute: *ipso facto* dismissal (canon 694) and *ab homine* dismissal, the latter being subdivided into the mandatory dismissal process (canon 695) and the facultative dismissal process (canon 696). K's specific focus is on the mandatory dismissal process as it applies to religious institutes. Regrettably, a member of a religious institute could commit one of the offences specified in canon 695 §1. The Supreme Legislator has determined that these offences are so inconsistent with the member's consecrated status that, if the process determines that the member is guilty, dismissal is required. K. provides a step-by-step analysis of how to instruct properly the mandatory dismissal process in accordance with the legal norms found in the Code and elsewhere.

705-707

RDC 65/2 (2015), 363-376: Loïc-Marie Le Bot: Étude canonique sur l'appartenance du Pontife romain à un institut religieux. (Article)

See above, canon 331.

BOOK III: THE TEACHING OFFICE OF THE CHURCH

781

IusM IX/2015, 97-121: Jean Yawovi Attila: La Chiesa come "Famiglia di Dio" nel Decreto *Ad Gentes*: Diritto Missionario. (Article)

The faithful, people of every culture and nation gathered together by virtue of the bond that links them, are called brothers and sisters in Christ. This kinship incorporates them into the Church, the Family of God, whose members have rights and duties towards one another. The organization of this community, whose faithful are scattered throughout the world, remains an urgent matter, so as to able to carry out the evangelization of peoples. The Decree *Ad Gentes*, concerning Christ's command to "go and teach" and the good planning of the same, issued a number of decisions which are dealt with in this article and which are aimed at enabling each member, in accordance with his or her juridical status, to be active and co-responsible in the fulfilment of that mission.

781

QDE 28 (2015), 265-278: Mauro Rivella: La cooperazione missionaria della Chiesa particolare nei documenti magisteriali recenti. (Article)

R. examines teachings of the universal magisterium from Vatican II to the encyclical *Redemptoris Missio*, and the treatment of the theme of missionary activity in the continental Synods in the 1990s. He then looks at the handling of missionary themes in the documents of the Italian Bishops' Conference.

782

QDE 28 (2015), 279-298: Marino Mosconi: Le strutture della Chiesa particolare per la cooperazione missionaria: il centro (l'ufficio) missionario diocesano. (Article)

M. examines the responsibilities of the diocesan bishop for missionary activity. He analyses the figure of the diocesan official entrusted with promoting missionary activity and the Pontifical Missionary Works, and the diocesan missionary centre. He considers the institutional framework of the centre with particular reference to the Italian situation, its relationship to the rest of the diocesan curia and whether the centre might better be called an office.

786

AC 55 (2013), 211-232: Bienvenu Armand Ngana Abomo: Autour de la notion d'Église pleinement constituée: droit missionnaire appliqué à l'archidiocèse de Yaoundé. (Article)

The CIC/83 describes missionary activity as that by which "the Church is founded amongst peoples or groups where it has not taken root before". It is carried out "principally by the Church sending heralds of the Gospel, until such time as the new Churches are fully constituted, that is, have their own resources and sufficient means, so that they themselves can carry on the work of evangelization." This article looks at how the concept of a "fully constituted" Church applies to the reality of the Archdiocese of Yaoundé in Cameroon.

791

QDE 28 (2015), 265-278: Mauro Rivella: La cooperazione della Chiesa particolare nei documenti magisteriali recenti. (Article)

See above, canon 781.

791

QDE 28 (2015), 279-298: Marino Mosconi: Le strutture della Chiesa particolare per la cooperazione missionaria: il centro (l'ufficio) missionario diocesano. (Article)

See above, canon 782.

793

REDC 72 (2015), 13-32: Miguel Ángel Asensio Sánchez: Libertad religiosa del menor y relaciones paterno-filiares: conflictos. (Article)

A.S.´s article on conflicts between parents and children over the question of religious freedom is set in the context of Spain's *Ley Orgánica de Libertad Religiosa*. Religious conflicts within the family are dealt with differently by the law depending on whether they take place between the parents, normally in moments of matrimonial crisis, or between parents and children subject to parental authority. These latter conflicts are governed by two basic principles: the minor's autonomy when exercising his or her right (a consequence of being a full subject of law), and the legal-constitutional principle of the interest of the minor. In cases where the minor has natural legal capacity there is no collision between the child's and the parents' right to religious freedom but rather a possible exercise *ultra vires* of the parents' right. On the other hand when the

minor does not have natural legal capacity, the issue is that of the limits of the exercise of parental rights. This is aimed at safeguarding the parents' rights rather than those of the minor, since it relates to public order in respect of minors, public order being one of the limits of religious freedom as established in the aforesaid law.

793-795

IusM IX/2015, 67-96: Andrea D'Auria: Famiglia, educazione e missione nella Chiesa. (Article)

D'A. addresses the cultural and social issue of the educational crisis in today's Church and society. He illustrates the core principles of mission and education in the Church from a legal perspective, and the norms developed by the Church in order to protect such principles through a set of rights and obligations. He then focuses on the Church as a provider of education, the right to educate as a constitutional right in the CIC/83, and connected normative implications. He examines the topics of the parents' freedom of choice of school, the right of association, education from the perspective of the *munus sanctificandi*, the care of children after parental separation, and education in relation to the sacrament of baptism.

797

IusM IX/2015, 67-96: Andrea D'Auria: Famiglia, educazione e missione nella Chiesa. (Article)

See above, canons 793-795.

801

REDC 72 (2015), 73-94: Myriam Cortés Diéguez: Las fundaciones educativas de los institutos de vida consagrada. Análisis de sus peculiaridades y de los criterios dados por la Conferencia episcopal para su constitución. (Article)

Spanish national private canonical foundations, constituted by religious congregations to govern their Catholic schools and erected by the Spanish Episcopal Conference, are subject to Plenary Assembly approved criteria which seek to preserve the Catholic ethos of the foundation and its centres. Civil registration of canonical foundations follows a special procedure agreed between Church and State. While this confers certain tax benefits, it is not totally free of other problems. The private canonical nature of the foundation and its educational purpose determine its specific canonical regime.

803

AA XX (2014), 211-226: Jorge Antonio Di Nico: El representante de la Escuela Católica diocesana. (Article)

This study looks at the canonically erected Catholic school, established, governed and owned by a diocese. The main subject of the article is the function of the diocesan legal representative, effectively an episcopal delegate, and his duties and rights in representing the diocese. Although the said representative may also be entrusted with the administration of the goods of the school (ecclesiastical goods, since they belong to the diocese), this need not be the case, and a separate administrator may be appointed. A proposed statute and set of norms is included, covering the function of the representative, the scope of his task, the qualities required of him, and his duties.

804

REDC 72 (2015), 73-94: Myriam Cortés Diéguez: Las fundaciones educativas de los institutos de vida consagrada. Análisis de sus peculiaridades y de los criterios dados por la Conferencia episcopal para su constitución. (Article)

See above, canon 801.

804-805

EE 90 (2015), 723-749: Slawomir Andrzej Wiktorowicz: La situación actual del profesorado de religión católica en Polonia. (Article)

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

815-821

AkK 183 (2014), 76-105: Heribert Hallermann: Bekenntnisgebundene Zugangsbeschränkungen zum Theologiestudium. (Article)

The ecclesiastical law of academic institutions in Germany allows non-Catholics to study Catholic theology and to obtain academic degrees. In exceptional cases non-Catholics can be appointed as lecturers in ecclesiastical faculties and universities. Consequently the civil law of academic institutions cannot enact restrictions based on denomination. H. studies the implications of this for canon law. The question goes beyond the sphere of ecclesiastical faculties and universities, and involves the Church's own self-understanding.

BOOK IV: THE SANCTIFYING OFFICE OF THE CHURCH

843

AA XX (2014), 163-181: Mauricio Landra: La solicitud de los sacramentos en los fieles que civilmente han cambiado de género. (Article)

L.'s subject is the pastoral and canonical consequences with regard to receiving the sacraments by those of the faithful who have undergone a gender change and those who are in quasi-matrimonial homosexual unions. The question arises as to how the Church should respond to requests for admission to the sacraments, in particular, baptism, by those in such circumstances either for themselves or for their children, and how to enter such baptisms in parish registers. As far as reception of the sacraments is concerned, canon 843 §1 is clear that the sacraments may only be denied in three clearly defined sets of circumstances. In the matter of the baptismal registration of the child of a homosexual couple, L. maintains that the child's name and baptism must be registered, but not the names of the "parents" since neither is in fact a true parent; the alternative would be a marginal note indicating the homosexual nature of the union. Requests for changes to entries in sacramental registers for gender-changed persons cannot be acceded to; a marginal note, however, may be included if authentic probative documentation can be provided. L. emphasizes the need for pastoral sensitivity in dealing with this whole issue.

BOOK IV, PART I, TITLE I: BAPTISM

868

IusM IX/2015, 67-96: Andrea D'Auria: Famiglia, educazione e missione nella Chiesa. (Article)

See above, canons 793-795.

877

AC 55 (2013), 143-157: Olivier Échappé: Les « débaptisations » devant la Cour de cassation. (Article)

In 2001 X asked for a note to be made in the baptismal register to the effect that he renounced his baptism; this was duly done. In 2009 he asked for all mention of his name to be erased from the register. When his request was refused he had recourse to the local civil tribunal, which ordered the bishop to honour X's request. On appeal by the bishop the judgment was overturned. X then asked the *Cour de Cassation* – the court of highest jurisdiction – to reverse the appeal court's decision. However, since it was only open to ministers of worship, and not the general public, to inspect the register, and since the only publicity concerning X's baptism and his subsequent rejection of baptism was that which X himself had brought about, the *Cour de Cassation* ruled that the appeal court's decision did not violate any right of privacy on X's part. It noted that a marginal note had been added to the register stating that X renounced his baptism. That baptism was a historical fact which could not be denied, and there were no grounds for ordering the removal of all mention of it from the register. É. comments on the significance of the decision.

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

912

AA XX (2014), 71-113: Velasio Card. De Paolis: Fieles divorciados, segundas uniones *more coniugale* y administración de la Penitencia y la Eucaristía. (Article)

De P. writes in the context of the widespread crisis in marriage and family life and in anticipation of the 2014 Synod of Bishops. He situates this crisis in the rupture between faith and reason in the history of modern culture in a mostly rationalist and secularist society. He then lays out the Church's teaching on marriage, quoting extensive passages from authoritative Church documents (*Familiaris Consortio*, the Catechism of the Catholic Church, the Congregation of the Doctrine of the Faith, *Sacramentum Caritatis*). He examines how the canonical norms apply to the divorced and remarried concerning their possible admission to the Sacraments of Penance and Eucharist, and how it is not simply the law of the Church which is at play but divine law itself. The position of Cardinal Walter Kasper is expounded, followed by the reasons why De P. cannot share his views. He ends with some reflections on what he sees as misplaced and misunderstood notions of pastoral care and mercy. The Church of Jesus Christ cannot simply conform itself to the prevailing culture.

915

AA XX (2014), 71-113: Velasio Card. De Paolis: Fieles divorciados, segundas uniones *more coniugale* y administración de la Penitencia y la Eucaristía. (Article)

See above, canon 912.

915

Ap LXXXVII (2014), 447-485: Federico R. Aznar Gil: El debate sinodal (2014) sobre la situación eclesial de los fieles divorciados y casados de nuevo civilmente. (Article)

The ecclesial condition or situation of Catholic faithful who, having been validly married, get divorced and then contract a new marriage which is valid in terms of civil legislation, is a grave pastoral problem for the Catholic Church. This is especially so given their exclusion from the sacraments of penance and Eucharistic communion by reason of the objective situation of grave sin in which they find themselves. Despite the fact that since 1980, the pontifical magisterium has repeatedly recalled the doctrine and practice of the Church,

there continue to be many studies on the question as well as practices contrary to those established by the Church's magisterium, which is a symptom of the current discontent. The calling of a new Synod of Bishops, dedicated to the theme of Marriage and the Family, to be celebrated during October 2014 and 2015, has reopened the debate on this matter. A.G. explores this theme in two parts. In the first part he briefly sets out the current doctrine and practice of the Church. In the second he analyses the synodal debate on the matter in 2014, as well as the *Lineamenta* of the Synod of Bishops of 2015.

915

FThC IV 26/18 (2015), 203-213: Carlos José Errázuriz: Sul rapporto tra teologia e Diritto canonico: il binomio dottrina-disciplina. (Article)

E. begins by comparing the views of Klaus Mörsdorf and Javier Hervada on the relationship between theology and canon law. Although differing substantially in their respective approaches to the topic, both were seeking a renewal of canon law in the 20th century, on the basis of a shared tradition. Both of them regarded law as part of the ecclesial reality, thus distancing themselves from any positivistic reductionism. This is important to bear in mind in the context of discussions on whether the divorced and remarried faithful can receive Communion. The provision preventing the faithful who are in such a situation from receiving the Eucharist is not based on a mere positive rule. Rather, it reflects a fundamental requirement of justice, founded on true rights: the rights inherent to marriage and to the family as juridical ecclesial goods, and the rights pertaining to the Blessed Eucharist as a good of the whole Church and of all the faithful. In juridical questions of this nature the importance of the teaching of the faith is of prime importance.

915

J 75 (2015), 273-295: Raymond Leo Burke: Canonical Questions Regarding the Proposed Pastoral Care of the Faithful Who Are Divorced and Have Attempted Marriage. (Lecture)

B. offers a canonical analysis of some of the issues raised in the *Instrumentum Laboris* for the XIV Ordinary General Assembly of the Synod of Bishops. His presentation is centred around certain critical canonical questions raised by the work of the Synod of Bishops, in particular the canonical questions regarding the proposed pastoral care of the faithful who are divorced and have attempted marriage. B. recalls a number of essential elements of marriage, comments on the proposed administrative process for the declaration of nullity of marriage, underscores the relationship between doctrine and discipline, and also adds some reflections about the proposed penitential path.

915

REDC 72 (2015), 349-366: Federico R. Aznar Gil: El Sínodo de los Obispos (2015): la «*propositio*» sobre los fieles divorciados y casados de nuevo civilmente. (Article)

A.G.'s subject is the proposals of the Ordinary General Assembly of the Synod of Bishops (2015) on the divorced and remarried. He first looks briefly at the preceding year's Extraordinary Synod where the question was considered among others in the wider context of "difficult pastoral situations". The *Lineamenta* for the 2015 Synod included a specific section on the subject and on various pastoral and family situations connected with it. A.G. then examines the practice of the Orthodox Churches in dealing with the same problem; he underlines some of the theological and historical differences with the Latin Church which led to the distinctively specific praxis of the Orthodox, especially its use of the principle of *oikonomia*. Although the *Instrumentum Laboris* (2015) emphasized the need for pastoral care and respect for the divorced and remarried, it brought to the fore the division already evident among the bishops at the 2014 Synod on the question of readmission to the sacraments. Among the *propositiones* of the 2015 Synod the important point is made that the divorced and remarried are not to be considered as "excommunicated" and that attention should be given as to how they might be reintegrated into some of the liturgical, pastoral, educational and institutional areas from which they are at present excluded. Sensitivity is required in the individual pastoral discernment and accompaniment in these situations while always respecting the demands of evangelical truth and charity as proposed by the Church. The Synod does not enter into the possible practical consequences of these ideas, and the way is left open for further study of the doctrinal and disciplinary questions raised.

945-958

QDE 28 (2015), 333-351: Gianluca Marchetti: Offerte, tasse e tributi. (Lecture)

See below, canons 1263-1267.

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

983

AkK 183 (2014), 106-122: Friedolf Lappen: Das forensisch-psychiatrische Gutachten als Grundlage der weiteren Einsatzplanung nach Missbrauchsvorwürfen. Bruch der Trennung zwischen *forum externum* und *forum internum*. (Article)

The German Bishops' Conference's guidelines for handling cases of sexual abuse of minors by clerics call for the opinion of a forensic psychiatric expert before any decision can be made as to the cleric's continuing employment. L. describes the manner in which such expert opinions are obtained, and shows that at the very least they touch upon the boundaries of the *forum internum* in such a way as to raise doubts as to their lawfulness.

987

Ap LXXXVII (2014), 447-485: Federico R. Aznar Gil: El debate sinodal (2014) sobre la situación eclesial de los fieles divorciados y casados de nuevo civilmente. (Article)

See above, canon 915.

BOOK IV, PART I, TITLE VI: ORDERS

1008-1009

Ius VI 1/15, 47-71: Jesu Pudumai Doss: "Shepherds with the Odour of the Sheep": The Role of Priest as Pastor in the Church. (Article)

See above, CCEO canon 743.

1029

AA XX (2014), 27-53: Ariel David Busso: La normativa y el procedimiento de las irregularidades e impedimentos para la recepción y el ejercicio del Orden sagrado. (Article)

See below, canon 1041.

1041

AA XX (2014), 27-53: Ariel David Busso: La normativa y el procedimiento de las irregularidades e impedimentos para la recepción y el ejercicio del Orden sagrado. (Article)

B. examines the nature of impediments and irregularities, and looks in more detail at irregularities for the reception and exercise of sacred orders (canons 1041, 1044); the procedure for dealing with more urgent occult cases (canon 1048) and the prevention of incurring impediments. He emphasizes the importance in the seminary formation process of ensuring proper scrutiny of candidates in accordance with the criteria laid out in canon 1029.

1044

AA XX (2014), 27-53: Ariel David Busso: La normativa y el procedimiento de las irregularidades e impedimentos para la recepción y el ejercicio del Orden sagrado. (Article)

See above, canon 1041.

1048

AA XX (2014), 27-53: Ariel David Busso: La normativa y el procedimiento de las irregularidades e impedimentos para la recepción y el ejercicio del Orden sagrado. (Article)

See above, canon 1041.

BOOK IV, PART I, TITLE VII: MARRIAGE

1055

EIC 55 (2015), 385-404: Giuseppe Sciacca: Relazione tra fede e matrimonio sacramentale. (Article)

See below, canon 1101.

1055

FThC IV 26/18 (2015), 163-189: Bruno Esposito: La fede come requisito per la validità del matrimonio sacramentale? (Article)

See below, canon 1101.

1055

IC 55 (2015), 515-590: Pedro-Juan Viladrich: Por qué y para qué «uno con una para toda la vida». La cuestión de la unidad de vida en el amante, en la correspondencia con el amado y en la unión de amor conyugal. (Article)

V. examines the anthropological bases of the unity and indissolubility of the conjugal union of love. In the first section of the article he addresses the *chiaroscuro* of contemporary culture in relation to marriage, showing how civil marriage has been stripped of both identity and content, and highlighting the impoverishment both of ecclesiastical discourse on marriage and of the real-life experiences of many spouses and families. In the second section he discerns the following elements in the texts of Gen 3:20 and Matt 19:3-12: the presence of the *imago Dei*, in a Trinitarian sense, in the creation of the human person as male and female; the capacity of both to love, to be loved and to form a loving union; and the nuptial bond – a reinterpretation, in a new anthropological light, of classical perceptions of conjugality as a union whose intimacy, strength and lastingness mirror the union of soul and body. In the third section he explores the connection between love and justice – the obligations of love – when the gift and acceptance between the spouses are wholehearted and sincere.

1055

Per 104 (2015), 611-651: Bruno Esposito: La fede come requisito per la validità del matrimonio sacramentale. (Article)

See below, canon 1101.

1055

REDC 72 (2015), 553-581: Catarina Alexandra Salgado Gonçalves: Os tria bona do matrimónio em Santo Agostinho. (Article)

A true marriage cannot exist if one or both parties exclude fidelity, indissolubility or procreation. It was St Augustine who particularized this reality in what are now referred to as the *tria bona matrimonii*. S.G. begins her study by considering the scriptural foundation for marriage and its sacramental nature, before undertaking a more detailed examination of each of the *tria bona* in their scriptural basis and doctrinal development by St Augustine and later authors. Despite the passage of 16 centuries the Augustinian insight into the true nature of marriage is as firm and valid today as it ever has been.

1055

QDE 28 (2015), 311-318: Denis Baudot: L'unione *ad experimentum*: a proposito di un esperimento pastorale *déjà vu*. (Article)

Inspired by the attention given to remarks made at the Synod on the Family suggesting that attention should be given to marriages *ad experimentum*, B examines a pastoral initiative run at Lugny in France between 1973 and 1982, in which couples were given the opportunity, alongside a canonical and sacramental marriage, to celebrate a non-sacramental *mariage-acceuil*. It was hoped that this would lead couples by steps to a full sacramental marriage. In fact, although 45% of couples chose this new form, only one couple went on to celebrate a sacramental marriage. B. discusses the theological difficulties of this experiment, and suggests that the correct pastoral approach is for the Church to insist that full sacramental marriage is the only option.

1055

REDC 72 (2015), 33-52: Federico R. Aznar Gil: El matrimonio de los bautizados «no creyentes» o «no practicantes»: fe y sacramento del matrimonio. (Article)

See above, canon 16.

1055-1057

CLSN 182/15, 51-72: John Hadley: Intention *Contra Bonum Coniugum*: Where are we now? (Article)

See below, canon 1101.

1057

AA XX (2014), 253-269 and **REDC 72 (2015), 599-614: Ciro Tammaro: Il matrimonio nel *De Sacramentis* di Ugo di San Vittore e nelle *Sententiae* di Pietro Lombardo: brevi note teologico-canoniche comparative.** (Article)

See above, Historical Subjects (*16th-19th centuries*).

1057

Ap LXXXVII (2014), 373-404: Paolo Gherri: Discernere e scegliere nella Chiesa. (Article)

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

1057

Ap LXXXVII (2014), 405-444: Carmen Peña García: Discernimiento y Consentimiento matrimonial: cuestiones relativas a la discreción de juicio exigida para el Matrimonio. (Article)

Matrimonial consent is the act of the will that makes marriage; no human power is able to supply this consent. In the light of the definition of consent given in canon 1057, P.G. analyses the structure and requirements of this very particular act of the will, which requires rational activity – knowing, evaluating, pondering, discerning and judging – and a true choice (not a mere option) on the part of the person marrying. She also deals with questions such as the juridical relevance of absence of discernment due to an absolute lack of reflection on what it means to enter into marriage; the precise delimitation of the object of discernment prior to the decision to marry; and the role of conjugal love in the expression of valid matrimonial consent. Lastly she includes a reflection on the challenges arising out of the generalized use of new technologies among young people, and the consequences which these have for the development of the cognitive and critical faculties of the so-called “digital natives”.

1058

IE XXVII (2015), 317-338: Montserrat Gas Aixendri: Allontanamento dalla Chiesa e diritti fondamentali nell’ordinamento canonico: La tutela della libertà religiosa e dello *ius connubii*. (Article)

In the context of the progressive secularization of society it is important to study the situation of the faithful who have abandoned the Church, and the question of the protection of their natural rights in canon law. G.A. focuses on two particular rights: religious freedom and the right to marry (*ius connubii*). The

status of the faithful should not hinder the exercise of these rights. This is a premise accepted by authors but which needs to be respected in specific legal norms that concern the faithful, without excluding those who are distanced from the Church.

1060

EIC 55 (2015), 385-404: Giuseppe Sciacca: Relazione tra fede e matrimonio sacramentale. (Article)

See below, canon 1101.

1061

EE 90 (2015), 765-787: Rufino Callejo de Paz: Misericordia y fracaso matrimonial: algunas consideraciones de cara a un posible replanteamiento jurídico-pastoral. (Article)

See below, canons 1671-1691.

1063

AA XXI (2015), 133-157: Montserrat Gas Aixendri: La familia en el nuevo contexto de evangelización. Implicaciones pastorales y canónicas. (Article)

G.A. examines the main challenges faced by the Church in the present socio-cultural context in relation to its apostolate of the family. She puts forward some suggestions which could help to further the renewal of family life promoted by the 2014 Synod of Bishops. The key moments of particular importance are the period of pre-marriage preparation followed by pastoral care in the marriage itself, particularly in times of crisis or difficulty, and especially for those in irregular marriage situations. The role of the laity in this work is of great importance.

1063

AA XXI (2015), 271-284: José Bonet Alcón: Un aporte para la XIV Asamblea General Ordinaria del Sínodo de los Obispos. (Article)

This article was originally written as part of the reflections and suggestions requested in the consultation in preparation for the 2015 Synod of Bishops. Its considerations are based on the *Lineamenta*, and reflect on canonically irregular marriage situations, as well as polygamy, homosexual unions, the abuse of children, abortion, contraception, euthanasia, the marriage nullity process, the

individualism of modern society and social and political influences on marriage and family life.

1063

CLSN 182/15, 51-72: John Hadley: Intention *Contra Bonum Coniugum*: Where are we now? (Article)

See below, canon 1101.

1084

AC 55 (2013), 290-301: Sentence *coram* Yaacoub, 10 février 2010, Triveneti seu Tarvisina, Sent. 18/2010, présentation par Emmanuel Petit. (Comment)

See below, canon 1095 3º.

1095 2º

Ap LXXXVII (2014), 405-444: Carmen Peña García: Discernimiento y Consentimiento matrimonial: cuestiones relativas a la discreción de juicio exigida para el Matrimonio. (Article)

See above, canon 1057.

1095 2º

Canonist 6/2 (2015), 250-262: Roman Rota: Sentence *coram* Pinto, 25 January 2007 (Italy). Grave Defect of Discretion of Judgement (can. 1095, 2º) (Affective Immaturity). (Sentence)

The parties met when in their teens. They started having sexual relations, and the female petitioner, then aged 15, became pregnant. She sought the assistance of a doctor to have an abortion, but in view of her young age the doctor refused. Her family then insisted that she should marry the respondent, because of local traditions and to safeguard her good name and that of the family, as well as for the good of the child she was carrying. They married in September 1975. Conjugal life went quite well at the start, and the baby was born in January 1976. However, the human immaturity of the petitioner also became apparent; she interrupted two pregnancies and committed adultery, inconsiderately breaking the unity and perpetuity of the conjugal pact. As dissensions became intolerable, the parties agreed to a definitive separation, which was approved by the civil court in 1980. In 1983 the petitioner sought a declaration of nullity on the ground of exclusion of indissolubility and of offspring on her own part. In

1985 the first instance tribunal issued a negative sentence. On appeal to the Rota a new ground – grave defect of discretion of judgement on the part of the petitioner – was added as if in first instance. After investigating all the circumstances the Rota considered that, while at the time of the wedding the petitioner had externally presented a semblance of consent, internally her mind was gravely disturbed as a result of her complex psychosexual development and her affective immaturity, which impeded her from being capable of understanding and weighing the essential duties of marriage. A negative sentence was given on this ground alone, as if in first instance.

1095 2º

Canonist 6/2 (2015), 279-291: Roman Rota: (A) Decree *coram* Arokiaraj, 20 March 2013 (USA). Irremediable Nullity of Decisions (can. 1620, 1º & 7º; *DC* art. 270, 1º & 7º); (B) Decree *coram* Arokiaraj, 9 December 2014 (USA). Immediate Confirmation of an Affirmative Sentence of the First Grade or Admission of the Cause to an Ordinary Examination in the Second Grade of Trial (can. 1682 §1; *DC* art. 265 §1). (Decrees)

See below, canon 1620.

1095 2º-3º

AA XXI (2015), 47-70: Carlos Bacciolli: El concepto de capacidad en el matrimonio. (Article)

The canonical capacity to contract a valid marriage presupposes a required level of psychological capacity often referred to as maturity. This latter concept is difficult to define, and there are varied and sometimes opposed ideas among psychologists and psychiatrists of different schools as to its precise meaning. B. examines some of these, such as psychic/mental health, psychic normality, psychic maturity, relational maturity, and affective/sexual maturity. The developmental process into mature personality is influenced by biological, family and socio-cultural factors and is the end result of a slow and gradual development evolving over time. It is a dynamic process, not a static state, subject not only to positive progression but also to regression and fixation. Even a mature individual will still retain certain elements of earlier developmental stages. The idea of full or perfect maturity is an ideal concept rather than a real one. Hence the canonical concept of maturity is not to be identified with its psychological counterpart; it requires only the minimum level of maturity sufficient to give marital consent. B. then considers the canonical capacity required to assume (*matrimonium in fieri*) and to fulfil (*matrimonium in facto esse*) the essential obligations of marriage.

1095 2º-3º

AnCan (Chile), I (2015), 5-143: XXVII Jornadas de la Asociación Chilena de Derecho Canónico, julio 2012. (Compilation)

See above, General Subjects (*Compilations*).

1095 2º-3º

AC 55 (2013), 304-309: Sentence *coram* Boccafola, 20 mai 2010, Reg. Flaminii seu Ferrarien.-Comaclen, Sent. 77/2010, présentation par Philippe Toxé. (Comment)

The parties met in 1993 and were married in 1995. It was known at the time of the wedding that the respondent wife suffered from depression and agoraphobia. The parties hoped however that their love for one another would see them through any difficulties. Nevertheless within a few days of the wedding the respondent announced that the marriage was over and became aggressive and nervous. The parties eventually separated after four difficult years together. The first instance tribunal declared the marriage to be null because of the respondent's incapacity according to canon 1095 2º-3º. The respondent appealed to the Rota, which ordered that be case be admitted to an ordinary examination, so that the Rota could be satisfied that the respondent's incapacity to assume the essential obligations of marriage was not merely a "relative incapacity" (taking into account outside factors such as the excessive interference of the petitioner's mother, and the petitioner's own psychological limitations) but was – as was ultimately established on the basis of the expert report obtained by the Rota – a true incapacity on the respondent's part. T. states that the interest of the case lies in the clear and succinct manner in which the *in iure* section of the sentence sets out the essential elements of the jurisprudence relating to the grounds in canon 1095 2º and 3º.

1095 2º-3º

AC 55 (2013), 309-312: Sentence *coram* Verginelli, 28 mai 2010, Reg. Latii seu Romana, Sent. 90/2010, présentation par Ludovic Danto. (Comment)

The parties met in 1981 and married in 1986. In 1982 the male petitioner had begun receiving psychotherapy for torment and anxiety, from which he continued to suffer at the time of the wedding. During the 14 years of married life, during which time no children were born, he entered into several adulterous relationships; and in 2006 he obtained a declaration of nullity of the marriage on the grounds in canon 1095 2º and 3º. The defender of the bond and the woman respondent appealed to the Roman Rota, which ordered that the case be admitted to an ordinary examination, so that the Rota could obtain its own expert

psychological report. D. states that the interest of the case lies principally in the careful attention given by the Rota to the acts of the case and the expert evidence. The Rota was ultimately satisfied that the petitioner suffered from a narcissistic personality disorder which drove him to engage in simultaneous sexual relationships, and rendered him incapable of ever finding a "totally good" object of his affections, since he was ever in search of the ideal person. It decreed that the marriage was to be considered null only on the ground of his inability to assume the essential obligations of marriage (canon 1095 3º), but not on the ground of grave lack of discretion of judgement (canon 1095 2º).

1095 2º-3º

FCan X/2 (2015), 27-40: Carlos Morán-Bustos: Madurez Psicológica y Madurez Canónica: Interpretación y desarrollo del art. 209 de la *Dignitas Connubii*. (Article)

M.B. looks at the question of expert evidence and the subjective conditions required in the expert, and, based on the provisions in art. 209 of *Dignitas Connubii*, focuses on the role of the judge in determining the object of the expertise. In order to decree a serious defect of discretion of judgement or incapacity to assume the essential obligations of marriage, a serious psychological disorder has to be identified at the time of the celebration of marriage; and it is the judge, not the expert, who is competent to declare if the conditions for the nullity of marriage are present. M.B. points out the differences between the psychological and canonical criteria regarding affective immaturity: for the psychologist affective maturity is a quality to achieve for the perfection of the subject; for the canonist it is the foundation that makes marriage possible.

1095 2º-3º

KIP 4 (17) 2015, 87-99: Michał Aniszewski: Wpływ epilepsji na ważność małżeństwa kanonicznego (Effects of epilepsy in the context of the validity of marriage). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-7

A. looks at the issues relating to the effects of epilepsy in the context of the validity of marriage. He makes use of literature from the fields of neurology, psychiatry and canon law. He starts by defining the illness, pointing out the different types of epilepsy and the reasons for its occurrence. He then shows what kinds of psychiatric disorder may be accompanied by or result from epilepsy. Finally he analyses the provisions of the CIC/83 relating to consensual incapacity to marry, and studies how epilepsy may cause inability to consent to a valid marriage.

1095 2º-3º

REDC 72 (2015), 383-393: Giannamaria Caserta: Una breve nota sulle sindromi e anomalie psico-fisiche rivelanti nella tradizione canonica che limitano o escludono la capacità di giudizio a norma dei cann. 1095 nn. 2-3. (Article)

C., a Rotal advocate, considers some of the psycho-physical anomalies which affect the validity of consent in accordance with canon 1095 2º-3º. She first quotes some Rotal and doctrinal authors writing prior to the promulgation of the present Code who effectively anticipated the substance of the canon under consideration, and in a following section examines in more detail this Rotal tradition. As regards physical disorders C. points out that the term "causes of a psychological nature" was of a redactional and not a scientific character as a compromise between strongly divergent views among members of the preparatory commission of the CIC/83, and raises the question of whether it could be understood as a minimum requirement which might allow some physical conditions to be considered under canon 1095 3º (neurosis deriving from syphilis and leading to impotence; AIDS; etc.). As the law stands, however, an extensive interpretation cannot be applied as canon 1095 must be interpreted strictly (canon 10).

1095 2º-3º

QDE 28 (2015), 352-377: Paolo Bianchi: Le ripercussioni che gli abusi avuti in ambito sessuale possono avere sulla capacità matrimoniali: profili canonici. (Lecture)

B. begins by offering a legal analysis of the ways in which sexual abuse can have an impact on the ability to offer consent to marriage, and goes on to offer a series of case studies illustrating how different types of sexual abuse had an impact in different people. He considers the questions which should be put to the psychological expert, and offers guidance on other aspects of the instruction of the case. B. then reviews three Rotal cases which treat the subject. He ends with a reflection on whether there is an obligation to report any abuse disclosed in the case: his view is that this is up to the conscience of the individual, but he does offer a series of arguments supporting the view that the crime should be reported.

1095 3º

AA XX (2014), 11-25: Carlos Baccioli: La violencia familiar como causa de nulidad del matrimonio canónico. (Article)

See below, canon 1103.

1095 3º

AA XX (2014), 365-377: Mauritius Monier: Sententia c. Monier, 26 octobris 2006 (nullitatis matrimonii). (Sentence)

See below, canon 1101.

1095 3º

AA XXI (2015), 427-445: Alejandro Bunge: Nullitatis matrimonii. Sententia definitiva. (Sentence)

Given here is the Latin text followed by a Spanish translation of B.'s sentence at third instance at the Rota. The female petitioner, of an excessively timid and shy personality, but intellectually very competent, was completely dominated by an overbearing mother, rigid and unyielding towards her daughter. The petitioner's father was a passive, indolent individual. The petitioner failed to experience any signs of love or care from them as she grew up, nor was she able to establish any close friendships. The respondent was an aggressive dominant personality, not unlike the petitioner's mother. The marriage lasted almost nine years, and three children were born. The proposed ground was the petitioner's inability to assume the essential obligations of marriage. Although the psychologist could find no evidence of a grave psychic disorder he emphasized the petitioner's extremely low self-esteem, her inability to assert herself or communicate at any serious level, her childish and capricious ways and her lack of the means to establish any mutually reciprocal relationship. The origin of this state was to be found in her childhood and adolescence. B. in his sentence makes the point that relative or relational incapacity is not accepted in Rotal jurisprudence as a ground of nullity and that the positive decision given in this case is based on the petitioner's pre-existent psychological problems which stemmed from her upbringing. Even though no named psychological disorder could be found, there was no doubt that her consent was essentially flawed owing to "causes of a psychic nature" (canon 1095 3º).

1095 3º

AA XXI (2015), 447-453: José Bonet Alcón: Comentario a la Sentencia de la Rota Romana *coram* Bunge (Sent. 199-2014). (Commentary)

See preceding entry. B.A. points out that this is the second time this case has come before the Rota in third instance and has spanned a period of almost twenty years (1995-2014). It was always evident that the marriage had never achieved the *bonum coniugum*, but earlier proposed grounds of the petitioner's total simulation and grave lack of discretion and the respondent's grave lack of

discretion had not prospered. B.A. commends the clarity and conciseness of Bunge's sentence and the fact that at long last justice has been done.

1095 3º

AC 55 (2013), 290-301: Sentence *coram* Yaacoub, 10 février 2010, Triveneti seu Tarvisina, Sent. 18/2010, présentation par Emmanuel Petit. (Comment)

The case involved a third instance Rotal decision in a case concerning inability to assume the essential obligations of marriage (canon 1095 3º), specifically on the part of the woman respondent who for psychological reasons (anorgasmia or dyspareunia linked to egocentrism) encountered extreme difficulty in engaging in sexual relations. The Rota in giving an affirmative decision considered that the problems went beyond mere difficulty and constituted a true repugnance towards conjugal acts, rendering a true sexual relationship impossible. In his comment, P. studies the relationship between canon 1095 3º and canon 1084 §1 (antecedent and perpetual impotence) in cases of this nature.

1095 3º

Ius Comm III (2015), 305-327: Acta Tribunalium Sanctae Sedis. Romanae Rotae Tribunal. Sentencia definitiva coram Jaeger, 3 mayo 2012. Nulidad de matrimonio. Incapacidad para asumir las obligaciones esenciales del matrimonio. (Sentence)

The parties met in 1983, and after sporadic contact – because of the male respondent's frequent absences for work reasons – they married in 1987. Married life, which produced no children, resulted in arguments and disagreements, and in 1990 the couple divorced. In 1994 the female petitioner asked for a declaration of nullity on the grounds of incapacity to assume the essential obligations of marriage, on the part both of the respondent and of the petitioner, as well as exclusion of offspring, also on the part of both spouses. After interviews of both spouses and of the witnesses, the tribunal obtained a psychiatrist's opinion, based on the acts of the case, since the respondent refused to undergo a psychiatric examination. On the strength of that opinion the tribunal gave an affirmative decision regarding the respondent's incapacity to assume the essential obligations of marriage, while rejecting the other grounds. At second instance, where the respondent again refused to undergo an examination, a negative decision was given. The petitioner appealed to the Rota, where another expert opinion was obtained, based on the acts of the case. It was clear to the Rota that the respondent was attached to his mother in a way that was completely abnormal, to the point of finding himself unable to leave his mother's home after the wedding to go and live with the petitioner in a new home which they had bought. Even though the expert appointed by the Rota was

unable to give an exact diagnosis of the respondent's psychic condition based simply on the acts, the Rota considered that this did not impede the tribunal from giving a decision. The expert's findings were sufficient to enable the Rota to reach moral certainty as to the respondent's incapacity to assume the essential obligations of marriage under canon 1095 3º, and an affirmative decision was given accordingly. See also the following entry.

1095 3º

Ius Comm III (2015), 329-344: Santiago Panizo Orallo: Comentario a la Sentencia coram Jaeger, 3 mayo 2012. (Commentary)

See preceding entry. In his commentary on the case, P.O. expresses his satisfaction at the way in which the sentence distinguished the respective roles of the expert and the judge. The judge is called upon to go beyond mere "names" and "words" so as to arrive at the objective truth. Even though the expert in this instance was unable to put an exact name to the particular psychic condition suffered by the respondent, the "indications" (*indicia*) which he offered the tribunal in his report, when taken in conjunction with all the other circumstances of the case, were sufficient to allow the judge to reach a decision – not an arbitrary or purely subjective decision, but one based on true moral certainty. The moral certainty required of the judge is not to be equated with the medical certainty of an "exact diagnosis". P.O. is particularly taken by the comment in the Rotal sentence to the effect that the non-cooperation of one of the parties may impede a medical diagnosis, but should not be allowed to obstruct the course of justice.

1097-1098

AnCan (Chile), I (2015), 5-143: XXVII Jornadas de la Asociación Chilena de Derecho Canónico, julio 2012. (Compilation)

See above, General Subjects (*Compilations*).

1097-1098

IC 55 (2015), 725-758: Sentencia del Tribunal de la Rota Romana: *Coram* Erlebach de 13 de junio de 2013; Juan Ignacio Bañares – Rafael Rodríguez-Ocaña: Comentario a la Sentencia *Coram* Erlebach de 13 de junio de 2013: sobre el tratamiento del error en cualidad de la persona. (Sentence and commentary)

The male petitioner, then aged 27, married the respondent, then aged 22, in 1969. After a very short time of married life the petitioner began to suspect that

the respondent was incapable of having children. Subsequent medical consultations confirmed this to be the case, and shortly afterwards the parties separated, and divorced. The petitioner entered into a new civil marriage, but did not think about the possible nullity of his marriage to the respondent until 1993. At first instance the *dubium* was established as "whether there is evidence of the nullity of the marriage because of the error of the spouse concerning the woman in accordance with canon 1097 and/or because of deceit perpetrated by the woman in accordance with canon 1098". A decision *pro nullitate* was given on the ground of error concerning a quality of the other party; no decision was given on the question of deceit. At second instance the *dubium* centred on "error of the petitioner concerning the person of the respondent and/or error of the petitioner concerning a quality of the respondent directly and principally intended"; a negative decision was given on both grounds in 1996. Only at the end of 2010 did the petitioner appeal to the Roman Rota, where the *dubium* was established as "whether there is evidence of the nullity of the marriage, *in casu*, because of error on the part of the petitioner husband concerning a quality of the petitioner wife"; and an affirmative decision was given in 2013. The commentary on the case asks why the question of deceit was studiously avoided at all three instances, even though there was clear evidence that the woman knew of her condition – one which could seriously disrupt the partnership of conjugal life – prior to entering into the marriage and had concealed it from the petitioner, and indeed that this had been a material factor in obtaining his consent to the marriage. The commentators suggest that this omission was due to the awareness on the part of the tribunals that the majority of the jurisprudence on deceit considers canon 1098 not to be applicable to marriages contracted before the coming into force of the CIC/83. However, if that were the case, it would have been better for the tribunals to say so explicitly, rather than just ignoring the question.

1098

QDE 28 (2015), 352-377: Paolo Bianchi: Le ripercussioni che gli abusi avuti in ambito sessuale possono avere sulla capacità matrimoniali: profili canonici. (Lecture)

See above, canons 1095 2º-3º.

1099

REDC 72 (2015), 309-318: Papa Francisco: Discurso al Tribunal de la Rota Romana, 23 de enero de 2015. Texto y comentario. (Address and commentary)

Given here is the Spanish text of Pope Francis' 2015 address to the Rota, followed by a commentary by Federico R. Aznar Gil. The principal points at issue are the need for flexibility in the judicial processing of marriage nullity cases and the question of the relevance of faith in parties celebrating the sacrament of marriage. In his commentary on the first issue A.G. touches on some practical difficulties concerning the recruitment of qualified tribunal personnel, especially judges, the employment and cost of involving lay persons, the pooling of resources in interdiocesan tribunals, the greater use of single judges, and the responsibility, involvement and interest of the diocesan bishop or moderator. The second theme focuses on the increasing number of baptized who, apparently lacking any sign of faith, marry in the Church and who after the breakdown of the marriage request a declaration of nullity. This lack of faith is most often due to what Pope Francis calls "a spiritual worldliness", reflecting a vision and value system bereft of any spirit of Christian faith. This can manifest itself in an open hostility to the Church and to the sacramental dignity of marriage, or to a deeply held error, even determining the will, concerning marriage as a sacrament. These attitudes could have the consequence of invalidating matrimonial consent. However, in view of the firm identification of the valid marriage contract with its sacramental reality between the baptized (canon 1055) a deeper study of this complex subject is required.

1099

Canonist 6/1 (2015), 3-10: Pope Francis: Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year, 23 January 2015; Anthony Malone: Reflections on Pope Francis' Allocution to the Rota. (Address and comment)

See preceding entry. In his comment on the Pope's address, M. explains the meaning of error determining the will (radical error) and the problems that arise with the traditional presumption that when people marry they intend to do so monogamously, permanently and exclusively, for the twofold purpose of procreation and mutual satisfaction. He also reflects on the Pope's desire that access to the tribunal should be free of charge.

1099

AA XXI (2015), 329-339: Marcelo Parma: Comentario al Discurso del Santo Padre Francisco a los jueces, oficiales, abogados y colaboradores del Tribunal Apostólico de la Rota Romana (23-01-2015). (Comment)

See preceding entries. Using as his starting point the 2015 address of Pope Francis to the Roman Rota on the influence of the human and cultural context on the formation of intention in giving marriage consent, P. proceeds to examine the important difference between the concepts of intentionality and understanding. This is crucial in marriage cases in determining whether possible nullity grounds of either determining error or simulation are applicable. The question for the judge is: did the party positively exclude an essential element of property of marriage or simply have a purely subjective but erroneous concept of marriage? This requires a patient and sensitive exploration by the judge of the whole "constellation of motives" present in the party at the time of consent and the presence of convincing proofs for whatever decision is arrived at.

1099

IE XXVII (2015), 465-477: Papa Francesco: Discorso in occasione dell'inaugurazione dell'anno giudiziario del Tribunale della Rota Romana, 23 gennaio 2015 (con nota di Montserrat Gas Aixendri, *Cultura, fede e conoscenza del matrimonio*). (Address and comment)

See preceding entries. In her comment on the Pope's 2015 address to the Rota, G.A. points out some of the difficulties facing the judge in assessing the relevance of faith (or lack of faith) to a person's matrimonial intention. It would need to be proved on a case by case basis that the erroneous ideas concerning the substance of marriage applied to the real and concrete will of the person concerned at the time of marrying. It would be mistaken, and unduly pessimistic, to adopt a general presumption that in the modern age any party entering into marriage would be lacking a true matrimonial intention.

1099

CLSN 184/15, 4-69: Francis G. Morrisey: The *Motu Proprio Mitis Iudex Dominus Iesus*. (Documents and lecture)

See below, canons 1671-1691.

1101

AA XX (2014), 365-377: Mauritius Monier: Sententia c. Monier, 26 octobris 2006 (nullitatis matrimonii). (Sentence)

The proposed grounds in this case were total simulation in the male respondent and subordinately his partial simulation by the exclusion of the *bonum coniugum* due to his inability to assume the essential obligations of marriage. In his *in iure* section M. points out that total simulation can occur not only by the exclusion of marriage itself but also by the inclusion of some element which entirely replaces the intimate community of life in marriage as instituted by the Creator; this would be to intend something essentially different from marriage. He also points out that the positive act of will can be implicit in the actions of a party. Concerning the inability to assume the essential obligations of marriage it is necessary to prove not only the existence of a psychic anomaly but also to demonstrate that it is the cause of the inability. In this case the respondent showed no interest or commitment in forming a genuine marriage bond; he sought no work, was aggressive and rude, would accept no advice or counsel, and was only too ready to take the material benefits of being married without in any way trying to form a communion of life. A positive decision was returned but only on the ground of the respondent's exclusion of the *bonum coniugum*.

1101

AA XX (2014), 379-393: José Bonet Alcón: Comentario a la sentencia de la Rota Romana *coram* R.P.D. Mauricio Monier. (Commentary)

In his commentary on Monier's sentence (see preceding entry) B.A. points out that the inclusion in the proposed grounds of both simulation and inability to assume the essential obligations of marriage in the same person demonstrates that there is no incompatibility of grounds in the two headings. He maintains that many of the decisions currently given on the ground of inability (canon 1095 3º) should more correctly be adjudicated as cases of simulation (canon 1101), and he emphasizes the need for judges to scrutinize carefully the facts and circumstances of each case in the preliminary phase of the process in order to establish the correct grounds of nullity. As much information as possible should be gathered from both parties before deciding possible grounds. The prevailing practice of almost always first seeking psychic causes of nullity of marriage must be tempered with the realization that many marriage failures and possible nullities are due to ethical or moral causes rather than psychological ones. In this particular case there was an almost invisible line between inability and simulation as expressed in the respondent's actions rather than in words. In the end the decision was for the respondent's partial simulation only, on account of his exclusion of the *bonum coniugum*.

1101

AA XXI (2015), 329-339: Marcelo Parma: Comentario al Discurso del Santo Padre Francisco a los jueces, oficiales, abogados y colaboradores del Tribunal Apostólico de la Rota Romana (23-01-2015). (Comment)

See above, canon 1099.

1101

AA XXI (2015), 225-240: Pio Vito Pinto: La Rota Romana como servicio al carisma petrino. Desafíos actuales en el proceso de nulidad matrimonial. (Article)

P. uses as his starting point the words of Benedict XVI in his 2011 address to the Roman Rota cautioning against using events of the *matrimonium in facto esse* as automatic proofs of an intention at the time of consent of either inability to assume or simulation. Nevertheless the Rota is encouraged to examine the issue of the *bonum coniugum* and among other factors to consider the influence of a lack of faith on a party's intention. In a vastly predominantly areligious society the concept of lifelong commitment is one which many people do not accept or understand, but the difficulty is to determine how and to what extent such an attitude impinges on the will of a given party entering marriage. Does it reach the level of a "positive act of will" required for simulation? Lack of faith in itself cannot constitute proof of simulation. It must be shown that one or other of the essential elements or properties of marriage has been excluded by a positive act of will at the time of consent, or the existence must be proved of substantial error or simple error *recidens in condicione sine qua non* or error determining the will. Rotal decisions are now consolidating jurisprudence on the issue of exclusion of the *bonum coniugum*.

1101

AC 55 (2013), 301-304: Sentence *coram* Caberletti, 4 mars 2010, Campani seu Nolana, Sent. 36/2010, présentation par Luc Marie Lalanne. (Comment)

The Rota was called upon to decide at third instance whether there had been exclusion of the *bonum prolis* on the part of the woman petitioner. The interest of the case lies in the difficulty in interpreting the various declarations made by the petitioner throughout the development of the process: was it simply a case of deferring having children, or was it an absolute exclusion, a temporary exclusion, or a conditional exclusion linked to the hope that her husband's personality might improve? Eventually the Rota, noting that the woman's rejection of children had remained constant throughout the marriage, that her use of contraceptives had been constant from before the time of the marriage

and that conjugal life had been broken off four times in the seven years of their married life together, concluded that there was evidence of exclusion of the *bonum prolis* by the petitioner, upon whom the Rota imposed a *vetitum*.

1101

AnCan (Chile), I (2015), 5-143: XXVII Jornadas de la Asociación Chilena de Derecho Canónico, julio 2012. (Compilation)

See above, General Subjects (*Compilations*).

1101

CLSN 182/15, 51-72: John Hadley: Intention *Contra Bonum Coniugum*: Where are we now? (Article)

Much of the difficulty in accepting the intention *contra bonum coniugum* as an appropriate ground for the nullity of marriage was due to the fact that this *bonum* was of a different kind from the three traditional Augustinian *bona*. Further difficulty was caused by a failure to distinguish adequately between the *bonum coniugum* and the *consortium totius vitae*, leading to the conclusion that any intention *contra bonum coniugum* must be an intention against the whole of marriage itself, and therefore would be total simulation. Establishing more clearly the content of the *consortium totius vitae*, and thereby the content of the *bonum coniugum* which the spouses should intend in their marital consent, will aid tribunals in assessing the intention of the spouse on the basis of their behaviours and attitudes before marriage and in the early years of married life. This will be necessary, since any intention *contra bonum coniugum* is most likely to be implicit. H. calls upon tribunal personnel to be willing to recognize the possibility of this ground when the evidence displays a deep-seated selfishness, refusal to treat the other with dignity and respect, or the reservation to oneself of certain major decisions in married life. At present, such cases will almost always be pleaded on the ground of lack of due discretion. It may also be appropriate for personnel to examine the questions asked of petitioners, respondents and witnesses to see whether more and better evidence could be gained relevant to the *bonum coniugum*. H. ends with a suggestion that those who prepare couples for marriage should consider the *consortium totius vitae* in more detail. It may well be that in such pre-marriage preparation, greater concentration is needed on the importance of shared communication, shared decision-making, equal support for each other and equal dignity and respect.

1101

EIC 55 (2015), 385-404: Giuseppe Sciacca: Relazione tra fede e matrimonio sacramentale. (Article)

S. addresses one of the most debated topics concerning the sacrament of marriage: the relationship between the sacrament and the faith of the couple intending to be united in the sacred matrimonial bond. He analyses recent magisterial teachings and the canonical norms on marriage. He concludes that nullity of marriage for lack of faith in the baptized can only be considered in cases in which the absence or lack of faith has led to a rejection of marriage in some of its essential elements or properties, or to the exclusion of marriage itself. This does not imply that the faith of the spouses is something extrinsic, unnecessary or irrelevant to the marital consent; nor, on the other hand, does it mean that valid consent is impossible without the light and gift of a full and mature faith. (See also *Canon Law Abstracts*, no. 115, pp. 98-99.)

1101

FThC IV 26/18 (2015), 163-189: Bruno Esposito: La fede come requisito per la validità del matrimonio sacramentale? (Article)

See following entry.

1101

Per 104 (2015), 611-651: Bruno Esposito: La fede come requisito per la validità del matrimonio sacramentale. (Article)

E. explores the thorny and very contemporary question of the relationship between faith and the validity of marriage. After examining some historical and jurisprudential material, he concludes in favour of the received doctrine that the natural union of man and woman constitutes a sign of the union of Christ with the Church. The introduction of the need for an explicit declaration of faith would not make this sign any more explicit. Indeed, he would consider such an intervention as further evidence of what has already been criticized as the juridicization of marriage by the Church.

1101

REDC 72 (2015), 309-318: Papa Francisco: Discurso al Tribunal de la Rota Romana, 23 de enero de 2015. Texto y comentario. (Address and commentary)

See above, canon 1099.

1102

AC 55 (2013), 312-318: Sentence *coram* Pinto, 18 juin 2010, Reg. Insubris seu Comen., Sent. 103/2010, présentation par Philippe Toxé. (Comment)

T. sees the principal interest of this case as lying in the reflections offered by the Rota on the distinction between a condition *de futuro* (in this case, the condition imposed by the petitioner that the parties should establish their domicile close to the petitioner's place of work) and exclusion of indissolubility. The Rotal sentence also examines the criteria for determining whether, in a situation involving the future fulfilment of a present promise, the condition concerns the future or the present. In this case, after considering all the evidence, the Rota concluded that the condition was *de futuro*, and accordingly the marriage was declared invalid.

1103

AA XX (2014), 11-25: Carlos Baccioli: La violencia familiar como causa de nulidad del matrimonio canónico. (Article)

B. examines the impact of family violence as a contributory cause of marriage nullity. He considers some of its psychiatric and psycho-pathological aspects, particularly personality disorders. The main part of the article is dedicated to the canonical effects of family violence on matrimonial consent, with consideration given to various Rotal sentences.

1103

Canonist 6/1 (2015), 101-113: Roman Rota: Sentence *coram* Erlebach, 13 December 2007 (Poland). Force and Fear (can. 1103). (Sentence)

The female petitioner, then aged 16, met the male respondent, then aged 18, in 1989. There arose a friendship and then a love relationship between them; they became engaged in March 1992 and, despite the contrary intention which the petitioner had expressed in the meantime, they married in September 1992. The quality of common life became intolerable, and after several temporary separations they definitively separated in July 1998. The petitioner obtained a civil divorce in November 1999. Her request for a declaration of nullity on the ground of force or fear – resulting principally from pressure placed on her by her mother – met with a negative decision at first instance. That decision was overturned on appeal, and the case went to the Rota at third instance. The Rota found that the petitioner had approached marriage not only *with* fear, but *because of* fear – in this case, reverential fear. She was very sensitive by nature, and any sign on her part of opposition to the marriage provoked immediate reactions from her parents and particularly her mother, who by various means,

licit and otherwise, applied pressure on her for a long time. These factors were considered by the Rota to amount to very grave coercion, because of which the petitioner was obliged to contract marriage, without there being any other real solution. Hence the Rota considered that there was proof of nullity of the marriage on the ground of force and fear inflicted on the petitioner.

1124-1126

Ius VI 1/15, 73-90: Jose Marattil: Mixed Marriage: Conditions for Its Permission in CIC and CCEO. (Article)

See above, CCEO canons 813-815.

1141

EE 90 (2015), 765-787: Rufino Callejo de Paz: Misericordia y fracaso matrimonial: algunas consideraciones de cara a un posible replanteamiento jurídico-pastoral. (Article)

See below, canons 1671-1691.

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

1173-1175

FThC IV 26/18 (2015), 153-161: Szabolcs Anzelm Szuromi: The systematic development of the Liturgy of Hours during the first centuries – based on the Jewish and Christian tradition. (Article)

See above, Historical Subjects (*1st millennium*).

BOOK V: THE TEMPORAL GOODS OF THE CHURCH

1254

AA XXI (2015), 243-269: José María Arancibia: El patrimonio religioso y cultural. (Article)

The human and religious patrimony of the Church is the responsibility of all the faithful. For this reason the magisterium has established that the care and use of religious places, of artistic expressions of religion and of objects of cult and devotion are to be inspired by a spirit and intention of evangelization, and expressed in appropriate canonical legislation. A. proposes some practical tools for the right care and use of this important part of the Church's patrimony.

1255

FCan X/2 (2015), 113-148: José Oliveira Branquinho: Jurisprudência dos Tribunais Superiores (2010-2014). (Jurisprudence and comment)

O.B. studies a dispute over the acquisition of temporal goods by the Church: land adjoining a chapel, which the local authority claimed was in public ownership. The case involves a complex set of secular and religious aspects, which are explained more fully in two notes accompanying the summary of the principal judgment.

1257

EE 90 (2015), 701-721: Raquel Pérez Sanjuán: El régimen de los bienes de las asociaciones privadas de fieles: de la normativa codicial a su concreción estatutaria. (Article)

See above, canon 325.

1263-1267

QDE 28 (2015), 333-351: Gianluca Marchetti: Offerte, tasse e tributi. (Lecture)

M. gives a brief survey of the provisions of the CIC/83 and of Italian particular law on the various ways in which the faithful give financial support to the Church. He looks at collections, questing by mendicant orders, offerings, and Mass offerings.

1276

KIP 4 (17) 2015, 25-38: Paweł Kaleta: Władza nadzorowania zarządzaniem dobrami kościelnymi (kan. 1276 § 1-2) (Supervisory authority of the Ordinary concerning the administration of ecclesiastical goods (canon 1276 § 1-2)). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-3

K. looks at the supervisory authority of the Ordinary in respect of ecclesiastical goods belonging to public juridical persons subject to him. The purpose of such supervisory authority is to ensure that abuses do not creep in to ecclesiastical discipline. It relates mainly to the issuing of special instructions, granting permissions for acts of extraordinary administration, and intervening in cases of negligence. The canonical norms on supervision are an instrument for protecting ecclesiastical goods and ensuring that they are used in accordance with their proper purposes. The right of supervision is aimed at fostering greater responsibility for ecclesiastical goods and at building up greater confidence in the people who administer them.

1302

IC 55 (2015), 593-640: Javier Otaduy: Perspectiva canónica del *trust*. (Article)

O. argues that much of English case law is based on the assumption that the notion of trust (use) arose independently of the continental *ius commune*. However, continental law – civil and canonical – was equally influential in the emergence of the concept. Continental teaching held equal sway with common law until the 17th century. The codifying movement in Europe has always been markedly suspicious of all trust business, as lacking in solidarity, and potentially fraudulent. Canon law has tentatively conceded the possibility of fiduciary business. The model of the charitable trust is set out in the current canon 1302, subject to the condition that the civil law of a given country accept it.

1303

IC 55 (2015), 641-694: Miguel Campo Ibáñez: Las fundaciones canónicas en España. Derecho particular diocesano y realidad social. (Article)

C.I. offers an overview of recent activity relating to autonomous and non-autonomous pious foundations in Spain, 1983-2014, paying special attention to the particular law issued by the Spanish Episcopal Conference and by dioceses. From an analysis of the bulletins issued by the Spanish Episcopal Conference and dioceses regarding autonomous and non-autonomous pious foundations he

concludes that the general tendency is towards their disappearance and their integration into common diocesan funds, with little legislation being made in their regard.

1303

IC 55 (2015), 695-722: Jorge Otaduy: Fundaciones canónicas privadas promovidas por institutos religiosos en los sectores de la educación y de la sanidad. (Article)

There are many foundations in Spain promoted by institutes of consecrated life, especially in the field of education. Their role is to group the schools run by such institutes in terms of ownership and management. Some have been established directly by religious institutes. Those without the power of governance must rely on the intervention of the local Ordinary (or the episcopal conference, if the intention is to constitute a canonical foundation of national scope). Some religious institutes, however, set up civil foundations so as to continue to carry out their own activities. In view of the canonical questions emerging in relation to this phenomenon, the Spanish Episcopal Conference has established some basic criteria for the canonical system of private foundations and set up an Episcopal Council for Canonical Foundations to exercise a protecting role in this regard.

1303

QDE 28 (2015), 333-351: Gianluca Marchetti: Offerte, tasse e tributi. (Lecture)

See above, canons 1263-1267.

BOOK VI: SANCTIONS IN THE CHURCH

1311

AA XXI (2015), 415-424: Ricardo Medina: La actualidad del Derecho Penal Canónico: crimen y castigo en la Iglesia. (Presentation)

M. maintains that there is widespread ignorance and misunderstanding of the nature of the Church's penal law, even among many canonists. The modern clamour for "quick justice" often ignores the principle of "innocent until proved guilty" and can lead to a failure of justice. Penal law, like all the Church's laws, is directed towards the *salus animarum*, which differentiates it clearly from any other system of law. In the latter part of his paper M. reflects on some of the consequences stemming from *Sacramentorum Sanctitatis Tutela* and the *Normae de gravioribus delictis,* and the use of the administrative process and of canon 1399.

1311-1399

AnCan (Chile), I (2015), 361-377: Inauguración Año Judicial 2015. (Compilation)

See above, General Subjects (*Compilations*).

1311-1399

Canonist 6/1 (2015), 11-43: John Renken: Penal Law in the Church Tomorrow: Reflections on a Revision of *Book VI*. (Article)

R. offers some reflections on a draft revision of Book VI of the CIC/83 and suggests some modifications. His recommendations include, first and foremost, underscoring the pastoral purpose of penal law in the Church. In addition he proposes: including more definitions in the Code; strongly asserting the preference for the judicial penal process over the extrajudicial penal process; emphasizing the presumption of innocence of the accused until the contrary is proved; making certain modifications to medicinal penalties, expiatory penalties, and the relationship between them; establishing delicts appropriate to the Church in the modern world; giving renewed special consideration to offences involving sexual abuse of minors; re-establishing *vigilantia* (cf. CIC/17, canon 2306) as a penal remedy; making certain modifications to the penal preliminary investigation; developing a directory to assist pastors and canonists in the preliminary investigation and in judicial and extrajudicial penal processes; not involving metropolitans in penal processes of suffragans; and simplifying the circumstances eliminating, modifying or increasing imputability.

1319

Canonist 6/2 (2015), 184-202: Brendan Daly: Precepts and their Application. (Article)

Precepts are a significant part of the application of the penal law of the Catholic Church. They are usually issued when Church teaching, discipline or law are not being observed. There are strict procedures concerning the application of penalties using precepts. It is most important that those in authority follow these procedures and observe all the requirements of the law, both for the protection of the rights of the persons affected and also to protect the Church and Christ's faithful from wayward clerics and religious. In this article D. looks at the history of the process to impose a precept, those who can issue penal precepts, the essential elements of a precept, communication of the precept, what happens in the case of the non-appearance of the person summoned, the imposition of penalties through precepts, *latae sententiae and ferendae sententiae* penalties, the limit and cessation of penalties, judicial and extrajudicial procedures, and precepts issued by the diocesan bishop to religious and members of societies of apostolic life.

1321-1330

AA XX (2014), 183-208: Ricardo Medina: Imputabilidad, eximentes, atenuantes y agravantes en los delitos sexuales de clérigos con menores. (Article)

M. looks at the extenuating and aggravating factors in cases involving sexual delicts by members of the clergy against minors. He makes the point that the canonical norms concerning these factors reflect the true spirit of canon law and must be observed by judges; they cannot be ignored or overridden when deciding the degree of imputability and culpability of the accused. M. goes on to examine each of the extenuating and aggravating factors in more detail. Not every cleric guilty of sexual abuse of minors is necessarily a totally disreputable delinquent; some may be acting from deep-seated psychological problems which must be taken into account in the judicial process.

1332

Per 104 (2015), 653-685: Roberto Aspe: El entredicho: una propuesta de censura para sancionar a quienes cometan algún delito contra el sexto mandamiento del Decálogo con un menor (can. 1395 §2). (Article)

A. explores one of three censures found in the CIC/83, that of interdict (canon 1332), tracing its history from the early centuries of the Church to its current juridical expression. He considers the precise juridical implications of the

penalty as such, distinguishing it from excommunication, and then proposes it as an appropriate means of punishing those who are guilty of a crime against the sixth commandment with a minor.

1333

EE 90 (2015), 683-700: José Luis Sánchez-Girón Renedo: «El superior que establece la pena»: valoración crítica en clave exegética de los cc. 1333 §3.1 y 1338 §1. (Article)

Canons 1333 §3.1 and 1338 §1 refer to "the Superior who establishes the penalty". In Book VI "establishing a penalty" (*poenam constituere*) refers to an action that corresponds more to the law than to the Superior. For this reason the wording of these canons can give rise to confusion and appear inconsistent with other norms. A detailed analysis makes it possible to suggest a more appropriate alternative wording, and indeed a more appropriate overall approach to these canons.

1338

EE 90 (2015), 683-700: José Luis Sánchez-Girón Renedo: «El superior que establece la pena»: valoración crítica en clave exegética de los cc. 1333 §3.1 y 1338 §1. (Article)

See above, canon 1333.

1339-1340

CLSN 182/15, 73-95: Frank Morrisey: Dealing Justly With Complaints Against Church Personnel. (Article)

See below, canons 1713-1716.

1341

AnCan (Chile), I (2015), 145-231: XXVIII Jornadas de la Asociación Chilena de Derecho Canónico, julio 2013. (Compilation)

See above, General Subjects (*Compilations*).

1389

CLSN 183/15, 42-46: Gordon Read: Further Developments concerning *Graviora Delicta* Cases and in particular where there are allegations that Bishops have lacked due diligence in handling such cases. (Comment)

On 21 April 2015 approval was given to the statutes of the Pontifical Commission for the Protection of Minors, established by papal chirograph on 22 March 2014. These set out the general remit of the Commission, as well as detailed legislation concerning its constitution and procedures. A further development was a statement released by the Press Office of the Holy See on 10 June 2015 announcing that the Council of Cardinals had received a report from Cardinal Seán Patrick O'Malley, OFM Cap., with a proposal for the Holy Father regarding allegations of the abuse of office by a bishop connected to the abuse of minors, originally prepared by the Pontifical Commission for the Protection of Minors. Cardinal O'Malley's report also included a proposal regarding allegations of sexual abuse of minors and vulnerable adults by clergy. The proposals, which had received the approval of the Holy Father, included among other things the establishment in a stable way of a judicial section within the Congregation for the Doctrine of the Faith to handle such cases, and the granting of a mandate to the Congregation to judge cases of this nature in the name of the Pope rather than handling them in a purely administrative way. R. highlights a number of issues arising out of these developments.

1395

AA XXI (2015), 9-44: Carlos H. Malfa: Presentación de las líneas Guía de Actuación en el caso de denuncias de abusos sexuales en los que los acusados sean clérigos y las presuntas víctimas sean menores de edad (o personas a ellos equiparadas). (Presentation, document text and commentary)

Given here is the presentation and text of the Guidelines drawn up by the Conference of Bishops of Argentina concerning the protocol to be followed in accordance with the motu proprio *Sacramentorum Sanctitatis Tutela* in cases of allegations of sexual abuse of minors by clerics. This is followed by a commentary by Hugo A. von Ustinov in which he explains the historical background, beginning with the 1988 request by the Congregation for the Doctrine of the Faith to the (then) Pontifical Commission for the Authentic Interpretation of the Code that a more rapid and simplified process might be considered than that envisaged by the Code for removal from the clerical state, for use in cases of grave and scandalous behaviour by a cleric. U. then comments on the structure of the text and its more salient points.

1395

Per 104 (2015), 653-685: Roberto Aspe: El entredicho: una propuesta de censura para sancionar a quienes cometan algún delito contra el sexto mandamiento del Decálogo con un menor (can. 1395 §2). (Article)

See above, canon 1332.

1395

REDC 72 (2015), 319-323: Secretario del Estado: «rescriptum ex audientia Sanctissimi» sulla istituzione di un collegio, all'interno della congregazione per la dottrina della fede, per l'esame dei ricorsi di ecclesiastici per i delicta graviora. Texto español y comentario. (Document and comment)

See above, canon 1389. Given here are the original Latin text and the Spanish translation of the rescript – a general executory decree (canon 31) – informing that the Holy Father has decreed that a special college consisting of seven cardinals or bishops should be established within the Congregation for the Doctrine of the Faith for dealing with recourses in *graviora delicta* cases against decisions given at first instance by the Congregation itself, or by Ordinaries or hierarchs in the case of delicts against the faith (over which they retain competence at first instance). Hitherto competence for such recourses was that of the Ordinary Session of the Congregation, also known as *Feria IV*. The document is accompanied by a brief comment from Luis Garcia Matamoro.

1395

REDC 72 (2015), 635-648: Papa Francisco: Institución de la «Comisión Pontificia para la tutela de los menores». Texto y comentario (F.R. Aznar Gil). (Document and commentary)

Given here is the Spanish translation of Pope Francis' letter instituting the Pontifical Commission for Safeguarding Minors (22 March 2014) and its statutes (21 April 2015). In his commentary A.G. looks at some of the background to the establishment of this Commission, including Pope Francis' constant concern over the issue and the advice he received from his Council of Cardinals. He notes that the Commission is an autonomous entity, directly dependent on, and responsible only to, the Supreme Pontiff and not to any curial body. Its remit is purely consultative, and any proposals must have a two-thirds majority of its members. These will include international specialists in various disciplines and sciences (psychology, psychiatry, psychotherapy, social workers, civil and canon lawyers, etc.) as well as victims of abuse. A.G also sets the establishment of this Commission in the context of the wider intentions of Pope Francis in his aim of a reform of the Curia.

1398

KIP 4 (17) 2015, 131-149: Paweł Głuchowski: Kanoniczna odpowiedzialność za dokonanie przestępstwa aborcji (kan. 1398) w kontekście przesłanek dopuszczalności przerywania ciąży w prawie polskim (= Canonical responsibility for the crime of abortion (canon 1398) in the context of the conditions permitting abortion in Polish law). (Article)

http://dx.doi.org/10.18290/kip.2015.4.2-10

See above, General Subjects (*Comparative law*).

BOOK VII: PROCESSES

1405

CLSN 183/15, 42-46: Gordon Read: Further Developments concerning *Graviora Delicta* Cases and in particular where there are allegations that Bishops have lacked due diligence in handling such cases. (Comment)

See above, canon 1389.

1419

Canonist 6/2 (2015), 152-183: Rodger J. Austin: Pope Francis' Apostolic Letter *Mitis et Misericors Iesus* and First Instance Tribunals in Australia and New Zealand. (Article)

A. focuses on the provisions in *Mitis et Misericors Iesus* in the context of the first instance tribunals in Australia and New Zealand. In Australia there have been five tribunals of first instance for marriage nullity cases since 1953. New Zealand has had one tribunal of first instance since 1987. Given the small number of bishops in those two countries, A. considers that they have a particular opportunity to work together to ensure the active implementation of the new matrimonial process. However, the new legislation also serves to highlight the significant responsibility borne by all who work in the tribunals.

1419

CLSN 183/15, 65-69: Paul Gargaro: Use of the Internet by the Tribunals of Great Britain and Ireland. (Article)

G. carries out a study of the extent to which marriage tribunals in Great Britain and Ireland make use of the internet in their public transactions. He finds that overall the tribunals are not making the most of the opportunities offered by the internet to educate and inform prospective participants in marriage cases. Many tribunals do not have a website; in the case of those that do, there is sometimes only minimal information available (contact details, etc.). G. states that most people who approach a tribunal, or receive a citation as a respondent or witness, will have had no previous contact with a tribunal, and the natural response nowadays to an unknown situation is to look for more details on the internet.

1419

CLSN 184/15, 92-106: Fredrik Hansen: Judicial Power and the Diocesan Bishop. (Article)

See above, canon 391.

1438

CLSN 183/15, 65-69: Paul Gargaro: Use of the Internet by the Tribunals of Great Britain and Ireland. (Article)

See above, canon 1419.

1443

AnCan (Chile), I (2015), 233-359: XXIX Jornadas de la Asociación Chilena de Derecho Canónico, julio 2014. (Compilation)

See above, General Subjects (*Compilations*); see also *Canon Law Abstracts*, no. 112, pp. 105-106.

1445

AC 55 (2013), 7-65: Denis Baudot: La *lex propria* du Tribunal suprême de la Signature apostolique. (Comment and bilingual text)

B. sets out the background to the *Lex propria* of the Apostolic Signatura of 21 June 2008, before looking specifically at tis content. The document is divided into six titles, dealing respectively with the organization of the Apostolic Signatura (arts. 1-31), its competences (arts. 32-35), its judicial processes (arts. 36-72), its contentious-administrative processes (arts. 73-105), its administrative procedures (arts. 106-121) and the criteria to be followed in cases not foreseen by the *Lex propria* (art. 122). (Parallel Latin and French versions of the *Lex propria* are given on pp. 21-65.)

1445

J 75 (2015), 619-657: Benedict XVI: Proper Law of the Supreme Tribunal of the Apostolic Signatura. (Document)

The unofficial English translation is given of the Apostolic Letter *Antiqua ordinatione* and of the *Lex propria* of the Apostolic Signatura which that Letter promulgates.

1481

AA XX (2014), 227-242: Alejandro Aníbal López Romano: El desempeño del abogado en el proceso judicial penal. (Article)

L.R. introduces his study by outlining the functions of and the differences between an advocate and a procurator in a canonical trial. The right of defence is of supreme importance in all cases but above all in penal cases. Although the *ius postulandi* is of general application, there are certain trials where a party may not stand alone but is required to be assisted with an advocate; this is always the case in a penal trial, even if the accused refuses to appoint one himself. L.R. goes on to examine the rights of both accused and advocate, summarized in the right to information regarding the charges and the right for one's defence to be heard. He then considers some of the ways in which the advocate will go about his task, always with a sense of reasonableness and proportionality in a truly professional manner, eschewing any personal or selfish motivations. The aim of all trials is to discover the truth, not to win at any cost.

1526-1586

AnCan (Chile), I (2015), 5-143: XXVII Jornadas de la Asociación Chilena de Derecho Canónico, julio 2012. (Compilation)

See above, General Subjects (*Compilations*).

1526-1586

AnCan (Chile), I (2015), 145-231: XXVIII Jornadas de la Asociación Chilena de Derecho Canónico, julio 2013. (Compilation)

See above, General Subjects (*Compilations*).

1536

Ap LXXXVII (2014), 607-626: Paolo Moneta: Protagonismo delle parti e discernimento processuale, tra forme e sostanza. (Article)

See below, canon 1679.

1550

AkK 183 (2014), 106-122: Friedolf Lappen: Das forensisch-psychiatrische Gutachten als Grundlage der weiteren Einsatzplanung nach

Missbrauchsvorwürfen. Bruch der Trennung zwischen *forum externum* und *forum internum*. (Article)

See above, canon 983.

1578-1579

Ius Comm III (2015), 305-327: Acta Tribunalium Sanctae Sedis. Romanae Rotae Tribunal. Sentencia definitiva coram Jaeger, 3 mayo 2012. Nulidad de matrimonio. Incapacidad para asumir las obligaciones esenciales del matrimonio. (Sentence)

See above, canon 1095 3º.

1578-1579

Ius Comm III (2015), 329-344: Santiago Panizo Orallo: Comentario a la Sentencia coram Jaeger, 3 mayo 2012. (Commentary)

See above, canon 1095 3º.

1601-1648

AnCan (Chile), I (2015), 233-359: XXIX Jornadas de la Asociación Chilena de Derecho Canónico, julio 2014. (Compilation)

See above, General Subjects (*Compilations*).

1608

Ap LXXXVII (2014), 645-665: Giulio Ubertis: Il Processo come scelta: il Giudice. (Lecture)

U. carries out an analysis of judicial epistemology, looking at the various elements that are needed to ensure the impartiality and truth of the judge's decision.

1608

IE XXVII (2015), 478-481: Papa Francesco: Discorso al Congresso Internazionale promosso dalla Facoltà di Diritto Canonico della Pontificia Università Gregoriana, Roma 22-24 gennaio 2015, sul tema "«Dignitas connubii», a 10 anni dalla pubblicazione: bilancio e prospettive", 24 gennaio 2015 (con nota di Joaquín Llobell, *La certezza morale sulla*

***"quaestio facti" e sulla "quaestio iuris" nelle cause di nullità del matrimonio quale istituto assiologico trascendente l'istr. "Dignitas connubii"*).** (Address and comment)

In his address to the international congress at the Pontifical Gregorian University to mark the tenth anniversary of the publication of the Instruction *Dignitas Connubii* (see below, canons 1671-1691), Pope Francis referred to art. 247 §2 of the Instruction, which deals with the necessary moral certainty for declaring the nullity of a marriage. L. offers some considerations in respect of moral certainty both as regards the *quaestio facti* – the facts on which the nullity is based – and also as regards the norms which establish the invalidating nature or otherwise of the situations proved by the *quaestio facti*.

1620

Canonist 6/1 (2015), 121-125: Roman Rota: Decree *coram* Ferreira Pena, 15 February 2013 (USA). Violation of the Right of Defence (can. 1620, 7º; *DC* art. 270, 7º). (Decree)

The first instance tribunal issued an affirmative decision under canon 1095 2º-3º. The male respondent interposed a plaint of nullity before the Rota, arguing that 1. he had not been informed of his right to an advocate; 2. there had been a violation of canon 1448 §2 and canon 1449 §1 and §4, in that he had not been informed of who the tribunal officers were; 3. he had not received a copy of the *libellus*; 4. joinder of the issue had not take place, or if it had he had not been informed of it; 5. no notary was present when he had given his deposition; 6. his right to privacy under canon 220 had been violated; 7. he had been denied the opportunity to inspect the acts and present his defence; 8. he had not been notified of the sentence or informed of his right of appeal. The Rota found that 1. the presence of an advocate is not essential for the validity of a sentence, and in any event the respondent had in fact been informed of his right; 2. a decree had been issued stating who the judge in the case was, together with an invitation to the parties and witnesses for their depositions; 3. failure to communicate the *libellus* does not cause nullity, if as in this case the party can know the object of the trial through other ways; 4. although the judge did not issue a formal decree to the parties with the formulation of the doubt, the respondent was in fact aware of the object of the trial as he was interrogated and certainly knew the "cause for petitioning"; 5. there was clear evidence that the notary had signed the judicial deposition of the respondent; 6. the involvement of a psychologist in the trial could not be considered to violate the respondent's privacy; 7. however the respondent's right of defence under canon 1620 7º had been denied because he was not allowed to inspect the acts and prepare and present his observations: hence the first instance decision must be considered

null. (Regarding the remaining allegation: 8. there was evidence that the respondent had been notified of the decision and of his right to appeal.)

1620

Canonist 6/2 (2015), 263-278: Roman Rota: Decree *coram* Ehrlebach, 2 May 2013 (Poland). Nullity of a Sentence for Lack of *Contradictorium*. (Decree)

In the course of hearing a case at third instance, the Rotal *turnus* raised the question of the possible nullity of the sentences given at first and second instances because of irregularities in the discussion phase of the first instance trial. The entire procedural phase was found to have been a mere fiction, which amounted not simply to a violation of the right of defence of the parties in the case, but to a much more radical violation of the procedural order: a denial of the *contradictorium* itself, which causes the nullity of the first instance decision and, by reason of derived nullity, also of the decision given at second instance. There were also doubts as to whether the session of judges at first instance was conducted properly in order to decide on the merit of the case.

1620

Canonist 6/2 (2015), 279-291: Roman Rota: (A) Decree *coram* Arokiaraj, 20 March 2013 (USA). Irremediable Nullity of Decisions (can. 1620, 1º & 7º; *DC* art. 270, 1º & 7º); (B) Decree *coram* Arokiaraj, 9 December 2014 (USA). Immediate Confirmation of an Affirmative Sentence of the First Grade or Admission of the Cause to an Ordinary Examination in the Second Grade of Trial (can. 1682 §1; *DC* art. 265 §1). (Decrees)

In 2010 the male petitioner requested a declaration of nullity of marriage on the ground of defect of discretion on the part of both parties to the marriage. The first instance tribunal interviewed the parties and the witnesses, and obtained an expert opinion. After publishing the acts – with the exception of the expert opinion – and declaring the conclusion of the case, the sole judge decreed by a sentence of 26 January 2012 that there was proof of nullity of marriage due to defect of discretion on the part of both parties according to canon 1095 2º. On being notified of the sentence, the woman respondent interposed both an appeal and a plaint of nullity before the Roman Rota, informing the first instance tribunal of the appeal and of certain errors in the sentence it had issued. The sole judge corrected all the mistakes contained in the original sentence of 26 January 2012, and on 19 March 2012 published a "revised" sentence. By a decree dated 27 March 2012 the same judge declared that the affirmative sentence of 26 January 2012 was valid. When the case reached the Rota the defender of the bond at that tribunal questioned the validity of the decisions reached by the first

instance tribunal. The Rota noted that although the expert opinion had not been notified to the respondent or included in the acts, it was clear that the judge had not in fact relied on that opinion in reaching his decision of 26 January 2012, which had been based only on arguments and reasons which were already known to the respondent and upon which she had been able to make observations. Therefore the sentence of 26 January 2012 was not to be declared null for violation of the respondent's right of defence. However, the "revised" sentence of 19 March 2012 – issued after the respondent had lodged her appeal – was null, because a tribunal loses its competence over a case after a legitimate appeal has been interposed (canon 1620 1º). The same applied to the sole judge's decree of 26 March 2012 declaring that there was no proof of nullity of the sentence of 26 January 2012, since the judge was absolutely incompetent to deal with the plaint of nullity. That having been clarified, it was then the task of the Rota to consider whether the affirmative sentence of 26 January 2012 should be confirmed or whether the case should be admitted to an ordinary examination at second instance. After examining the evidence the Rota considered that the testimonies of the parties and of the witnesses were insufficient to support the conclusion that there was any grave psychic anomaly of discretion in either of the parties. Hence it was not possible to confirm the first instance sentence, and the case therefore needed to be admitted to an ordinary examination.

1641

Canonist 6/1 (2015), 114-120: Roman Rota: 1. Decree *coram* Bottone, 17 November 2011 (Italy); 2. Decree *coram* Monier, 21 June 2013 (Italy). Substantial Conformity of Sentences (can. 1641, 1º; 1684; *DC* art. 291, §2). (Decrees)

The male petitioner sought a declaration of nullity on the grounds of defect of discretion of judgement on his own part, and subordinately, fear inflicted on him. An affirmative decision was given at first instance on the ground only of defect of discretion of judgement. At second instance the case was remitted to an ordinary examination, and the appeal tribunal issued a negative sentence on the ground of defect of discretion of judgement on the part of the man, and an affirmative sentence on the ground of fear inflicted on the same man, declaring conformity between the sentences. The woman respondent interposed an appeal against the declaration of conformity of sentences. The Rota decreed on 17 November 2011 that defect of discretion of judgement, which proceeds from the very person who marries, cannot be confused with fear, which proceeds from a free external cause: although they can produce the same effect, they do not proceed from the same juridical foundation, and therefore there was no conformity of sentences (see *Canon Law Abstracts*, no. 111, pp. 108-109). The petitioner appealed against the decree of 17 November 2011. A separate *turnus* of the Rota decided that the judges at first instance had not pronounced a

negative decision on fear, but rather had decided nothing, as they had thought that defect of discretion of judgement (which they considered proved in this case) was included in the same ground. The second instance tribunal, while considering that defect of discretion of judgement had not been proved, had been satisfied that there was proof of fear inflicted on the petitioner nullifying marriage. In reality the decisions at first and second instance were based on the same principal facts, namely the pressures exercised by the parents which caused the deprivation of freedom in the petitioner. Thus the Rota considered that the juridical fact invalidating the marriage was deprivation of freedom, which had been proved at both first and second instance, even though the proofs were under different legal titles. The Rota concluded that there was substantial conformity of sentences in this case.

1671-1682

J 75 (2015), 467-538: John P. Beal: *Mitis Iudex* Canons 1671–1682, 1688–1691: A Commentary. (Article)

The Apostolic Letter *Mitis Iudex* effects a significant revision of the procedural law governing marriage nullity cases. In addition to introducing a new abbreviated process for cases where the nullity of a marriage is clear, the Apostolic Letter makes major modifications in the grounds for tribunal competence and in the introductory phase of the process. It eliminates the mandatory appeal of all affirmative decisions and enhances the probative weight to be attributed to the declarations of the parties and of a single witness. Perhaps most importantly, it calls for a much greater personal or "hands-on" involvement in the work of the tribunals by the diocesan bishop than has hitherto been typical.

1671-1691

AA XXI (2015), 71-110: Alejandro W. Bunge: Presentación del nuevo proceso matrimonial. (Article)

B., one of the members of the preparatory commission for the motu proprios *Mitis Iudex Dominus Iesus* and *Mitis et Misericors Iesus* presents the main principles which inspired these documents. The necessary justice in the canonical process, despite the abolition of the mandatory second instance hearing of every case, is still guaranteed by the possibility of appeal by either party, including the defender of the bond. The pastoral-judicial role of the diocesan bishop is now emphasized by his involvement in the canonical process. Synodal and subsidiarity aspects are expressed by the designation of the metropolitan tribunal as the court of second instance and by the reminder of the help episcopal conferences should offer to the diocesan tribunals of their

territories. B. offers some guidelines on the establishment of new tribunals, given that every diocese, depending on its resources, should attempt to have its own. He then goes on to examine the various stages of the reformed process and ends by providing a series of appendices detailing them with references to the appropriate canons of the Code and articles of *Mitis Iudex*.

1671-1691

Canonist 6/2 (2015), 129-140: Pope Francis: Apostolic Letter, Motu proprio, *Mitis Iudex Dominus Iesus*. (Document)

The English text is given of the Pope's Apostolic Letter of 15 August 2015 on the reform of canonical procedure for the annulment of marriage in the CIC/83.

1671-1691

Canonist 6/2 (2015), 152-183: Rodger J. Austin: Pope Francis' Apostolic Letter *Mitis et Misericors Iesus* and First Instance Tribunals in Australia and New Zealand. (Article)

See above, canon 1419.

1671-1691

CLSN 181/15, 41-62: Raymond Leo Burke: The Nullity of Marriage Process as the Search for Truth. (Article)

One of the hallmarks of any tribunal should be objectivity or impartiality in its search for the truth. The correct observance of procedural norms is an important means of guaranteeing the actual and evident impartiality of the tribunal. The faithful can be badly served by the tribunal itself, if it is not correct and clear in its explanation of the Church's teaching and the role of the tribunal, or if it does not live up to what it correctly explains its purpose to be, or if it falls into what B. describes as pseudo-pastoral pragmatism. Care also needs to be taken in the use of terminology, avoiding misleading expressions such as "the former spouse" in relation to the other party in the marriage whose validity is being challenged, or "annulment" instead of "declaration of nullity". The judicial debate – the *contradictorium* – is an instrument for arriving at the truth, and B. highlights the importance of the participation of the respondent, and of the roles of the defender of the bond and the judge. He ends with a consideration of the reasons for the introduction of the double agreeing decision by Pope Benedict XIV in 1741.

1671-1691

CLSN 182/15, 5-18: Lynda Robitaille: The Tribunal's Role in Evangelization: Honouring People's Lived Experiences. (Lecture)

The tribunal's work of evangelizing takes place when people participate in the tribunal process to the extent that they know and understand why the affirmative or negative decision was taken. Getting to this knowledge means that individuals will have to face what happened in their life, and what their choices mean; they may even have to take action in their life. The tribunal's role is to be present to each party, to help them through the legal process, and to make sure that there is help outside the legal process when needed. Every person who approaches a tribunal must understand what the Church's teaching of marriage is; how a tribunal evaluates consent; and, most difficult, how the facts of this party's life must be faced. The judge must arrive at an understanding of the truth of what happened, so that the party can understand the events of his or her life through the eyes of the Church. Coming to such an understanding is necessarily difficult. That does not mean it is not pastoral. Being pastoral and evangelizing means to bring the Gospel, the news of salvation, to people. That news may not be easy to hear, but it is the truth, and that is what people ask to hear: it is what the tribunal is asked to do.

1671-1691

CLSN 183/15, 35-41: Helen Costigane – James B. Hurley: Why Have a Tribunal of Second Instance? (Article)

The pre-*Mitis Iudex* canon 1682 §1 provided for a mandatory review of all sentences which first declared the nullity of marriage. This requirement was quite apart from any appeal that might be lodged by the parties or the defender of the bond. The question, given the often-cited shortage of tribunal personnel or resources, was why a second tribunal was necessary. The authors of this article, which was first published in 2010, look at the marriage nullity process itself and potential problems arising from first instance procedures; and consider how the second instance process was fair, just and reasonable. (See also *Canon Law Abstracts*, no. 106, p. 144).

1671-1691

CLSN 184/15, 4-69: Francis G. Morrisey: The *Motu Proprio Mitis Iudex Dominus Iesus*. (Documents and lecture)

The English text is given of the motu proprio *Mitis Iudex Dominus Iesus* and of the interpretation of the Pontifical Council for Legislative Texts of 1 October 2015 concerning the conversion of a formal canonical process into a *processus*

brevior and the requisite consent of the petitioner and the respondent (see below, p. 114). In his lecture M. comments on the scope of the documents; the significant changes which they introduce (preliminaries to accepting the case; proofs; the decision and the appeal; tribunal fees); the particular role of bishops (the role of the episcopal conference and the judicial role of the diocesan bishop); the *processus brevior*; and an extensive study of the new importance assigned to error determining the will.

1671-1691

CLSN 184/15, 70-91: Paul Robbins: *Mitis Iudex Dominus Iesus*. Some personal reflections and practical applications. (Comment)

The changes in the law announced in *Mitis Iudex Dominus Iesus* should speed up the nullity process for almost all applications. Nevertheless, weaknesses that are an inevitable part of the nullity process may now be more pronounced. R. considers what effects these changes may have on the response of tribunals to those who apply for a declaration of nullity, and what other changes may occur as a result.

1671-1691

EE 90 (2015), 621-682: Carmen Peña García: La reforma de los procesos canónicos de nulidad matrimonial: el motu proprio «Mitis Iudex Dominus Iesus». (Article)

P.G. presents and analyses the legal novelties introduced by *Mitis Iudex Dominus Iesus*, explaining their background and purpose and critically assessing the advantages and disadvantages of the reform. She focuses on those novelties that may give rise to problems of interpretation, such as the structure of the document and its normative value, the manner in which it was promulgated, and the compatibility of some of the new canons with other unaltered canons in Book VII, such as those relating to the appeal and other recourses against the judgment, or to the briefer process before the bishop. Some of these difficulties were resolved by means of a *rescriptum ex audientia* of Pope Francis of 7 December 2015.

1671-1691

EE 90 (2015), 765-787: Rufino Callejo de Paz: Misericordia y fracaso matrimonial: algunas consideraciones de cara a un posible replanteamiento jurídico-pastoral. (Article)

In the light of the Jubilee of Mercy and the challenges posed by the Synod on the Family, C. de P. presents the canonical solutions available in the case of failed marriages, and describes some possible new ways that could be considered from the perspective of canon law. Regarding marriage nullity cases, he sets out the deficiencies and shortcomings which he perceives in the current praxis; and regarding canonical dissolutions, he looks into the possibility of going deeper into the full meaning of sacramentality and consummation. He goes on to suggest a wider range of canonical solutions in favour of the faith and the *salus animarum*.

1671-1691

FThC IV 26/18 (2015), 191-200: Szabolcs Anzelm Szuromi: The effect of Pope Benedict XIV's canonical works on the ecclesiastical process law. (Article)

See above, Historical Subjects (*16th-19th centuries*).

1671-1691

Ius Comm III (2015), 261-273: Pietro Amenta: Anotaciones sobre la reforma del proceso matrimonial canónico. (Article)

On 20 September 2014, a little under ten years from the publication of the Instruction *Dignitas Connubii*, Pope Francis announced the creation of a commission to carry out a project of reform of the canonical process for the nullity of marriage. The idea was to simplify the procedure and to promote a better administration of justice through faster judicial processes, avoiding excessive protections or merely formal solemnities. While safeguarding the principle of the indissolubility of marriage, reasonable swiftness in determining the status of those faithful who approached the tribunal would allow them not to remain for years in a state of uncertainty, with the risk of incontinence and of living for a lengthy period in a situation of canonical irregularity.

1671-1691

J 75 (2015), 429-466: William L. Daniel: An Analysis of Pope Francis' 2015 Reform of the General Legislation Governing Causes of Nullity of Marriage. (Article)

Pope Francis' 2015 reform of the marriage nullity process is of monumental significance for the canonical system. It not only alters some matrimonial procedural norms that have been in place for centuries: it also touches on a matter that is of foundational importance to every human society, including and especially the Church – namely, the stability of marriage and the family. The reform, which was carried out rather quickly and with relatively minimal consultation, was based especially on the principle of the greater celerity of the process, as well as the principle of proximity between the judge and the parties and the principle of the protection of the indissolubility of marriage. However, the new norms arguable reveal, in tension with canonical tradition and the consistent teaching of the magisterium, a preference for the celerity of the process over the protection of the indissolubility of marriage. They also introduce some ambiguities about the instruction *Dignitas Connubii*, published just ten years ago. This reform, while effective and undoubtedly binding, gives rise to new questions in the canonical science's ongoing reflection about the best instruments for examining the alleged nullity of marriage.

1671-1691

J 75 (2015), 593-605: Thomas John Paprocki: Implementation of *Mitis Iudex Dominus Iesus* in the Diocese of Springfield in Illinois. (Article)

The diocesan bishop should promulgate his decisions regarding the implementation of the motu proprio *Mitis Iudex Dominus Iesus* by issuing a general executory decree, which according to canon 31 serves "to determine more precisely the methods to be observed in applying the law." In his revision of the canonical process for the declaration of the nullity of marriage in the Code of Canon Law, Pope Francis has not only taken steps to make these processes more readily available to those in need of the judicial function of the Church, but has also called for diocesan bishops themselves to be more personally involved in the exercise of their judicial power of governance as described in canon 391. In this way, diocesan bishops more fully exercise their threefold *munera* to teach, govern and sanctify the People of God entrusted to them as successors of the apostles by divine institution. P., bishop of the diocese of Springfield in Illinois, explains how he implements *Mitis Iudex* in his diocese.

1671-1691

J 75 (2015), 607-617: Roch Pagé: Questions Regarding the Motu Proprio *Mitis Iudex Dominus Iesus*. (Article)

The promulgation of the motu proprio *Mitis Iudex Dominus Iesus* has not only changed the procedural laws to process matrimonial nullity cases, but has also left canon lawyers with a number of unanswered questions. P. reflects on some of the aspects of *Mitis Iudex* and offers insights and solutions. He also touches upon art. 14 of the procedural norms and argues that it cannot resurrect the so-called El Paso Presumptions, explicitly forbidden by decree of the Apostolic Signatura on 13 December 1995 (see *Canon Law Abstracts*, nos. 77, pp. 75-76; 78, p. 77; 79, pp. 82-83).

1671-1691

J 75 (2015), 663-671: Pontifical Council for Legislative Texts: Letters Clarifying Some Unclear Points of the motu proprio *Mitis Iudex Dominus Iesus*. (Documents)

The English text is given of six letters from the Pontifical Council for Legislative Texts dealing with questions concerning 1. the conversion of a formal canonical process into a *processus brevior* and the requisite consent of the petitioner and the respondent (canon 1683 and art. 15 of the procedural norms) (1 October 2015); 2. the consent of the petitioner and the respondent for the use of the *processus brevior* (canon 1683 and art. 15 of the procedural norms) (1 October 2015); 3. the meaning of "senior suffragan bishop" (canon 1687 §3) (13 October 2015); 4. the motu proprio *Qua cura* and regional tribunals in Italy (art. 8 §2 of the procedural norms) (13 October 2015); 5. the force of the authentic interpretation of the former canon 1686 (canon 1688) (18 November 2015); 6. the application of the motu proprio *Mitis Iudex Dominus Iesus* in a diocese in Italy where the bishop has no intention of withdrawing from the regional tribunal (canons 1683-1687) (18 November 2015).

1671-1691

Congresso Internazionale de Diritto Canonico: *Dignitas connubii* a 10 anni dall pubblicazione: bilancio e prospettive. (Congress)

Introductory note. From 22-24 January 2015, an international congress was held at the Pontifical Gregorian University, in Rome, to mark the tenth anniversary of the publication of the Instruction *Dignitas Connubii*. There were a number of contributions to the congress dealing with the history and juridical nature of the Instruction and other matters of a theoretical nature, as well as several interventions dealing with how the Instruction had been experienced in a wide

variety of tribunals throughout the world. All of the Acts of the congress will be published in a single volume. In the meantime, several have been published in two fascicles of *Periodica* (nos. 2 and 3) for 2015. Below are the abstracts of the individual presentations.

1671-1691

Per 104 (2015), 171-208: Frans Daneels: Storia della redazione della *Dignitas Connubii*. (Presentation)

In his presentation to the international congress, D. traces the history of the preparation of the text that became the Instruction *Dignitas Connubii*. He follows the evolution of the document from initial concerns expressed shortly after the promulgation of the CIC/83 right up until the publication of *Dignitas Connubii* in 2005. He provides information concerning the membership, work, methodology and aims of the three successive commissions which worked at producing an instrument to assist those ministers of the tribunal engaged in the process of matrimonial nullity. At the end of his presentation, D. expresses the view that the major problem with matrimonial processes is not so much the legal norms but the shortage of well-prepared ministers who have the time and the means to dedicate themselves to the examination of the cases and who understand the nature and the real meaning of a declaration of the nullity of a marriage.

1671-1691

Per 104 (2015), 209-235: Antoni Stankiewicz: La natura giuridica dell'istruzione *Dignitas Connubii* nel quadro delle leggi processuali canoniche vigenti. (Presentation)

S. explores the juridical nature of *Dignitas Connubii*. He begins by considering the emergence in history of the juridical institution we now know as Instructions. Then he highlights some of the peculiarities of *Dignitas Connubii* which do not conform fully to what the law requires for an Instruction. Finally, he looks at this document alongside some others that have been issued in recent decades, e.g. the Circular Letter of the Congregation for the Sacraments issued on 20 December 1986 concerning the procedure to be followed in cases of ratified and non-consummated marriages, and the Decree issued by the same Congregation on 16 October 2001, dealing with the procedure for the declaration of the nullity of sacred orders.

1671-1691

Per 104 (2015), 237-284: Joaquín Llobell: Prospettive e possibili sviluppi della *Dignitas Connubii* sull'abrogazione dell'obbligo della doppia sentenza conforme. (Presentation)

The appointment of a special commission by Pope Francis in September 2014 to study the reform of the procedures for the declaration of the nullity of marriage is the starting point of L.'s reflection on one particular possibility of a development of *Dignitas Connubii*, namely, the abrogation of the obligation to have two conforming sentences before a declaration of nullity can be executed. In this lengthy article, L. traces the origin of the requirement of the double conforming sentence before arriving at a 10-point proposal for the abolition of the norm, taking care to safeguard the doctrine of the Church, the integrity of the process, etc. Such a dramatic change in the law would reduce the delays often experienced by people seeking a declaration of nullity.

1671-1691

Per 104 (2015), 285-331: Piotr Skonieczny: L'insegnamento del diritto processuale dopo la pubblicazione della *Dignitas Connubii*. (Presentation)

The teaching of procedural law has always formed an important part of the normal courses of canon law. S. examines how this teaching has been influenced by *Dignitas Connubii* some ten years after its publication. He concludes that it has not been helpful at all since it has failed to address several current problems being experienced by ecclesiastical tribunals that he describes as being on the periphery. Consequently, he urges the Supreme Legislator to modify the procedures. At the end of the presentation S. includes a brief schematic overview of the contents of courses in procedural law as taught in 36 faculties of canon law worldwide, and indicates the sources of this information as found on the internet.

1671-1691

Per 104 (2015), 333-357: Velasio De Paolis: La *Dignitas Connubii* può essere modello ed esempio per pensare a qualche cosa di simile per altri settori del diritto canonico? (Presentation)

De P. examines the Instruction *Dignitas Connubii* ten years after its publication. The focus of his article is a consideration of the Instruction as a helpful juridical instrument. He notes how useful Instructions have been historically in the domain of matrimonial procedures, before asking whether or not *Dignitas Connubii* might become a model for what could be done in other sectors of

canon law. He offers the view that such an Instruction would prove useful in penal law.

1671-1691

Per 104 (2015), 365-399: Gianpaolo Montini: Dieci anni dall'istruzione *Dignitas Connubii.* L'applicazione della *Dignitas Connubii* dalla prospettiva della Segnatura Apostolica. (Presentation)

M. examines how the Instruction *Dignitas Connubii* has been applied around the world in tribunals from the perspective of the Apostolic Signatura. He begins with a consideration of the fundamental purposes for which the Instruction was prepared. He outlines several situations in which the Signatura intervened to resolve difficult practical questions concerning the implementation or application of the norms of *Dignitas Connubii*: these include difficulties with the removal of a *vetitum*; the lack of qualified personnel and the phenomenon of the same person exercising a variety of offices within the same tribunal; and the fact that, even several years after its publication, the Instruction is not being applied in several tribunals. All in all, M. considers that the Instruction is an excellent effort to respond to the demands of those involved in the process of nullity of marriage.

1671-1691

Per 104 (2015), 401-442: Grzegorz Erlebach: Applicazione della *Dignitas Connubii* secondo la prassi e la giurisprudenza della Rota Romana. (Presentation)

E. presents an overview of how the Instruction *Dignitas Connubii* has been received and applied within the practice and the jurisprudence of the Roman Rota. He notes that there was a notable resistance by some of the Rotal auditors to the use of the Instruction within the Apostolic Tribunal. However, this approach was not adopted by the majority of judges, and the Instruction is widely quoted and used within the decrees and sentences of the Rota. In particular, he notes that the Instruction has been quoted by judges favourably in certain cases concerning, for example, the understanding of canon 1095, and the declaration of formal conformity of sentences.

1671-1691

Per 104 (2015), 443-451: Luis Heliodoro Salcedo Morales: A diez años de la *Dignitas Connubii*. (Presentation)

S. offers some reflections on how the Instruction *Dignitas Connubii* has been received and implemented in the tribunals of Mexico. In the course of his presentation, he examines some of the practical difficulties encountered, and offers a number of proposals for the future.

1671-1691

Per 104 (2015), 453-470: Marcelo Gidi: Ricezione dell'istruzione *Dignitas Connubii* in alcuni tribunali latinoamericani. (Presentation)

G. presents a short consideration of how the Instruction *Dignitas Connubii* has been received and applied in some tribunals of Argentina, Brazil, Chile, Colombia, and Paraguay. He notes the improvements introduced by the Instruction and considers some problematic questions that remain; these include ignorance and non-application of the Instruction in some tribunals, difficulties concerning the *vetitum*, and the vexed question of why third instance tribunals cannot be set up in certain circumstances.

1671-1691

Per 104 (2015), 471-486: Philippe Hallein: L'esperienza di applicazione dell'istruzione nei tribunali locali in Francia, Paesi Bassi e Belgio. (Presentation)

H. shares some of the results of his survey of 30 tribunals in France, the Netherlands, Belgium and Luxemburg, concerning their experience of working with the Instruction *Dignitas Connubii*. It would appear that, from the responses he received, the Instruction has been well accepted in these tribunals. He notes in particular the efforts made to acquaint the tribunal officials with the norms of the Instruction. All in all, while the Instruction appears to have been positively received in these tribunals, H. expresses the view that more could be done to make the norms better understood.

1671-1691

Per 104 (2015), 487-515: Paolo Bianchi: L'esperienza di applicazione dell'istruzione nei tribunali locali – Italia. (Presentation)

According to B., the Instruction *Dignitas Connubii* has been positively welcomed and received in the local tribunals in Italy. He reflects on this by

considering some practical concrete issues in each of the different phases of the nullity process: introduction of a case, the instruction of the case, the discussion phase, and finally the decision. In all of these, *Dignitas Connubii* has been helpful in resolving the issue. While the document itself could be improved, it has certainly made a positive contribution to the working of the Italian tribunals.

1671-1691

Per 104 (2015), 517-543: Carmen Peña García: La aplicación de la instrucción *Dignitas Connubii* en España: valoración y sugerencias de mejora tras 10 años de vigencia. (Presentation)

After briefly describing how the tribunals are set up in Spain, P.G. proceeds to examine how the Instruction *Dignitas Connubii* has been received and applied in those tribunals. The major part of the presentation is an evaluation of some of the principal innovations introduced by the Instruction: these include the roles of the defender of the bond and the advocate, the imposition and removal of the *vetitum*, and conformity of sentences. At the end, P.G. offers some suggestions for a further improvement of the procedural law.

1671-1691

Per 104 (2015), 545-562: Giovanna Maria Colombo: Un'esperienza d'Africa. La *Dignitas Connubii* alla prova in una realtà di Chiesa giovane. (Article)

C. shares some reflections on the Instruction *Dignitas Connubii* based on her experience of working for five years in the interdiocesan tribunal of Bamako in Mali. C. is positive in her assessment of the Instruction even in the context of a young Church without many of the structures taken for granted in other parts of the world. She sees its value principally as a point of reference to which the tribunals in the emerging Churches can seek to align themselves more and more. However, she notes that working in a marriage tribunal in such a context is far from routine, and adaptations have to be made.

1671-1691

QDE 28 (2015), 319-325: Alessandro Giraudo: Snellimento della prassi canonica in ordine alla dichiarazione di nullità del vincolo matrimoniale? /6. (Article)

G. examines the costs of the tribunal, pointing out that these are usually subsidised and that it is not easy to see how they could be reduced; he goes on to point out the importance of the tribunal being firmly integrated into the pastoral

life of the diocese. He considers the many delays that can take place during the instruction of a cause, about which one can do little. Finally he points out the disadvantages of a process conducted before a bishop.

1671-1691

REDC 72 (2015), 649-708: Franciscus: Litterae Apostolicae Motu Proprio Datae *Mitis Iudex Dominus Iesus*; Litterae Apostolicae Motu Proprio Datae *Mitis et Misericors Iesus*; Rescritto sul compimento e l'osservanza della nuova legge del processo matrimoniale, 11-12-2015. (Documents)

Given here is the text in the original Latin and in Spanish translation of the two motu proprios (15 August 2015) concerning the reform of marriage nullity cases *Mitis Iudex Dominus Iesus* for the Latin Church and *Mitis et Misericors Iesus* for the Eastern Churches, with Pope Francis' rescript of 11 December 2015 regarding the implementation and observance of the new laws.

1671-1707

CLSN 183/15, 70-78: Peter Kravos: British and Irish Tribunal Statistics 2013 & 2014. (Statistics)

Tables showing the numbers of 1. ordinary trials in first instance; 2. documentary trials in first instance; 3. ordinary trials in second instance; 4. separation of spouses, "ratified and non-consummated" and "presumed death of spouse" cases; in tribunals in Britain and Ireland in 2013 and 2014.

1679

Ap LXXXVII (2014), 607-626: Paolo Moneta: Protagonismo delle parti e discernimento processuale, tra forme e sostanza. (Article)

M. focuses on the discernment that the spouses must carry out, both before initiating a matrimonial nullity process, and in respect of themselves and the judges once the process has begun. He then looks at the assessments which the judge has to make concerning the parties to the process, taking into account each one's particular personal circumstances, the grounds on which the request for nullity is based, and the challenges of married life. M. comments on the provisions that concern the parties and the way in which these have been applied by jurisprudence. He argues that the handling of marriage nullity cases should remain within the traditional sphere of the judicial process.

1682

Canonist 6/2 (2015), 279-291: Roman Rota: (A) Decree *coram* Arokiaraj, 20 March 2013 (USA). Irremediable Nullity of Decisions (can. 1620, 1º & 7º; *DC* art. 270, 1º & 7º); (B) Decree *coram* Arokiaraj, 9 December 2014 (USA). Immediate Confirmation of an Affirmative Sentence of the First Grade or Admission of the Cause to an Ordinary Examination in the Second Grade of Trial (can. 1682 §1; *DC* art. 265 §1). (Decrees)

See above, canon 1620.

1682-1684

AnCan (Chile), I (2015), 233-359: XXIX Jornadas de la Asociación Chilena de Derecho Canónico, julio 2014. (Compilation)

See above, General Subjects (*Compilations*).

1683-1687

J 75 (2015), 539-591: William L. Daniel: The Abbreviated Matrimonial Process before the Bishop in Cases of "Manifest Nullity" of Marriage. (Article)

The abbreviated matrimonial process before the bishop is the most novel element introduced by Pope Francis in his August 2015 reform of the marriage nullity process. Among other things, it situates the diocesan or eparchial bishop in the position of judge in the trial. According to the prevailing doctrine, however, the bishop can delegate his judicial power, and that applies also to the power to judge such causes. In any case, these causes are of an inherently judicial nature inasmuch as they are directed toward the procedural discovery of the objective truth of the alleged nullity of marriage and are thus necessarily of a declarative nature. The essential presuppositions of the process are the explicit consent of both spouses and the verification of a very strong *fumus boni iuris* already in the *libellus* (called "manifest nullity" in the new law). The abbreviated process, while not providing all the hoped-for guarantees for the protection of the matrimonial bond, follows an ordered sequence in accordance with the judicial patrimony of the canonical system.

1684-1685

AnCan (Chile), I (2015), 5-143: XXVII Jornadas de la Asociación Chilena de Derecho Canónico, julio 2012. (Compilation)

See above, General Subjects (*Compilations*).

1688-1691

J 75 (2015), 467-538: John P. Beal: *Mitis Iudex* Canons 1671–1682, 1688–1691: A Commentary. (Article)

See above, canons 1671-1682.

1697-1706

AA XX (2014), 333-346: Alejandro W. Bunge: Proceso sobre rato y no consumado: fase inicial diocesana. (Article)

Focusing on the *Litterae Circulares* of 20 December 1986, "*De Processu super matrimonio rato et non consummato*" of the Congregation for Divine Worship and the Discipline of the Sacraments, B. examines the initial diocesan phase of the process. It is essentially an administrative process but with many judicial elements in its execution as established in canons 1697-1706 and supplemented by the canons on marriage processes (canons 1671-1691) and the ordinary contentious trial (canons 1501-1655). B. comments on the necessary steps to be taken in the preparatory diocesan phase under the headings of competence, the *libellus*, its acceptance, the constitution of the tribunal, the possible dismissal of the *libellus* and an appeal, and exceptional cases (when likely grounds of nullity are uncovered, or in a nullity case when non-consummation appears likely).

1713-1716

CLSN 182/15, 73-95: Frank Morrisey: Dealing Justly With Complaints Against Church Personnel. (Article)

M. examines the methods proposed in the CIC/83 for the resolution of complaints against Church personnel, looking in particular at how complaints involving potential penal issues could be addressed. If basic procedures founded on natural justice are used, issues can at least be clarified. However, it is important to remember that when dealing with persons who suffer from serious psychological difficulties, no solution will ever be satisfactory unless those difficulties are addressed. This implies the need for structures to be in place which can address potential conflicts before they become major battles where everyone loses.

1717-1718

Canonist 6/1 (2015), 11-43: John Renken: Penal Law in the Church Tomorrow: Reflections on a Revision of *Book VI*. (Article)

See above, canons 1311-1399.

1717-1719

CLSN 182/15, 73-95: Frank Morrisey: Dealing Justly With Complaints Against Church Personnel. (Article)

See above, canons 1713-1716.

1722

CLSN 182/15, 73-95: Frank Morrisey: Dealing Justly With Complaints Against Church Personnel. (Article)

See above, canons 1713-1716.

1732-1739

IE XXVII (2015), 339-356: Paolo Gherri: *Petitio, remonstratio, exceptio*: cenni esplorativi sui modi di non-esecuzione degli atti amministrativi singolari. (Article)

See above, canons 124-126.

EXCHANGE PERIODICALS

- Analecta Cracoviensia
- Angelicum
- Annales Canonici
- Année Canonique
- Anuario Argentino de Derecho Canónico
- Anuario de Derecho Canónico
- Apollinaris
- Archiv für katholisches Kirchenrecht
- Boletin Eclesiastico de Filipinas
- Bogoslovni vestnik
- Claretianum
- Commentarium pro Religiosis et Missionariis
- De Processibus Matrimonialibus
- Eastern Legal Thought
- Ephemerides Iuris Canonici
- Ephrem's Theological Journal
- Estudio Agustiniano
- Estudios Eclesiásticos
- Folia Theologica et Canonica
- Forum Canonicum
- Forum Iuridicum
- Indian Theological Studies
- Immaculate Conception School of Theology Journal
- Intams
- Irish Theological Quarterly
- Ius Canonicum
- Ius Ecclesiae
- Iustitia: Dharmaram Journal of Canon Law
- Journal of Sacred Scriptures
- The Jurist
- Kościół i Prawo
- Laurentianum
- Law and Justice
- Louvain Studies
- Periodica
- Philippine Canonical Forum
- Philippiniana Sacra
- Quaderni dello Studio Rotale
- Quaderni di Diritto Ecclesiale
- 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
- Vida Religiosa
- Vidyajyoti

ABBREVIATIONS, PERIODICALS AND ABSTRACTORS FOR THIS ISSUE

AA	Anuario Argentino de Derecho Canónico, Buenos Aires – V. Rev. John McGee, Girvan, Ayrshire.
AC	L'Année Canonique, Paris – Editor.
AkK	Archiv für katholisches Kirchenrecht, Paderborn – Abstracts supplied by publisher.
AnCan (Chile)	Anuario Canónico, Santiago de Chile – Editor.
Ap	Apollinaris, Rome – Abstracts supplied by publisher.
Canonist	The Canonist, Journal of the Canon Law Society of Australia and New Zealand, Sydney – Editor.
CLSN	Canon Law Society Newsletter, London – Editor.
EE	Estudios Eclesiásticos, Madrid – Abstracts supplied by publisher.
EIC	Ephemerides Iuris Canonici, new series, Venice – Abstracts supplied by publisher.
FCan	Forum Canonicum, Lisbon – Abstracts supplied by publisher.
FThC	Folia Theologica et Canonica, Budapest – Editor.
IC	Ius Canonicum, Pamplona – Abstracts supplied by publisher.
IE	Ius Ecclesiae, Pisa–Rome – Abstracts supplied by publisher.
Ius	Iustitia: Dharmaram Journal of Canon Law – Abstracts supplied by publisher.
Ius Comm	Ius Communionis: Universidad San Dámaso, Madrid – Abstracts supplied by publisher.
IusM	Ius Missionale, Pontificia Università Urbaniana, Vatican City – Abstracts supplied by publisher.
J	The Jurist, Washington – Abstracts supplied by publisher.
KIP	Kościół i Prawo, Lublin – Abstracts supplied by publisher.
LJ	Law and Justice, Worcester – Abstracts supplied by publisher.
Per	Periodica, Rome – Rev. Aidan McGrath OFM, Rome.
QDE	Quaderni di Diritto Ecclesiale, Milan – Rev. Luke Beckett, Ampleforth, York.
RDC	Revue de Droit Canonique, Strasbourg – Abstracts supplied by publisher.
REDC	Revista Española de Derecho Canónico, Salamanca – V. Rev. John McGee, Girvan, Ayrshire.
REHIPIP	Revista Europea de Historia de las Ideas Políticas y de las Instituciones Públicas (electronic and paper publication: eumed.net and Servicios Académicos Intercontinentales, Gunzenhausen–Madrid–Barcelona) – Editor.

BOOKS RECEIVED

- William L. DANIEL: *The Art of Good Governance. A Guide to the Administrative Procedure for Just Decision-Making in the Catholic Church*, Wilson & Lafleur (Gratianus series), Montreal, 2015, xxv + 275pp., ISBN 978-2-89689-302-7 [see above, canons 50-51]
- Kevin Otieno MWANDHA: *Doubt of Law. Juridical and moral consequences,* Libreria Ateneo Salesiano, Rome, 2016, 236pp., ISBN 978-88-213-1196-3 [see above, canon 14]