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Comparative law

IE XXIX (2017), 159–174, 263–269: Pablo Gefaell: Commenti al M.P. "De concordia inter Codices". (Document and comment)

G. comments on the 2016 motu proprio *De concordia inter Codices*, which seeks to address a number of discrepancies that have become apparent between the provisions of the CIC/83 and the CCEO (see *Canon Law Abstracts*, no. 118, pp. 2–3, 32–33). He looks at the mode of promulgation of the motu proprio and the date of its coming into force; the unification of terminology concerning Churches *sui iuris*; the adscription of a baptizand to the Church *sui iuris* of the Catholic parent; the specific moment of the change of Church *sui iuris*; registration of adscription to a Church *sui iuris*; the situation where a child of two Orthodox is baptized by a Catholic priest; the intervention of the priest in the celebration of a marriage between Eastern faithful; the competence of the Latin Ordinary and parish priest to celebrate a marriage between two Eastern subjects; a Catholic priest blessing a marriage between two Orthodox faithful. (The Italian text of the motu proprio is given on pp. 263–269.)

Canonist 7/2 (2016), 190–201: Pope Francis: Apostolic Letter, *Motu Proprio, De Concordia inter Codices*, with commentary by Rodger J. Austin. (Document and comment)

The English text is given of *De concordia inter Codices*, followed by some brief observations from A. on each of the amended canons.

KIP 6 (19) 2017, nr. 1, 177–193: Żaneta Budniaczyńska: Dowody w postępowaniu o stwierdzenie nieważności małżeństwa i w postępowaniu o rozwód (*Evidence in proceedings for the declaration of invalidity of marriage and in divorce proceedings*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-12

B. compares the proceedings for the declaration of invalidity of marriage according to canon law, and divorce proceedings in Polish law, pointing out

similarities and differences between the two legal systems on the question of evidence. While evidence sufficient to obtain a declaration of invalidity in canon law would almost always suffice in divorce proceedings, the opposite is not necessarily true.

KIP 6 (19) 2017, nr. 1, 227–247: Katarzyna Komoniewska: Rola pełnomocnika w procesie unieważnienia małżeństwa w prawie polskim i w procesie stwierdzenia nieważności małżeństwa w prawie kanonicznym (*The role of the attorney in the Polish marriage annulment process and in the canonical marriage nullity process*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-15

Both canon law and civil law believe that marriage is formed by consent expressed in an appropriate form. Under the concordat between Poland and the Holy See it is possible to assent to the marriage simultaneously at both the civil and the canonical level. The matter is different when these legal orders seek to formalize the breakdown of the marital relationship under State law or prove the nullity of the marriage under canon law. One must therefore distinguish between the ecclesiastical process for marriage nullity and civil divorce proceedings. As part of the legal solution, in both the canonical and secular orders there are regulations concerning the role of those who act on behalf of a party in the process. The substance of this legal service is to take part in the process and provide appropriate professional assistance to the party requesting it. Those who perform this role must not only act in accordance with the applicable rules, but must also know and understand the principles which apply to the concepts of marriage according to the canonical and secular law systems respectively, so as not to violate the rules and spirit of a particular system of law.

KIP 6 (19) 2017, nr. 1, 249–266: Sławomir Szustak: Pełnomocnictwo do zawarcia małżeństwa w prawie kanonicznym i w polskim prawie cywilnym (*The mandate to contract marriage in canon law and Polish civil law*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-16

Contracting marriage by proxy is an institution dating back to Roman law and incorporated into Church law. Gratian was the first to mention it, but the matter was not regulated in detail before the CIC/17, in canons 1089–1091. The CIC/83, in canon 1105, confirms the previous legislation and specifies

the duties of the proxy and the one mandating, as well as setting out the requirements for the mandate. Both Codes treat it as an extraordinary mode of contracting marriage. The same possibility is offered by Polish civil law, albeit with different requirements for the mandate. The CCEO leaves the question to be resolved by individual *sui iuris* Churches.

Verg 4 (2017), 245–265: Enrica Martinelli: Oikonomia y divorcio en el derecho canónico ortodoxo: la aplicación misericordiosa de la ley. (Article)

http://vergentis.ucam.edu/revistas/numero4/11-ENRICA-MARTINELLI.pdf

Despite the fact that the principles of the unity and indissolubility of the conjugal bond represent constituent and essential properties of the sacrament of marriage in Eastern law, Orthodox theology allows some exceptions on account of man's hardness of heart, permitting the "economic" application of the law. M. outlines the ontological essence of *oikonomia* as a transposition in the human dimension of the redeeming force of the divine condescension. According to tradition, the institution finds its privileged application in marriage. M. therefore aims to demonstrate that Orthodox ecclesiology tolerates second marriages as the "lesser evil" compared to fornication. This applies to second marriages of both divorcees and widows or widowers, since the sacrament of marriage survives the physical death of the spouse and remains a true image of the Mystery of the Incarnation. M. then analyses the circumstances that justify the "economic" interpretation of the precept: the "moral death" of the marriage due to a serious and despicable act, the collective good, and the greater harm that could derive from a rigid interpretation of the rule (*akribeia*). Finally, she seeks to demonstrate that the ecclesiastical authority operates in virtue of the *potestas clavium* and, by imitating the divine mercy, applies *oikonomia* thus saving human nature made fragile by original sin.

Compilations

IC 57 (2017), 389–406: Joaquín Sedano: Crónica de Derecho Canónico 2016. (Compilation)

In this review of the more significant canonical developments in 2016, S. mentions the writings and documents of the Roman Pontiff, including his Address to the Roman Rota (22 January 2016: see *Canon Law Abstracts*,

nos. 117, p. 84, and 118, pp. 77, 81–82), the Apostolic Exhortation *Amoris Laetitia* on love in the family (19 March 2016: see below, canons 915, 978, 1055–1056), the Apostolic Letter motu proprio *De concordia inter Codices* on variations to the Code of Canon Law (31 May 2016: see above, General Subjects (*Comparative law*), and below, CCEO, canon 1), the Apostolic Letter motu proprio *As a Loving Mother* on the procedure to be followed where a bishop is negligent in dealing with cases of sexual abuse (4 June 2016: see below, canon 193, and *Canon Law Abstracts*, no. 118, p. 44), the Apostolic Letter motu proprio *I beni temporali*, regarding certain competencies in economic–financial matters (4 July 2016: see *Canon Law Abstracts*, no. 118, pp. 50, 52); the Apostolic Constitution *Vultum Dei Quaerere* on women's contemplative life (29 June 2016: see below, canon 667), the Apostolic Letter *Misericordia et Misera* at the conclusion of the Extraordinary Jubilee of Mercy (20 November 2016; see below, canon 1398), various decrees of erection and reorganization of ecclesiastical circumscriptions in the Latin and Eastern Catholic Churches (among others the Syro-Malankara Catholic Eparchy in the USA and Canada of St Mary, Queen of Peace, 4 January 2016, the Syrian Catholic Eparchy of Our Lady of Deliverance, Newark, New Jersey, 7 January 2016, and the Syro-Malabar Eparchy of Great Britain based in Preston, 28 July 2016); and other pontifical acts including a *rescriptum ex audientia* of 20 May 2016 establishing the requirement *ad validitatem* that a diocesan bishop consult the Holy See before erecting an institute of consecrated life (see *Canon Law Abstracts*, no. 118, p. 60); the creation of the Dicastery for Laity, the Family and Life, absorbing the Pontifical Councils for Laity and the Family (15 August 2016: see below, canon 360); and the creation of the Dicastery for Promoting Integral Human Development, absorbing and unifying the Pontifical Councils for Justice and Peace, Pastoral Care of Migrants and Itinerant People, Pastoral Assistance to Health Care Workers, and *Cor Unum* (31 August 2016: see below, canon 360).

The review goes on to mention the more significant documents and activities of the Roman Curia in 2016, including a decree of the Congregation for Divine Worship and the Discipline of the Sacraments giving effect to the Holy Father's decision to modify the rubrics of the Maundy Thursday liturgy so that any of the faithful, and not only males, could be chosen for the ceremony of the washing of feet (6 January 2016: see *Canon Law Abstracts*, no. 118, p. 69); a Notification from the same Congregation about the granting of veneration on the occasion of the pilgrimage of major relics of Blesseds (27 January 2016); a decree raising the celebration of St Mary Magdalene to a feast in the General Roman Calendar (3 June 2016: see *Canon Law Abstracts*, no. 118, p. 88); norms

issued by the Congregation for the Causes of Saints on the administration of goods in causes of beatification and canonization (7 March 2016) and on medical consultation for processes of beatification and canonization (23 September 2016: see below, canon 1403); a new *Ratio Fundamentalis Institutionis Sacerdotalis* issued by the Congregation for Catholic Education (8 December 2016: see below, canon 659); a decree of the Congregation for the Doctrine of the Faith declaring that any of the faithful who consciously adhere to the schismatic pseudo-religious organization known as "Bambinello di Gallinaro" in the diocese of Cassino–Pontecorvo–Aquino–Sora incur *latae sententiae* excommunication (5 June 2016); the same Congregation's Letter *Iuvenescit Ecclesia* regarding the relationship between hierarchical and charismatic gifts in the life of the Church (15 May 2016: see *Canon Law Abstracts*, no. 118, p. 45), and its Instruction *Ad resurgendum cum Christo* regarding the burial of the deceased and the conservation of the ashes in the case of cremation (15 August 2016: see below, canon 1176); an authentic interpretation of the Pontifical Council for Legislative Texts on the applicability to non-Catholics of certain irregularities for receiving holy orders (15 September 2016: see below, canon 1041); a Circular Letter *Inter munera* of the Apostolic Signatura on the state and activity of tribunals (30 July 2016); and the statutes of the Secretariat for Communication (6 September 2016) and the Pontifical Academy for Life (18 October 2016: see *Canon Law Abstracts*, no. 118, pp. 51–52).

The final sections of the review are dedicated to the diplomatic activity of the Holy See during 2016, including the entry into force of the 2015 Comprehensive Agreement with the State of Palestine (2 January 2016: see *Canon Law Abstracts*, no. 118, p. 12); relations (and attempts to reduce tensions) with China; ratification of the Accord with East Timor (3 March 2016); framework agreements with the Democratic Republic of Congo (20 May 2016), the Central African Republic (6 September 2016), and Benin (21 October 2016); a memorandum of understanding with the United Arab Emirates (15 September 2016); the entry into force of the 2015 fiscal agreement with Italy (15 October 2016: see below, General Subjects (*Relations between Church and State*)); a meeting of the Vietnam–Holy See Joint Working Group (24–26 October 2016); an agreement with France over the complex of the church and convent of Trinità dei Monti in Rome, which as from 1 September 2016 is entrusted to the Emmanuel Community; and the establishment of diplomatic relations with the Islamic Republic of Mauritania (9 December 2016). As at the end of 2016 the Holy See had diplomatic relations with 182 countries. The review also gives details of documentation and activity of the Spanish Episcopal Conference in 2016.

IC 57 (2017), 407–415: Jorge Otaduy: Crónica de Legislación 2016. Derecho eclesiástico español. (Compilation)

O. presents a review of national legislation in Spain in 2016 in respect of marriage, the teaching of religion, and pastoral care in the Armed Forces.

IC 57 (2017), 417–446: Jorge Otaduy: Crónica de Jurisprudencia 2016. Derecho eclesiástico español. (Compilation)

O. presents a review of the most important decisions on religious issues given by the Spanish courts in 2016, including a brief summary of each decision and a reference to cases resolved by the European Court of Human Rights and the Court of Justice of the European Union.

Ecclesiology

EIC 57 (2017), 315–343: Jean-Pierre Schouppe: Dal *Ius publicum ecclesiasticum* alla disciplina postconciliare dei rapporti tra Chiesa e comunità politica. (Article)

The current framework of relations between the Church and the political community cannot be understood if one does not take into account their origins in the *Ius publicum ecclesiasticum*, from the University of Würzburg to the Roman School. The ecclesiology of the Second Vatican Council, which focused on the *communio* of the People of God rather than on the *societas iuridice perfecta*, meant the end of the Church's claim to jurisdiction, direct or indirect, over temporal affairs. But the Church continued to claim the independence necessary for carrying out her mission, and promoted religious freedom as a fundamental human right and a fundamental right of religious communities. With this vision, the Council set her discipline on a new foundation, the fruits of which are now visible.

IE XXIX (2017), 413–419: P. Giandomenico Mucci: La Chiesa come Società Giuridicamente Perfetta. (Article)

The description of the Church as *societas perfecta inaequalis* was arbitrarily used as an absolute definition over the last two centuries, and was subsequently equally arbitrarily cast aside, but is now undergoing a re-evaluation. It does not express the entire mystery of the Church and therefore cannot be taken as an exhaustive definition of the ecclesial

community, but it does retain a partial truth and has value within certain limits, in so far as it is an expression of the historical social reality of the Church and of her independence from civil and political society.

SC 51 (2017), 5–24: Anne Asselin: Les structures diocésaines et paroissiales: pour un ministère de justice et de compassion? (Article)

In April 2015, Pope Francis announced the Extraordinary Jubilee Year of Mercy, which would allow everyone "to experience the love of God who consoles, pardons, and instils hope." At that time, he recalled the words of John XXIII at the opening of the Second Vatican Council, that the Church "prefers to use the medicine of mercy rather than the weapons of severity." It is precisely here, at the junction of truth and mercy, that canon law anchors its mission. In the light of these examples, inspired, among other teachings, by the Pope's Apostolic Exhortation *Amoris Laetitia,* A. examines the present diocesan and parochial structures to explore avenues by which they could realize this mission which they must have – that of being instruments of justice and mercy, of truth and compassion.

SC 51 (2017), 263–284: Max Vodola: Pope Francis, the Council, and the Medicine of Mercy. (Article)

The pontificate of Pope Francis continues to attract international attention, from Catholics, non-Catholics and non-believers. V. notes that his declaration of the Year of Mercy in 2015 on the 50th anniversary of the close of the Second Vatican Council drew attention to the style of his papacy that greatly resembles that of the much-loved Pope John XXIII. Pope Francis is also the first modern pontiff not to have attended Vatican II. He does not enter the great theological debates regarding the interpretation of the Second Vatican Council that greatly preoccupied his predecessor Pope Benedict XVI. Pope Francis takes Vatican II as a theological given and appears to live the grace and spirit of the Council in his own distinctive way, as seen especially in his pastoral emphasis on servant leadership and a merciful Church at the peripheries.

Ecumenism and interreligious dialogue

J 76 (2016), 581–595: John Paul Kimes: *Anglicanorum Coetibus* and *CCEO* Canon 35. (Article)

See below, CCEO canon 35.

NRT 139 (2017), 209–217: Jozef de Kesel : Dialogue judéo–chrétien. Réactions aux nouvelles Déclarations. (Article)

On the occasion of an interreligious meeting commemorating the 50th anniversary of *Nostra Aetate*, de K., Cardinal Archbishop of Mechelin–Brussels, comments on recent Catholic and Jewish declarations. He takes stock of the dialogue between Christians and Jews and suggests some leads for a meeting open to the future.

Family issues

Ius Comm V (2017), 9–24: Antonio Rouco Varela: Matrimonio y familia en el Concilio Vaticano II: Su actualidad cincuenta años después. (Article)

50 years after the Second Vatican Council, its teaching is still absolutely necessary for the religious, social, political and cultural renewal of marriage and the family. This has become evident in the two Assemblies of the Synod of Bishops on the Family, the Extraordinary Assembly in 2014 and the Ordinary Assembly in 2015.

General introductions to canon law

Carlos J. Errázuriz M.: Corso fondamentale sul diritto della Chiesa. II: I beni giuridici ecclesiali. La dichiarazione e la tutela dei diritti nella Chiesa. I rapporti tra la Chiesa e la società civile. (Book)

This manual forms the second part of what E. sees as a supplement to institutional canon law studies (for the first part of the manual, see *Canon Law Abstracts*, no. 109, p. 10). It is written from the perspective of law as the object of justice, according to which Church law is "that which is just in the Church of Christ", including on the one hand the essential and

permanent aspects contained in the foundational design of Christ (divine law) and on the other those aspects that arise from the dynamic of history (human law). Canonical norms (laws, customs, etc.) should be understood and interpreted as rules that express and at the same time determine the law – "what is just" – in the Church, that is to say, those juridical goods (especially the Word of God and the Sacraments) that pertain to each person, and to the Church herself as an institution, within the economy of salvation wrought by Christ and made present in the history of the Church in His name. The manual aims to help the student to think as a true jurist in resolving the questions of justice that arise in ecclesial life, and to interpret canonical norms correctly from the point of view of intraecclesial justice. It covers the main topics dealt with in the CIC/83, with brief references to the CCEO regarding the more characteristic features of Eastern law. It follows a systematic rather than an exegetical approach, trying to avoid identifying Church law with the Code, not only because there are many universal and particular laws outside the Code, but above all because the central concern of the canonist is the juridical reality of the Church, the real relations of intraecclesial justice, and not the Code or other canonical norms, however valuable and important these may be as instruments of justice in the Church. The first volume having focused on fundamental theory, the history and formation of Church law, the human person, the Church as an institution, and associative groupings in the Church, this second volume deals with the Word of God, the Sacraments, patrimonial goods, penal matters and processes, and relations between the Church and the political community. (For bibliographical details see below, Books Received.)

Miguel Ángel Torres-Dulce: Cánones y leyes de la Iglesia. Nociones de Derecho Canónico. (Book)

This manual consists of three main parts, dealing with 1. general introductory matters (law and justice, law in the mystery of the Church, historical development of canon law, juridical persons, juridical acts and norms); 2. the People of God (juridical dimension of the People of God, hierarchical constitution of the Church); and 3. the mission of the Church (teaching office, sanctifying office, marriage, temporal goods, canonical offences and penalties, protection of rights in the Church, the Church and the political community). The different lessons contained in the book are the fruit of classes given by T.-D. to audiences who in the main have had little prior knowledge of canon law: hence he provides explanations of fundamental concepts, and attempts to simplify technical complexities as far as possible. (For bibliographical details see below, Books Received.)

Human rights

CLSN 189/17, 45–53: Peter Smith: Toasted? Christian Bakers Told to Bake Cake in Support of Same-Sex Marriage. (Article)

S. comments on the upholding by the Northern Ireland Court of Appeal of a first instance decision against a Christian married couple and their bakery which had held that their refusal to bake a cake bearing a message in support of same-sex marriage was directly discriminatory on the grounds of sexual orientation. It also held that the claimant's right not to be discriminated against outweighed the bakers' rights under Articles 9 and 10 of the European Convention on Human Rights. (See also *Canon Law Abstracts*, no. 118, p. 9.)

EE 92 (2017), 291–300: Antonio María Vegliò: Pastoral con los refugiados: respuestas de la Santa Sede. (Article)

V., who from 2013 to 2017 was President of the Pontifical Council for the Pastoral Care of Migrants and Itinerant People, describes how the Holy See, during the pontificates of Pius XII, John XXIII, Paul VI, John Paul II, Benedict XVI and Francis, has been working constantly and tirelessly to defend the rights of refugees, migrants and displaced persons, intervening in international forums with documents, speeches and the promotion of concrete charitable activity.

LJ 178 (2017), 114–150: Frank Cranmer – Gavin Drake – David Pocklington: Casebook. (Compilation)

Notes are given for various cases on a range of human rights issues decided in 2016 and 2017: the European Court of Human Rights (prison conditions and interference with the practice of religion; refusal to register a religious association; refusal of leave to a prisoner to attend his mother's funeral; whether imposition of Church tax violates article 9 of the European Convention on Human Rights; restitution of expropriated Church property; Hungarian Church law, loss of income and just satisfaction); the European Court of Justice (the application of an EU Equal Treatment Directive to religious dress); the UK Supreme Court (interpretation of "indirect discrimination" as defined in the Equality Act 2010, in a case involving the pay scale of a Muslim prison chaplain); the English High Court (whether a Council's decision was prejudiced by knowledge of a parent's views on abortion and same-sex relationships; administering blood products to the

child of Jehovah's Witnesses; a dispute about church leadership and the applicability of the law of "passing off" to the case; whether segregation by sex in an Islamic faith school constitutes discrimination under the Equality Act 2010; the question of contact with children in an ultra-orthodox Jewish family where the marriage had broken down and one of the parents was transgender; refusal of exhumation of a body for reburial in Israel; the "right to die" and the Suicide Act 1961; whether a terminally-ill teenager might have her body cryonically preserved after her death); the UK Employment Appeal Tribunal (refusal of long summer leave to attend religious festivals; refusal of an Extra Parochial Ministry Licence to an Anglican National Health Service chaplain because of his same-sex marriage); the England Consistory Court (Oxford) (mistaken burials: strong deprecation of "informal" reburials by the local authority); the Charity Commission for England and Wales (refusal of an application to register the "Temple of the Jedi Order" as a religious charity); and the Appeals Tribunal of the Anglican Church of Australia (a case concerning deposition from Holy Orders, where the appeal tribunal ruled that there was lack of jurisdiction in both the lower and appellate tribunals).

REDC 74 (2017), 237–268: Francisco Javier Sagüés Sala: El derecho subjetivo en Francisco de Vitoria. (Article)

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

Law reform

ACR XCIII 3/16, 259–276: Anthony Ekpo: *Triplex Munus* in the 1983 Code: a Blessing or a Curse? (Article)

E. calls for a reinterpretation of the *triplex munus* and its application to the Code. He argues that *munus* should be interpreted first of all as a gift, before being seen as an office or function.

IE XXIX (2017), 327–352: Giovanni Parise: Analisi degli aspetti rilevanti della normativa canonica sul mutamento di stato di parrocchie ed edifici sacri (cann. 515 §2 e 1222 §2): riflessioni e proposte. (Article)

See below, canon 515.

J 76 (2016), 311–325: Walter Brandmüller: *Renuntiatio Papae*. Some Historical–Canonical Reflexions. (Article)

See below, canon 332.

Legal theory

ACR XCIII 1/16, 15–30: Cormac Nagle: The Freedom of the Children of God. (Article)

N., a long-time lecturer in moral theology, is a founding member of the Canon Law Society of Australia & New Zealand. Recalling the inhumanity of the often fundamentalist and legalistic approach of the past that still sometimes exists, he argues that the spirit of freedom preached by Jesus continues, although suffering at times from an unbalanced subservience to the letter of the laws.

ADC 6 (abril 2017), 89–118: Paolo Gherri: Prospettive epistemologiche per un rinnovato approccio al Diritto amministrativo canonico. (Article)

Canonical administrative law is very fragmented nowadays, mainly on account of its references to differing civil models (the "contentious" and the "regulatory" models). It is essential therefore to clarify which of these is to be followed. For those who work in canon law matters, the epistemological alternative remains the same as always: a *deductive approach* based on the final outcome of relational events (= the tribunal that applies the law) or an *inductive approach* organized around the activity of the curia, which aims to achieve the objectives that the law sets out to safeguard. The latter approach is in line with developing trends in Italian and German civil administrative law.

Ap LXXXIX (2016), 55–110: Gianluca Sebastiani: Il ruolo della persona nei sistemi penali italiano e canonico: nuove prospettive per un problema irrisolto? (Article)

S. suggests that canon law, with its emphasis on the reform of the offender as well as the aspects of repairing scandal and restoring justice, has something to offer Italian penal law. A careful study of the biblical vision of justice reveals its saving and reconciliatory rather than retributive nature.

Ap LXXXIX (2016), 131–166: Ottavio de Bertolis: Persone, accoglienza, Diritto. (Conference presentation)

"Law" has a number of meanings. If it is identified with "laws" it can be perceived as unwelcoming or exclusive, whereas it should be the opposite: creative of inclusion, a system in which the only non-accepted possibility for resolving disputes is that of force (whether economic, social, political, cultural or technological). Constitutional norms (which exist in all legal systems, including canon law), rules of interpretation, and divine and natural law, help the jurist, and in particular the canonist, to emerge from the purely formal, legal dimension of Law and to work towards a Law open to the person, truly merciful and inclusive and gentle. The experiences of secular legal systems could be a very useful resource for canonists.

Ap LXXXIX (2016), 167–192: Paolo Gherri: Persone, accoglienza e Diritto. (*Instrumentum laboris*)

In these reflections prepared in anticipation of a Study Day held at the Lateran University in March 2016, G. notes that Law can often be looked upon as a possibility for resistance and defence, whereas its true function should be that of welcoming and integrating, pacifying and reconciling. In history there have been, as there continue to be today, many juridical forms of welcoming; moreover, the need to offer a positive and humanizing vision of the Law (especially in the most difficult situations, where people suffer) is growing. The Synod on the Family and Pope Francis have clearly indicated this direction for Church law.

Ap LXXXIX (2016), 193–223: Natale Loda: Consultare e consigliare nella Chiesa: la sinodalità delle Chiese orientali e la debole analogia con la collegialità. (Conference presentation)

See below, CCEO (*General*).

CLSN 189/17, 63–85: Paul Robbins: The Difference between Validity and Truth: Some Pastoral Implications in Relation to Marriage. (Article)

In applying canon law one should not lose sight of important underlying theological realties. R. points out that there can be a difference between

canonical interpretation and truth or reality, and he sets out some pastoral implications of this conclusion.

Ius VII 2/16, 201–230: George Nedungatt: Law in the Scripture: Part I – The Old Testament. (Article)

In a two-part article N. looks at various aspects of law in the Scriptures. In this first part he discusses various features of the theology of law contained in the Old Testament. Having examined the key terms – *Torah*, *nomos*, *lex* and "law" – he describes the literary form of law, and presents the Codes of the Pentateuch, before making an assessment of the influence of the significant ancient Middle Eastern Codes on the Old Testament Codes. He then discusses the Law of Talion. He concludes with a critical consideration of the theological meaning of attributing the laws of the Pentateuch to Moses.

Verg 4 (2017), 39–56: Armando Torrent: El concepto de *iustitia* en los juristas romanos. (Article)

http://vergentis.ucam.edu/revistas/numero4/2-ARMANDO-TORRENT.pdf

From time immemorial *iustitia* has constituted a wide field of study, especially for Roman jurists such as Ulpian and Cicero, who already saw that this concept turned on two central ideas: justice could be understood within the sphere of the will or within the sphere of human morality. The search for justice is not to be regarded as archaic and obsolete, but as something which nourishes the very essence of the science of law.

Verg 4 (2017), 325–346: Antonio Iaccarino: Il principio di equità alla prova dell'esercizio della giurisdizione [una certezza "altra"]. (Article)

http://vergentis.ucam.edu/revistas/numero4/14-ANTONIO-IACCARINO.pdf

I. considers the relationship between mercy and justice through a short theological introduction based on Trinitarian ontology. He then considers jurisdiction from the perspective of philosophy of law in order to examine the relationship between truth and justice within the dynamics of mercy. He refers in particular to Roman law, canon law and the English system of equity.

Relations between Church and State

ADC 6 (abril 2017), 49–87: Fabio Vecchi: Sperimentazione in materia di *compliance* finanziaria e *voluntary disclosure* nella convenzione fiscale italo–vaticana 1º aprile 2015. (Article)

The Holy See has initiated a profound legislative and administrative reform of the Vatican City State, a reform which has extended to include organizational transparency in its international financial dealings. In this connection V. comments on the Convention signed between the Holy See and the Government of the Italian Republic on fiscal matters on 1 April 2015, which incorporates for the first time the standard models of financial compliance and voluntary disclosure which have been developed by international and European Community law.

ADC 6 (abril 2017), 141–258: Ricardo García-García: Las relaciones de cooperación entre la Conferencia Episcopal Española y el Estado Español: Análisis de cincuenta años de trabajo. (Article)

On the occasion of the 50th anniversary of the Spanish Episcopal Conference, G. analyses the relationship of cooperation between the Catholic Church in Spain and the Spanish State over that period.

CLSN 189/17, 54–62: Helen Costigane: Conscience and Concordat: When Two Worlds Collide? (Article)

C. looks at the question of "conscientious objection" to the obligatory German Church tax and offers some suggestions as to how the Church authorities might respond to the haemorrhaging of members and the protests that are being made. (See also *Canon Law Abstracts*, no. 118, p. 14.)

EIC 57 (2017), 19–51: Romeo Astorri: Diritto particolare, diritto universale e codificazione del diritto canonico: l'espansione del diritto concordatorio. (Article)

A. studies the relationship between particular law and universal law from the perspective of the codifications of 1917 and 1983, with special reference to concordat laws. He looks at concordat law subsequent to Vatican II and the role played in this respect by the national episcopal conferences.

EIC 57 (2017), 53–72: Michele Madonna: La valorizzazione delle conferenze episcopali come fonte di diritto particolare nei più recenti concordati. (Article)

M. looks at the topic of the norms issued by episcopal conferences in accordance with canon 455, which constitute true laws. Although the normative output of episcopal conferences has tended to be somewhat marginal and patchy, it has taken on greater importance in the area of concordats. M. highlights the main areas of interest in the agreements between States and the individual national Churches.

EIC 57 (2017), 161–185: Piotr Stanisz: La Commissione congiunta dei rappresentanti del Governo della Repubblica di Polonia e della Conferenza Episcopale Polacca come un modello del «dialogo strutturato». (Article)

The activity of the Joint Commission of the Representatives of the Government and the Polish Bishops' Conference appears to be one of the proven models of the "structured dialogue" called for by John Paul II, and can also serve as a point of reference for other forms of Church–State dialogue.

IE XXIX (2017), 299–325: Gabriele Fattori: Giurisprudenza creativa, sopravvivenza e crisi del sistema matrimoniale concordatorio. (Article)

Concordat law relating to marriage has been transformed into a system dominated by decisions of the judiciary. Today the crisis of the concordat system seems irreversible, given the predominance of the institute of divorce. The civil efficacy of canonical declarations of matrimonial nullity is now a marginal issue when it comes to trying to reconcile canonical matrimonial law with Italian matrimonial law. The judiciary's decisions can be considered as being the cause of both the survival and the crisis of the marriage concordat system.

IE XXIX (2017), 381–392: Paul Richard Gallagher: I diritti umani nell'azione internazionale della Santa Sede e le loro ricadute sul diritto canonico. (Lecture)

G. highlights the decisive importance of human rights in the international activity of the Holy See, from the point of view of its religious mission in

the service of the universal Church, and also from the perspective of its claim to international juridical personality and its multilateral activity. He describes the consequences for Church law of international treaties.

ITQ 82 (2017), 97–112: Patrick Hannon: Church and State in Ireland: Perspectives of Vatican II. (Article)

H. argues that the interventions of the Irish Bishops' Conference in the public square since the Council have accorded well with the Declaration on Religious Freedom but have lacked an adequate awareness of key themes of the two Constitutions on the Church. He shows how attention to these themes may enrich the bishops' future contributions to debate on socio-legal issues in the changed context in which Irish Catholicism now finds itself. He maintains that public discussion of secularization has been on the whole superficial and unhelpful, and in the light of observations by Owen Chadwick (to the effect that the term "secularization" should be used in a neutral and objective sense rather than emotionally and as a word of propaganda) and a proposal by Charles Taylor (regarding the true understanding of State neutrality), he offers some suggestions for its improvement.

LJ 178 (2017), 80–99: Barry Forde: Church of Ireland clergy and employment law. (Article)

F. notes the different constitutional background which exists both in Northern Ireland and in the Irish Republic as compared to the UK and how it affects the relationship between Church and State. He then considers the law on the employment status of the clergy in the Church of Ireland against this background. He outlines the tests for employment status used by the UK courts, and considers the case law on this area, before looking at the position in the Church of Ireland. He concludes that the Church of Ireland needs to devise a way of giving employment protection rights to its clergy.

QDE 29 (2016), 490–499: Mauro Rivella: Rilevanza civile dei controlli canonici. (Article)

See below, canon 1281.

REDC 74 (2017), 13–42: Miguel Ángel Asensio Sánchez: Libertad de conciencia del alumno y naturaleza jurídica del centro educativo. (Article)

See below, canon 796.

Religious freedom

Ius Comm V (2017), 117–122: Antonio Rouco Varela: Derecho canónico y derecho de la sociedad civil. (Presentation)

On the occasion of his being awarded the 14th "Montero Ríos" Prize by the Association of Galician Jurists in Madrid (December 2015), the Emeritus Archbishop of Madrid reflects on the need for law in the Church, to enable her to fulfil the essential requirement by which her mission is defined: that of being an efficacious sign of the salvation which comes from God in Christ. He makes reference to the thought of the professor and politician Eugenio Montero Ríos (1832–1914), an ardent defender of the principle of religious liberty, whose ideas in certain respects anticipated those expressed by the Second Vatican Council in the Pastoral Constitution *Gaudium et Spes* and especially in the Declaration on Religious Freedom *Dignitatis Humanae*.

LJ 178 (2017), 57–79: Robert Meakin: Taking the Queen's Shilling: The Implications for Religious Freedom for Religions being registered as Charities. (Article)

Concerns have been raised recently about whether religions in the UK might have religious doctrines and practices challenged if they are registered as charities. In the past the Charity Commission assumed that organizations with purposes to advance religion were charitable. Now it adopts a much more proactive approach to evaluating whether religions qualify for registration as charities. The question arises as to whether the Charity Commission can lawfully question religious doctrine and practice for the purposes of registering or removing charities from the register. M. looks at possible grounds to challenge the Charity Commission, including the common law principles of non-justiciability (by which the court refrains from becoming involved in the internal regulation or determination of beliefs within religious organizations), religious toleration, charity law (public benefit and the definition of religion) and human rights.

HISTORICAL SUBJECTS

1st millennium

AnCrac 48 (2016), 383–461: Cătălina Mititelu: The legislation of emperor Justinian (527–565) and its reception in the Carpathian–Danubian–Pontic space. (Article)

http://dx.doi.org/10.15633/acr.2033

M. shows that, in the southeastern European area known as the Carpathian–Danubian–Pontic space, from which modern-day Romania developed, the reception of Roman law, especially old Roman law (*ius antiquum*) – consisting of the pronouncements of Roman jurists on law and its nature, etc. – underwent a new phase under Justinian (527–565), who succeeded in conquering part of the North Danubian territory. Both the old "Law of the Land" and the "Nomocanons" (*Pravila*), which contain elements of Roman and Byzantine law as well as customary law, confirm that Justinian's legislation – accompanied by commentaries by the great jurists of the time – was also disseminated in the Carpathian–Danubian–Pontic space.

Ap LXXXIX (2016), 11–54: Javier Belda Iniesta: Las relaciones Papado–Imperio en el desarrollo de las Fuentes canónicas (ss. V–VIII). (Article)

B.I. looks at the evolution of the Pope's juridical consciousness during one of the most important periods of the first millennium, from the definitive separation of the Eastern Empire to the Carolingian Renaissance (5th – 8th centuries). Against the backdrop of the controversial relationship between the spiritual and earthly powers, the Church passed from a state of clandestinity to one of spiritual and also political independence, in the space of just four centuries. B.I. traces the historical evolution and the juridical consequences of the relationship between the Papacy and the Empire, through a study of the more important canonical sources, including Pope Gelasius's letter *Famuli vestrae pietatis* and the *Donatio Constantini*.

ITQ 82 (2017), 19–36: Thomas O'Loughlin: The Order of Deacons in Early Irish Canonical Sources: A Contribution to Understanding the Evolution of a 'Major Orders' in the Western Church. (Article)

At a time when investigations are being made into the origins of the diaconate, O'L. argues that it is no easy task to recover its history or to relate that history to later questions on the nature of ordination. However, early canonical sources do throw important light on that history, and the case examined here is that of the *Collectio canonum hibernensis* and texts related to it. This late seventh- and eight-century material shows that while the diaconate was recognized as one of the sacred orders, it was, in effect, seen primarily as a function within the liturgy.

RDC 67/1 (2017), 13–28: Marcel Metzger: Les réactions des pasteurs en cas de remariage après séparation dans l'Antiquité chrétienne. (Article)

Patristic testimonies concerning a new marriage taking place during the lifetime of the former spouse are scarce. There is a greater number of testimonies concerning subsequent unions that did not constitute lawful marriage. The few documents available show the differences between Roman imperial legislation and biblical traditions. Although Christian principles came to influence society more and more, M. states that in the face of widespread practices contradicting the Gospel, the bishops were obliged to follow a path of mercy in cases of remarriage "in order to avoid greater evils" (Origen), adopting a penitential rather than a judicial procedure.

RDC 67/1 (2017), 29–43: Thibault Joubert: Les enjeux canoniques de l'émergence de la juridiction exclusive de l'Église sur le mariage (9^{e} – début du 12^{e} siècle). (Article)

Between the ninth and the twelfth centuries, the Church came to see herself as having exclusive competence over marriage. This development, although based upon the ancient prohibitions on consanguineous marriages and repudiation, did not come about in an altogether smooth fashion. J. states that through studying the struggle against repudiation it becomes possible to see how episcopal responsibility, pastoral care and canonical pragmatism are related to one another. He argues that such a study makes clear the traditional roots of the procedural reforms introduced by Pope Francis in 2015.

Verg 4 (2017), 57–76: Francisco Cuena Boy: Juliano el Apóstata y la *episcopalis audientia*. (Article)

http://vergentis.ucam.edu/revistas/numero4/3-FRANCISCO-CUENA-BOY.pdf

Starting out from an understanding of the *episcopalis audientia* as a special type of arbitration, C.B. offers an interpretation of the meaning of three texts that seem to support the idea that Julian the Apostate abolished the civil jurisdiction allegedly attributed to the bishops by Constantine.

Verg 4 (2017), 179–210: Francesco Fasolino: *Indulgentia principis* ed emenda: aspetti della politica criminale nell'impero romano tra IV e VI sec. d. C. (Article)

http://vergentis.ucam.edu/revistas/numero4/8-FRANCESCO-FASOLINO.pdf

Between the fourth and sixth centuries AD, the punishment of crimes came to be seen as aimed not only at defence of the social order and at general prevention, but also – contrary to what is commonly believed – at amendment, understood in a wide variety of meanings, ranging from the minimal view of the positive effect of punishment on the offender, already present in the reflection of the Severan jurists, to the much more significant correction and repentance of the delinquent which is to be found in imperial legislation. In the light of this broader objective of criminal policy, it is easier to understand the reason behind the indulgent measures which were more and more frequently adopted by the emperors, to the point of becoming a custom at Easter: what the legislator was aiming at was to bring about the reform of the offender in full compliance with the principles of Catholic religion. The acts of imperial clemency during this era were not simply an expression of the political arbitrariness of the ruler, but reflected the values on which the penal system of the time was founded.

Verg 4 (2017), 297–324: José Luis Zamora Manzano: Algunas particularidades en torno a la influencia de la misericordia y la humanidad en las fuentes romanas. (Article)

http://vergentis.ucam.edu/revistas/numero4/13-JOSE-LUIS-ZAMORA.pdf

Mercy, together with piety and humanity, was adopted into Roman law because of the influence of Christianity, and led to rules that have their genesis in Roman law, such as canon 20 of the Council of Orleans in 549, concerning the treatment of prisoners. This traditional precept of the Church

obliges the archdeacon to visit prisoners on Sundays in order to show care for them out of mercy, and attend to their spiritual and material needs. The canon is based on a series of principles founded on humanity, piety, benevolence and *aequitas*, introduced into Roman law in the fourth century. Z.M. analyses the influence which these had not only on the canon itself but also on modern penitential law.

Classical period

AnCrac 48 (2016), 361–382: Wojciech Medwid: Papieska elekcja i posługa w dokumentach soboru we Florencji (*Papal election and ministry in the documents of the Council of Florence*). (Article)

http://dx.doi.org/10.15633/acr.2032

M. examines the way in which the Council of Florence defined the election of the Pope, his competence and his importance for the Church, and also how his function contributed to the overcoming of conciliarism. The Council showed the leading role of the Pope over the universal Church, and identified specific tasks and priorities of the Bishop of Rome, as well as the procedures for the election of the Pope. In the case of the Holy See becoming vacant in the course of the meeting of the Council, the election of a new Bishop of Rome was to be held in the place where the Council Fathers were at that time. Before entering the conclave the electors were to take the oath to God and the Church. The Pope is the first and the highest shepherd of the sheepfold of Christ and must therefore be a person caring for the salvation of all souls and the advantage of the whole Christian world. The Bishop of Rome must strongly profess and preserve the Catholic faith, according to the Apostolic Tradition, the Ecumenical Councils and the Fathers. The Pope needs to be aware of his function and to be ready for the greatest sacrifices in the service of God and the faithful; he must take responsibility for guiding the faithful along the path of salvation; and he must repair and remove anything that could be tainted with simony or concubinage. He must not be influenced by bonds of kinship, and must be available for the faithful.

EIC 57 (2017), 245–275: Anne J. Duggan: Current Research on the decretals between Gratian's *Decretum* and the *Liber Extra*. (Article)

D., Emeritus Professor of History at King's College London and a leading authority on the medieval Church, offers a synthesis of the present state of research on the decretals in the period spanning the composition of Gratian's *Decretum* and the Liber Extra of 1234.

REDC 74 (2017), 43–157: Justo García Sánchez – Beatriz García Fueyo: Una forma testamentaria, vigente desde el siglo XII hasta la codificación de 1917 (X 3. 26. 10). (Article)

Roman law required the presence of seven witnesses for nuncupative (oral) wills. In the last third of the 12th century, Alexander II, in a decree which was later included in the Compilation of Gregory IX, established the validity of wills for secular causes which were made in the presence of the parish priest and two witnesses. Civil and canon lawyers argued over the meaning of "parish priest" (*parochus*) as well as the requirements for the witnesses, the territories in which the decree applied, and the capacity of the testator to make such a will. This regulation remained in force until the CIC/17.

REDC 74 (2017), 237–268: Francisco Javier Sagüés Sala: El derecho subjetivo en Francisco de Vitoria. (Article)

S. sets out to show the current-day importance of the concept of subjective right according to Francisco de Vitoria, in relation to the question of human rights. The philosophical–juridical notion of subjective right and *dominium–facultas* seems to date back to the canonists of the 12th and 13th centuries; it later became part of the Franciscan philosophy of the 14th century (William of Ockham), and was developed in the 15th century by the theologians of the University of Paris (Gerson, Summenhart and Mair). Vitoria defines subjective right as the power or faculty pertaining to a person according to the law, that is, it has its source in the law. He distinguishes three forms of dominium: a) dominium of superiority (*dominium jurisdictionis*); b) dominion of ownership (*dominium proprietatis*; and c) dominium of self (*dominium sui juris*). Francisco de Vitoria's views can be seen as a precedent for the doctrine of human rights, precisely because he establishes its philosophical–juridical foundations. He is also considered to be the founder of modem international law.

Verg 4 (2017), 77–106: Giovanni Minnucci: La donna giudice, Innocenzo III e il sistema del diritto comune. (Article)

http://vergentis.ucam.edu/revistas/numero4/4-GIOVANNI-MINNUCCI.pdf

M. looks at the juridical status of women during the Middle Ages, with specific reference to their role in processes. Despite the prohibitions contained in the *Corpus Iuris Civilis* and the *Decretum Gratiani*, jurists active from the second half of the 12th century to the beginning of the 13th century allowed women to exercise judicial functions *ex licentia principis* or because of their personal status. In the decretal *Dilecti filii* of 4 November 1202, Innocent III recognized women's *potestas iudicandi et arbitrandi* when exercised on the basis of a *consuetudo approbata*. The papal decretal and the thinking of the jurists can be understood more fully by looking at the relationship between the *ius commune* and *iura propria*.

Verg 4 (2017), 167–177: Bruce C. Brasington: *De testibus tractaturi*: A Late Twelfth-Century Italian Canonistic Treatise on Legal Procedure. (Article)

http://vergentis.ucam.edu/revistas/numero4/7-PRIMER-COMUNICANTE-BRASINGTON.pdf

De testibus tractaturi, an unedited late 12th-century southern Italian treatise, draws on both Gratian's *Decretum* and decretals of Pope Alexander III to consider questions concerning witnesses. It may also be influenced to some degree by the *Summa* of Simon of Bisignano. There is no evidence of any reliance on civilian authors. In considering the *exceptio contra personam testis*, it raises the question of whether testimony given by a witness who later died before trial remained valid. This subject is rarely treated in the early canonistic *ordines iudiciorum*. The author's application to this question of a letter of Alexander III to Bishop Roger of Worcester (JL 13162) appears to be unusual, perhaps unique, and sheds light on how the early *ius commune* evaluated evidence.

Verg 4 (2017), 211–231: Daniela Tarantino: De la escucha al perdón. Notas acerca del rol del confesor como *curatus medicus animarum* en la normativa canónica y en la reflexión doctrinal. (Article)

http://vergentis.ucam.edu/revistas/numero4/9-TARANTINO.pdf

Canons 21 and 22 of the Fourth Lateran Council, dealing with the duties of the faithful in relation to the sacrament of penance, describe the role of the confessor as that of a physician of the soul: *curatus medicus animarum*. T. analyses the impact of the conciliar legislation on doctrinal reflection and the development of the subsequent regulation of the subject between the Middle Ages and the modern age.

Verg 4 (2017), 233–244: Carmen Lázaro Guillamón: La terminación del pleito por acuerdo entre partes según el Título XXXVI del Libro I, *De transactionibus*, de las Decretales de Gregorio IX. (Article)

http://vergentis.ucam.edu/revistas/numero4/10-CARMEN-LAZARO.pdf

L. looks at how the legal system allows litigants to reach a private settlement that prevents a lawsuit or ends one that has already begun. She analyses the texts of Title XXXVI of Book I of the Decretals of Gregory IX which deals with the *transactio*, a contract giving primacy to a negotiated settlement of conflicts and seeking a middle ground between the objectivity of the law and the claim of the individual. She describes the legal provisions governing the *transactio* by examining and analysing each of the eleven texts that make up Title XXXVI, taking into account that doctrinal opinions in this particular regard are practically nonexistent. An agreement taking the form of a *transactio* is a complementary method of resolving conflicts alongside the judicial process.

Verg 4 (2017), 267–295: María Sole Testuzza: Rimediare al male con il bene. La giustizia e il perdono della vittima nell'età della controriforma: tra *restitutio*, *satisfactio–satispassio* e *potestas in se ipsum*. (Article)

http://vergentis.ucam.edu/revistas/numero4/12-TESTUZZA.pdf

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

Verg 4 (2017), 347–381: José Neftalí Nicolás García: L'*ordo iudiciarius* e i *verba diminuentia iuris ordinem*. (Article)

http://vergentis.ucam.edu/revistas/numero4/15-JOSE-NEFTALI.pdf

The summary procedure, resulting from extensive work carried out by the medieval legislators of both civil and canon laws, constituted a swifter alternative to the solemn process. Clement V's Constitution *Saepe contingit* represents the paradigm which reached its full scholarly maturity with the treatise of Bartolus of Sassoferrato on the Emperor Henry VII's Constitution *Ad reprimendum*. G. briefly explores the steps that led to the appearance of the summary procedure in the medieval *ius commune*, highlighting the role of canon law.

16th–19th centuries

CLSN 189/17, 86–99: Nicholas Schofield: A Church without Bishops: Governance of the English Catholic Mission 1594–1685. (Lecture)

This is the text of the 11th Lyndwood Lecture, hosted in London in November 2016 by the Canon Law Society of Great Britain and Ireland in conjunction with the Ecclesiastical Law Society. S. examines the question of ecclesiastical governance when an episcopal hierarchy becomes extinct and outlawed, as occurred in England in the reign of Elizabeth I. The period in question is full of contradictions. From Rome there was the fear that the appointment of an English bishop would anger the government and increase persecution. Added to this there were ongoing tensions between the secular and regular clergy, rivalry between different factions in Rome, and a lack of any proper understanding in the Eternal City of the English situation. The situation in England was complex, with a bewildering web of jurisdiction at work (the Pope, the Cardinal Protector of England, the Holy Office and, after its foundation in 1622, Propaganda, the Nuncios in Brussels and then Paris, who had oversight of England, as well as the various religious superiors). Priests to a large extent wandered as they pleased, looking for their own work, often trying to find the most agreeable patron, and sometimes claiming wider powers than they had in such matters as dispensations from matrimonial impediments or from fasting. Among English Catholics who were trying to work out their place in the aftermath of the Reformation there were opposing views (the "papalist" and the "episcopal" positions) as to the desirability or otherwise of episcopal government in the particular circumstances of the time. Endless quarrels,

personal animosities and appeals to Rome made it a difficult period for all concerned.

KIP 6 (19) 2017, nr. 1, 209–225: Jitka Jonová: The Ways of Punishing Clerics. Episcopal Detentions for Priests – a Case Study of Olomouc Archdiocese in the 19th Century. (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-14

Houses of correction for clergy (also called "priestly prisons") were special institutions for priests who were guilty of violating their duty or of wrongful behaviour, but also for priests who were ill (physically or psychologically). A priest who was considered to be reformed (corrected) could be released back into pastoral service. Priests located in clerical prisons were regarded not as "dangerous criminals", but rather as offenders. The house of correction in Mírov, in the Olomouc Region of the Czech Republic, had its own rules: instructions for the dean of Mohelnice (with the duty of visitation), for the chaplain of Mírov (the superior of the house of correction in Mírov), for the service staff and, of course, for the incarcerated priests. These instructions consisted of carefully drafted regulations, on the basis of which it is possible to build up a picture of how the institution functioned, and also, depending upon the archival sources which have been preserved, to obtain an idea of the fates of the incarcerated priests.

LJ 178 (2017), 6–36: John Witte Jr.: Luther the Lawyer: The Lutheran Reformation of Law, Politics, and Society. (Article)

The Lutheran Reformation transformed not only theology and the Church but the law and the State as well. Beginning in the 1520s, Luther joined up with various jurists and political leaders to craft ambitious legal reforms of Church, State, and society on the strength of the new Protestant theology. These legal reforms were defined and defended in hundreds of monographs, pamphlets and sermons published by Luther and his followers. They were refined and routinized in hundreds of new Reformation ordinances promulgated by German polities that converted to the Lutheran cause. By the time of the Peace of Augsburg (1555) – the imperial law that temporarily settled the constitutional order of Germany – the Lutheran Reformation had brought fundamental changes to theology and law, Church and State, marriage and family, education and charity.

LJ 178 (2017), 37–56: Frank Cranmer: How the Reformation Shaped Ecclesiastical and Secular Law in Great Britain. (Article)

The Reformation in England – unlike in Scotland – was primarily about governance rather than theology. Theological change came after the death of Henry VIII. As a consequence, its impact on Anglican Church law was only gradual, and by the time of the 1662 Act of Uniformity the Church of England was an ecclesiastical hybrid, with fairly Catholic liturgy alongside some rather Calvinist doctrinal statements – and Western canon law continued in force unless consciously revoked, so the impact of the Reformation on Anglican Church law was not either as profound or as immediate as one might imagine. Moreover, because the Church courts continued to have both a civil and a quasi-criminal jurisdiction, the canon law had a considerable influence on the development of secular law in both jurisdictions: in England and Wales primarily through the doctrine of equity and the continuation of ecclesiastical jurisdiction over matters that are now dealt with by the secular courts, and in Scotland as a primary source of Roman law principles that influenced the development of Scots law.

RDC 67/1 (2017), 45–78: Aurélie Lebel-Cliqueteux: Nullité du mariage et vices du consentement sous l'Ancien Régime: l'exemple de l'erreur et du dol. (Article)

L.-C. considers that the reform of the canonical process for marriage nullity involves a choice of mercy towards couples who are suffering, and that canon law in this respect is close to civil legislation which is characterized by an obvious desire to simplify marital breakdown. In particular, it corresponds, she argues, to the traditional magnanimous approach of ecclesiastical jurisdictions, whose archives reveal that they largely favoured the separation of ill-matched spouses, before doctrine and secular jurisdictions imposed an interpretation of canon law which enabled them to resist separations and marriage annulments.

Verg 4 (2017), 267–295: María Sole Testuzza: Rimediare al male con il bene. La giustizia e il perdono della vittima nell'età della controriforma: tra *restitutio*, *satisfactio–satispassio* e *potestas in se ipsum*. (Article)

http://vergentis.ucam.edu/revistas/numero4/12-TESTUZZA.pdf

T. focuses on three important theoretical elements from Catholic ethical and juridical literature: *restitutio*, *satisfactio–satispassio*, and *potestas in se ipsum*. These allow an understanding of how a theme as complex as that of justice and forgiveness of the victim was treated between the 15th and 17th centuries. An examination of these concepts shows that, for the protection of soul and body, the ancient private forms of conflict resolution changed their context and goals. At least at the theoretical level, they ceased to use the archaic language of rites of collective reintegration, and they no longer expressed the interests of particular social groups as in the past. Nor did they aim principally to stigmatize illicit behaviour. In tune with the emotions and anxieties that shook Western society in the decades following the Reformation, reconciliation and forgiveness became mainly an individual commitment to God, and as a personal process were no longer so independent from the administration of public justice.

1917 Code

IE XXIX (2017), 15–37: Eduardo Baura: Lo spirito codificatore e la codificazione latina. (Article)

B. examines the extent to which the canonical codification is inspired by a "normativist" ideal which aims to foresee the juridical solution to all possible situations. He studies the provisions of the CIC/17 and the CIC/83 regarding supplementary sources, rules of interpretation of the law, and the canons concerning the validity or invalidity of juridical acts.

IE XXIX (2017), 39–50: Carlo Fantappiè: Dal paradigma canonistico classico al paradigma codificatorio. (Article)

The transition from the medieval to the 20th-century form of canon law involved a true "paradigm shift", the consequences of which are structurally ambivalent and remain to be studied and evaluated.

IE XXIX (2017), 51–76: Valentín Gómez-Iglesias C.: Acerca de la transcendencia histórica de la iniciativa de san Pío X de elaborar un Código de Derecho canónico. (Article)

G.-I. aims to show how Pope Pius X took a clear position in favour of using the modern State legislative technique of codification, not to carry out a profound reform of canon law, but rather to collect the canonical laws received from the past in a manageable legal corpus and in clear and concise formulations. Recent bibliography on the topic recognizes the central role of Pius X in bringing this about. For him it represented the synthesis and crowning of his many reforms within the Church.

IE XXIX (2017), 77–89: Gaetano Lo Castro: Il compito della scienza giuridica canonica nell'epoca della codificazione. (Article)

Lo C. highlights the dangers which the choice of codification adopted by the canonical legislator in promulgating the CIC/17 represents for the overall juridical experience of the Church, and in particular for the task which pertains to juridical science of recognizing the *ius* and its ultimate foundation.

20th century

EIC 57 (2017), 5–18: Pietro Parolin: Il "ponte" creato da Celso Costantini tra la Santa Sede e la Cina. (Lecture)

P., Secretary of State, analyses the role of Cardinal Celso Costantini – Apostolic Delegate to China from 1922 – in the relations between the Holy See and China. P. sets out Costantini's biographical details and looks at his influence as Secretary of Propaganda Fide from 1935, underscoring the present-day relevance of his message in view of a possible normalization of Sino–Vatican diplomatic relations. (See also *Canon Law Abstracts*, no. 113, pp. 29–30.)

KIP 6 (19) 2017, nr. 1, 133–142: Stanisław Kawa: Stefan Wyszyński – kompetencje dotyczące wiernych obrządku greckokatolickiego w Polsce (*Stefan Wyszyński – competences concerning Greek Catholic faithful in Poland*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-9

The competences of Cardinal Stefan Wyszyński (1901–1981), often called the "Primate of the Millennium", included affairs within the Church, external relations between Church and State, and the defence of the culture and sovereignty of the nation. Some of these competences were exercised by means of *facultates speciales*, relating to the following groups of issues: care for the property of the Greek Catholic and Armenian Church; permission for acceptance of the Latin rite; dispensation from matrimonial impediments; authorization to celebrate the Eucharist in the Latin rite.

KIP 6 (19) 2017, nr. 1, 143–160: Krzysztof Nykiel: Sługa Boży Stefan Kardynał Wyszyński – troska o życie sakramentalne Narodu (*The Servant of God Stefan Cardinal Wyszyński – care for the sacramental life of the nation*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-10

As priest, bishop and cardinal, Stefan Wyszyński ministered in the dioceses of Włocławek and Lublin and the archdioceses of Gniezno and Warsaw. He prepared several thousand children for First Communion, and administered the sacrament of confirmation to over 80,000 faithful in the diocese of Lublin alone. He also ordained over 1000 priests and consecrated over 50 bishops.

KIP 6 (19) 2017, nr. 1, 161–175: Zbigniew Suchecki: Prymas Wyszyński kandydat na ołtarze (*Primate Wyszyński candidate for the altars*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-11

On 26 April 1989 the Congregation for the Causes of Saints granted the *nihil obstat* to begin the diocesan investigation of Cardinal Stefan Wyszyński. The material from the diocesan investigation was then sent to the Apostolic See where, following the decree of validity, the Roman phase for the cause of Servant of God Cardinal S. Wyszyński, Primate of the Millennium (1901–1981), was begun. On 24 October 2015 Cardinal K.

Nycz, together with the postulator of the cause, delivered the *Positio super vita, virtutibus et fama sanctitatis* to Cardinal Angelo Amato, Prefect of the Congregation for the Causes of Saints. S. talks of the significance of the future beatification of Cardinal Wyszyński.

Second Vatican Council and revision of the CIC and CCEO

ACR XCIII 2/16, 209–216: Gerald O'Collins: Pope Francis and the Second Vatican Council (1962–65). (Article)

O'C. suggests the teachings of Vatican II as one broad template for assessing Pope Francis. Under the headings of Repentance, Collegiality, Justice & Peace, Family Life, Fellow Religions, Judaism, and the Way of Beauty, he illustrates the Pope's creative fidelity to the teachings in the conciliar documents.

CODE OF CANONS OF THE EASTERN CHURCHES

General

ACR XCIII 1/16, 81–89: Ian Waters – Robert McGuckin: Eastern Catholic Churches in Australia: Canonical Issues for Catholic Clergy and Pastoral Workers. (Document)

This is the reproduction of a document prepared by W. assisted by McG., issued by the Australian Catholic Bishops' Conference to assist priests and deacons of the Latin Catholic Church in Australia in their pastoral ministry. Eparchies for five Eastern Catholic Churches have been established in Australia; and another six Eastern Catholic Churches have chaplains in Australia. The document focuses on the Latin Catholic clergy understanding the limits of their jurisdiction and pastoral care, and the interecclesial administration of the sacraments.

Ap LXXXIX (2016), 193–223: Natale Loda: Consultare e consigliare nella Chiesa: la sinodalità delle Chiese orientali e la debole analogia con la collegialità. (Conference presentation)

The synodal reality in the Eastern Churches has maintained: a) an operational element of continuity over time; b) the relationship between participation and authority; c) a deliberative structural element. The Latin Church, by contrast, has favoured the absolute authoritative principle, losing the characteristic of delegation within the People of God. In the Eastern Churches, the role of the synods has been deliberative and decision-making and at the same time consultative, such as to enable them to respond to problems according to a responsible ecclesial *sollicitudo*, while maintaining the consent and peace of the Church. Though accepting that there are similarities between them, one can argue that synodality and collegiality are substantially and doctrinally divergent, and are certainly not interchangeable. The features characteristic of synodality could become a force in the *Ecclesia semper reformanda.*

KIP 6 (19) 2017, nr. 1, 133–142: Stanisław Kawa: Stefan Wyszyński – kompetencje dotyczące wiernych obrządku greckokatolickiego w Polsce (*Stefan Wyszyński – competences concerning Greek Catholic faithful in Poland*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-9

See above, Historical Subjects (*20th century*).

Historical

RDC 67/1 (2017), 79–89: Marc Aoun: Les juridictions ecclésiastiques et le mariage en Orient, du Moyen Âge à l'époque moderne. Bref aperçu. (Article)

A. states that the jurisdictional autonomy bestowed upon the official Church by the Roman Emperors from Constantine onwards was matched by a *de facto* jurisdictional autonomy of the Eastern ecclesiastical communities that were separated from the official Church from the fifth century on. He describes the evolution of jurisdictional autonomy in the East from the Middle Ages up to modern times, before focusing on the various reasons that might be pleaded in the Eastern communities during this time in favour of matrimonial nullity.

CCEO 1

SC 51 (2017), 25–54: Jobe Abbass: Setting Limits on the Application of the Eastern Code to the Latin Church. (Article)

Interpreting the meaning and scope of CCEO canon 1 ("The canons of this Code affect all and solely the Eastern Catholic Churches, unless, with regard to relations with the Latin Church, it is expressly stated otherwise") is essential to an understanding of the interrelationship of the Eastern and Latin Codes. Initially, some canonists interpreted the canon very narrowly so as to oblige the Latin Church only when explicitly mentioned in nine CCEO canons. However, by way of a 2011 Explanatory Note regarding CCEO canon 1, the Pontifical Council for Legislative Texts affirmed that "besides the canons in which the Latin Church is 'explicitly' named, there are also other canons of the same Code in which it is included 'implicitly', if one takes into account the text and context of the norm." As a result, the Pontifical Council held that the Eastern Code's express use of the expression

"Church *sui iuris*" implicitly included the Latin Church, and the Council seemed to open the door to an even wider application of the Eastern Code to the Latin Church *ex natura rei* in the context of interecclesial relations. Still, the interrelationship of the Codes was never meant to be completely open-ended. Given the Legislator's choice to promulgate two different Codes, the Eastern and Latin Codes are still separate and distinct even though some CCEO norms will apply to the Latin Church in the context of interecclesial relations. The promulgation in 2016 of the motu proprio *De concordia inter Codices* highlights the unique status of each Code and effectively sets limits on the application of one or the other in a number of ways. Here A. examines the motu proprio from the perspective of its implicit effect on limiting the application of the Eastern Code to the Latin Church. Part 1 of the article deals with the norms added to the Latin Code to mirror those already found in the Eastern Code. Part 2 treats other unique Eastern norms which were not added to the Latin Code. Finally, Part 3 compares parallel norms of the Codes that retain mutual differences in some significant respect.

CCEO 27–35

IE XXIX (2017), 159–174, 263–269: Pablo Gefaell: Commenti al M.P. "De concordia inter Codices". (Document and comment)

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

CCEO 35

J 76 (2016), 581–595: John Paul Kimes: *Anglicanorum Coetibus* and *CCEO* Canon 35. (Article)

In 2009 Pope Benedict XVI revolutionized the Church's landscape with the promulgation of the Apostolic Constitution *Anglicanorum Coetibus*, radically altering ecumenical dialogue and creating a new canonical structure – the Personal Ordinariate – to welcome former Anglicans into the Catholic Church, while maintaining essential elements of Anglican patrimony. One year after the erection of the Ordinariate of the Chair of St Peter in the USA, in a letter dated 9 February 2013, the then-Ordinary, Mgr Jeffrey N. Steenson, posed a series of questions regarding the established regulations governing membership in the Personal Ordinariate. In response to these questions, the Holy Father approved modifications that allow the Ordinariate to expand its exercise of the evangelical mandate of Christ. These modifications could be considered as an example of the "particular

law" foreseen by CCEO canon 35 and applied to the mission of the Eastern Catholic Churches outside their historical territory.

CCEO 40

SC 51 (2017), 149–179: Andreas E. Grassmann: The Latin Ordinariates for the Faithful of the Eastern Rites. Genesis, Constitutional Positioning and Exposition of the Current Situation. (Article)

See below, CIC/83 canon 372.

CCEO 263

Ius VII 2/16, 181–200: Luigi Sabbarese: The Extraordinary Administration of Ecclesiastical Goods in CCEO: A Missing Update. (Article)

The previous Latin and Oriental legislation on temporal goods considered extraordinary administration to be a form of alienation. Such equivalence is absent from CIC/83 canon 1277, which lacks any directly corresponding canon in the CCEO. Thus, while the new Latin Code overcomes the inappropriate classification of extraordinary administration as alienation, the Oriental legislation seems to have remained unchanged. Such a lacuna must be understood within the more general context of the administration of ecclesiastical goods. S. shows that an oriental Bishop of a "minor Church", who does not have synodal legislation to fill this gap, might place relevant acts of administration of goods without any further requirements for validity. At least in a practical–prudential way, it would be appropriate for the Oriental practice to follow the Latin legislation, or at least respect the principle identified in canon 1277.

CCEO 570

IC 57 (2017), 277–320: Christina Hip-Flores: Estudio canónico sobre la viudez consagrada. (Article)

An ancient Order of Widows existed alongside the renowned Order of Virgins from the early days of Christianity until well into the Middle Ages. The 2015 Synod of Bishops proposed that the order of consecrated widows be restored. H.-F. provides an overview of the *Ordo Viduarum* in ancient and medieval history, and presents the reality of consecrated widowhood in the contemporary Latin-rite Church. Since the mid-20th century, orders of

widows have emerged in various dioceses in Europe and the United States. There is no canon in the CIC/83 in this regard, and only a very general provision is articulated in the CCEO (canon 570). H.-F. offers an exegetical commentary of canon 570, as well as considerations concerning practical matters remanded to particular law. In an appendix she includes examples of particular law and liturgies developed for this juridical institute.

CCEO 916

Ius Comm V (2017), 25–46: Leonardo Sandri: El Concilio Vaticano II y los católicos orientales. Notas sobre la atención de los católicos orientales en la diáspora. (Article)

The Prefect of the Congregation for the Oriental Churches points out that almost 200 Eastern bishops took part in Vatican II, with a view to making known to the whole Church the teaching on the Christian East. In the Council the apostolic origin of the Eastern Catholic Churches was recognized, and the equality of the Eastern and Latin Churches in dignity, rights and duties was affirmed; it was stated that ecclesial and ritual identity accompany Eastern Catholics in whatever place they happen to be; and the ecumenical vocation of the Eastern Catholic Churches was encouraged. Furthermore the purpose of the pastoral service to the Eastern Catholics of the diaspora was not to assimilate them to the faithful of the Latin Church, but to preserve them in the knowledge and practice of their own rite.

CCEO 1067

Ius VII 2/16, 259–278: Regi Njaralakkattukunnel: CCEO and Inter-Eparchial Tribunals – with Special Reference to Sagar–Satna and Ujjain–Jagdalpur Inter-Eparchial Tribunals. (Article)

N. deals with the evolution of the inter-eparchial tribunal in the Church and the erection of the inter-eparchial tribunals of Sagar–Satna and Ujjain–Jagadalpur, India, in the light of the two recent motu proprios *Mitis Iudex Dominus Iesus* and *Mitis et Misericors Iesus.* Even though in principle these tribunals are competent to deal not only with matrimonial cases but also with penal cases and other cases not reserved to the eparchial bishop, in practice they handle only matrimonial cases. N. concludes that the provision for the briefer matrimonial process before the bishop introduced by the recent motu proprios may eliminate these tribunals if in practice they are not able to handle other cases.

CCEO 1357–1377

RDC 67/1 (2017), 191–218: Hanna Aiwan: Les enjeux de l'application du motu proprio *Mitis et Misericors Iesus* par les tribunaux ecclésiastiques en Orient, spécialement au Liban. (Article)

In Lebanon, as in other countries in the Middle-East, the Church enjoys exclusive competence in respect of marriage, including its civil aspects. The motu proprio *Mitis et Misericors Iesus* does not provide for a connection between the civil effects of marriage and a declaration of nullity. A. looks at some of the challenges to which this gives rise.

CCEO 1389–1396

Ius VII 2/16, 231–257: Johnson Kovoorputhenpurayil: The Right of Defence in the Administrative Process of the Removal of a Parish Priest. Part II: Recourse against the Decree of Removal and Resolution of the Recourse. (Article)

Having dealt with the canonical causes and process of removal of parish priests in Part I of this article (see *Canon Law Abstracts*, no. 118, p. 37), K. now addresses various canonical questions related to the right of defence, such as recourse against the decree of removal, possibilities of recourse by the parish community, the hierarchical authority for recourse in different Churches *sui iuris,* contentious–administrative recourse to the Apostolic Signatura, procedures in the Signatura, provision for the parish priest who has been removed, provision for the right of defence in the procedure for the removal of parish priests. As a conclusion he proposes certain suggestions for revision so as to uphold the right of defence of the accused in this administrative procedure.

CODE OF CANON LAW
BOOK I: GENERAL NORMS

17

Héctor Franceschi – Miguel A. Ortiz (eds.): Ius et Matrimonium II. Temi processuali e sostanziali alla luce del Motu Proprio *Mitis Iudex Dominus Iesus*. (Book)

See below, canons 1671–1691 (article by D. Mamberti).

22

KIP 6 (19) 2017, nr. 1, 43–54: Michał Skwierczyński: Kościelna osoba prawna jako licencjobiorca autorskich praw majątkowych (*Ecclesial legal entity as a licensee of royalties*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-4

See below, canon 1290.

111–112

IE XXIX (2017), 159–174, 263–269: Pablo Gefaell: Commenti al M.P. "De concordia inter Codices". (Document and comment)

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

111–112

Canonist 7/2 (2016), 190–201: Pope Francis: Apostolic Letter, *Motu Proprio, De Concordia inter Codices*, with commentary by Rodger J. Austin. (Document and comment)

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

123

REDC 74 (2017), 159–194: Alejando González-Varas Ibáñez: Régimen jurídico de los bienes de interés cultural de los monasterios y conventos que dejan de estar habitados. (Article)

See below, canon 616.

129

Canonist 8/1 (2017), 124–134: Marcus Francis: What is the Potential for Collegial and Sole Lay Judges on Ecclesiastical Tribunals? (Article)

See below, canon 1673.

193

Canonist 7/2 (2016), 202–207: Pope Francis: Apostolic Letter, *Motu Proprio, As A Loving Mother*, with commentary by Rodger J. Austin. (Document and comment)

See *Canon Law Abstracts*, no. 118, p. 44. The motu proprio *As a Loving Mother* provides for the dismissal of a diocesan bishop for negligence in the performance of his pastoral office. This process is an administrative process, not a penal process. It is not confined to negligence concerning matters of the sexual abuse of children but relates to the failings of the bishop in exercising the pastoral responsibility which is required by reason of his pastoral office. A. deals with the questions of to whom and to what the new law applies, and looks at the details of the new procedure.

200–203

SC 51 (2017), 207–250: Albert Peter Marcello, III: The Computation of Time: A Canonical Overview. (Article)

The computation of time has always had important ramifications for the liturgical, juridical, and scientific life of the Church. It stands as one of the few instances where the ecclesiastical and civil legal sciences interface with the mathematical sciences. In present-day ecumenical endeavours, divergences between differing methods of computation of the calendar have a significant impact, particularly regarding the proposal of a fixed date of Easter. Since the revision of the Code following the Second Vatican Council, the norms governing the canonical reckoning of time have likewise

undergone revision and relative simplification. Since then, consideration of the notion of time in canon law has received scant attention. M. attempts to address the legal consequences of the simplification of these norms in the Church's present legislation.

BOOK II, PART I: CHRIST'S FAITHFUL

204

KIP 6 (19) 2017, nr. 1, 23–42: Arkadiusz Rogalski: Urzeczywistnianie się Kościoła w małżeństwie i rodzinie według Kodeksu Prawa Kanonicznego z 1983 roku (*The realization of the Church in marriage and family according to the 1983 Code of Canon Law*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-3

See below, canon 226.

208

Canonist 7/2 (2016), 246–249: Myriam Wijlens: Norms Alone Are Not Sufficient: A Canonical Reflection about Women in the Church. (Article)

After setting out the many positions that can be and are in fact occupied by women in the Church, W. concludes that laymen and laywomen basically enjoy the same rights and obligations, as well as the same opportunities to engage in the work of the Church. Nevertheless, many of them are not used. A change of mindset is necessary, as Pope Benedict pointed out. Three steps must be taken. The first is to become aware that the participation of laywomen (as well as laymen) does not originate from societal developments about the equality of men and women, but is rooted in the ecclesiological implications of baptism. The second is to understand the participation of laywomen and laymen not as a threat but as an enrichment, because it allows the Church to benefit from the work of the Holy Spirit in the different members. The third is to recognize that, as Vatican II made clear, collaboration is to be practised as what Pope Benedict called "co-responsibility" and what Pope Francis describes as "synodality": being Church implies "journeying together".

215

SC 51 (2017), 113–134: Alphonse Borras: La paroisse et les associations de fidèles à l'heure du pape François. (Article)

See below, canon 529.

221

REDC 74 (2017), 217–236: Raúl Ramón Sánchez: La investigación previa al proceso penal canónico y la defensa del acusado. (Article)

See below, canons 1717–1720.

226

KIP 6 (19) 2017, nr. 1, 9–21: Bogumiła Olejnik: Budowanie Ludu Bożego jako szczególny obowiązek małżonków chrześcijańskich. Analiza kan. 226 § 1 Kodeksu Prawa Kanonicznego z 1983 roku (*Building up the People of God as a special obligation of Christian spouses. Analysis of can. 226 § 1 of the 1983 Code of Canon Law*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-2

O. describes the genesis of canon 226 §1 of the CIC/83, which has its origin in the teaching of the Second Vatican Council, and deals with the special obligation of the lay Christian faithful who are married to strive for the building up of the People of God through their marriage and family.

226

KIP 6 (19) 2017, nr. 1, 23–42: Arkadiusz Rogalski: Urzeczywistnianie się Kościoła w małżeństwie i rodzinie według Kodeksu Prawa Kanonicznego z 1983 roku (*The realization of the Church in marriage and family according to the 1983 Code of Canon Law*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-3

The family is the smallest unit of both society and the Church. The Church lives and grows in and through the family. The Church is seen as a community that announces the Gospel of Christ. The joyful news is spread thanks to the participation of all the baptized in the triple mission of Christ (as Prophet, Priest, and King). The legislator recognizes this mission in canon 204 §1 of the CIC/83.

234–236

S 79 (2017), 377–403: Jesu Pudumai Doss: Giovani e scelte nella vita cristiana: alcune considerazioni canoniche. (Article)

The aim of the XV Ordinary General Assembly of the Synod of Bishops was expressed clearly in its Preparatory Document *Young People, the Faith, and Vocational Discernment*: "… the Church has decided to examine herself on how she can lead young people to recognize and accept the call to the fullness of life and love, and to ask young people to help her in identifying the most effective ways to announce the Good News today." On the basis of selected canons of the CIC/83 (canons 234 §2, 235 §1, 236 1º, 528 §1, 776, 777 5º, 795, 799, 813, 819, 1063 1º, 1072), D. examines the extent to which the current ecclesiastical legislation contains the essential traits of the young people's "call to the fullness of life and love" and their contribution to evangelization. He studies the juridical implications arising from the rights and obligations of young people in the Church, grouping them into the categories of: 1. young people and legal age; 2. young people and their choice of Christian life (especially the sacraments of Christian initiation); 3. young people and their choice of a "state in life" (a vocation to marriage, priestly life or consecrated life); 4. young people and evangelization.

236

Canonist 8/1 (2017), 13–73: Australian Catholic Bishops' Conference: Norms for the Formation of Permanent Deacons and Guidelines for the Ministry and Life of Permanent Deacons. (Documents)

Given here are the Decree of the Congregation for Clergy dated 16 June 2016 approving, for a period of six years, the *Norms for the Formation of Permanent Deacons and Guidelines for the Ministry and Life of Permanent Deacons* of the Australian Catholic Bishops' Conference, and the text of the Norms themselves, accompanied by appendices relating to psychological assessments for applicants, mandatory checks, the programme of studies for permanent deacons of the Archdiocese of Melbourne, and a formation programme for all aspirants and candidates.

241

J 76 (2016), 531–580: Michael C. Johnson: Psychology and the Seminarian: Historical Developments and Praxis in the United States. (Article)

In June 2008 the Congregation for Catholic Education issued an Instruction on the use of psychology within seminary formation (see *Canon Law Abstracts*, nos. 103, pp. 55–56; 104, p. 60; 105, pp. 42–43, 88; 106, p. 83; 109, p. 49; 110, p. 53; 114, p. 46). This Instruction provides guidance and insight regarding the appropriate use of psychology with candidates for sacred orders. It addresses many issues and questions that have arisen regarding the licit use of psychology over the past century. J. examines the historical developments within canonical jurisprudence, moral theology, and the field of psychology that led to this Instruction. He then uses these historical developments to gain an understanding of the issues and topics addressed by the Congregation for Catholic Education as they relate to the praxis of the Church in the United States and how the Instruction should be applied within seminary formation.

276

ACR XCIII 3/16, 292–309: Brendan Daly: Steering Wheel or Spare Tyre: The Obligation of the Priest to Pray. (Article)

D. methodically reviews the legislation concerning the spiritual life of priests from the 1917 and 1983 Codes, the Second Vatican Council, Pope John Paul II's Apostolic Exhortation *Pastores Dabo Vobis*, and the Congregation for the Clergy's 1994 Directory on the Ministry and Life of Priests. Considering the nature of the obligation to pray each part of the Liturgy of the Hours, he concludes that the obligation must be seen as more than simply a legal obligation: it is an identification with Jesus Christ, the Head and Shepherd.

281

PCH 7 (2017), Number 1, 209–221: Robert Kantor: Administration of Ecclesiastical Temporal Goods in the Light of the Instruction of the Polish Episcopal Conference of 2015. (Article)

http://dx.doi.org/10.15633/pch.1989

See below, canons 1254–1298.

294–297

KIP 6 (19) 2017, nr. 1, 55–73: Małgorzata Turek: Prałatura personalna w Kodeksie Prawa Kanonicznego z 1983 roku (*The personal prelature in the 1983 Code of Canon Law*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-5

The personal prelature is an institution conceived during the sessions of the Second Vatican Council. It was basically created to allow for greater flexibility in meeting specific pastoral needs, later reaffirmed in the CIC/83. The basic norms on personal prelatures are set out in canons 294–297, although statutes define their purpose, relations with the local Ordinaries, etc. T. analyses the objectives of the personal prelature, the prelature's statutes and governance, lay involvement in a personal prelature, and the prelature's relationships with the Church and the local Ordinary. Personal prelatures are jurisdictional entities established by the Holy See within the hierarchical pastoral activity of the Church as an instrument for the carrying out of particular pastoral and missionary endeavours.

303

PS LII 156 (2017), 631–684: Florentino Bolo Jr.: Rediscovering the Place of the Secular Priests in the Order of Preachers. (Article)

When the Order of Preachers, in response to the renewal called for by the Second Vatican Council, adopted the term "lay fraternities" instead of "third orders", the status of its priest-tertiaries became obscured. Although the Order later rectified the oversight by creating a separate rule of life for the priests, in practice the friars and the different branches of the Dominican family were for decades largely oblivious of the existence of the secular priests. B. focuses on the recovery of the nature and identity of the Priestly Fraternities of St Dominic, which entailed the establishment of continuity at two levels of legislation: the general law of the Church, and that of the Dominican Order itself. The secular priests are now acknowledged not only for their unique place in the structure of the Dominican Order, but also for their capacity to offer the Dominican Family a distinct manner of collaborative action in the context of their diocesan ministry.

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

330

EIC 57 (2017), 277–313: Massimo del Pozzo: La "complementarità organica" tra primato e collegialità nella suprema autorità della Chiesa. (Article)

The question of the uniqueness or duality of the holders of the supreme authority of the Church has still not been completely resolved at the conceptual level. The relationship, not so much between Pontiff and Episcopal College as between Pope and Council, has given rise to complex and thorny historical disputes, which cannot be disregarded. Del P., on the basis of recent Magisterium and the existing legislation, points out certain insufficiencies and limitations in the situation as it now stands, and suggests that the most meaningful solution is to be found in "organic complementarity" between primacy and collegiality. This would indicate the common apostolic origin and purpose of the Roman Pontiff and the Episcopal College: both, therefore, "should" coexist and make demands on each other. The awareness of this indispensable ontological–functional interdependence can lead to changes in the form which central government takes.

331

CLSN 189/17, 35–44: Paul Churchill: Authority in the Church. (Article)

C. explains the nature of the authority of the Pope as Vicar of Christ, Bishop of Rome, head of the College of Bishops, and universal pastor; that of the bishops in their respective dioceses; and the ways in which they assist the Roman Pontiff in exercising his office.

331–335

AnCrac 48 (2016), 361–382: Wojciech Medwid: Papieska elekcja i posługa w dokumentach soboru we Florencji (*Papal election and ministry in the documents of the Council of Florence*). (Article)

http://dx.doi.org/10.15633/acr.2032

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

332

J 76 (2016), 311–325: Walter Brandmüller: *Renuntiatio Papae*. Some Historical–Canonical Reflexions. (Article)

When Pope Benedict XVI announced on 11 February 2013 his intention to renounce the ministry of Supreme Pontiff on 28 February of that same year, the news was totally unexpected. It gave rise to several questions which continue to be raised. B., President Emeritus of the Pontifical Committee for Historical Sciences, explores a number of these questions. He first calls attention to similar events in the history of the Roman Papacy, in which it seems precedents can be recognized. He then discusses the nature of the resignation and its consequences. He looks at the canonical and ecclesiological elements, and proposes some areas where future legislation would be needed.

336–341

IE XXIX (2017), 113–133: Massimo del Pozzo: Puntualizzazioni di diritto costituzionale canonico sulla collegialità episcopale "affettiva" ed "effettiva". (Article)

Del P. compares the notions of "affective collegiality" and "effective collegiality" in relation to the episcopacy. Despite the happy phonetic assonance of the words, and the practical situations in which it may be appropriate to use them together, they nevertheless carry the risk of confusing the univocal nature and the juridical value of the principle of collegiality. Collegiality in the proper sense is the juridical principle which governs the functioning of a constitutional body, the College of Bishops. The distinction between "affective" and "effective" collegiality appears to be more functional and descriptive than essential and analytical. Del P. also considers that a study of the organic nature of the apostolic succession can help in achieving a better understanding of the concepts, as well as in pastoral practice.

342–348

ACR XCIII 3/16, 340–350: Mark Coleridge: From Wandering to Journeying: Thoughts on a Synodal Church. (Lecture)

C., Archbishop of Brisbane and one of the two delegates elected by the Australian Catholic Bishops' Conference (ACBC) for the 2015 Synod of Bishops, gave the 2016 Knox Lecture at the Catholic Theological College,

University of Divinity, East Melbourne. He led his listeners through his preparations for the 2015 Synod, the actual functioning of that Synod, the role and influence of Pope Francis, and the effects on C. himself, including his decision to lead ACBC to decide to hold a plenary council in 2020 (see below, canon 439).

342–348

J 76 (2016), 327–338: Wilfred Napier: What Made Synod 2014 and 2015 So Interesting? Collegiality and Synodality! (Lecture)

N., Cardinal Archbishop of Durban, South Africa, reflects on his experience as a participant in the two Synods on the Family, in 2015 and 2015, to address the meaning of the concepts of collegiality and synodality. He first explains the theological meaning of both concepts, and then moves towards the meaning of collegiality and synodality in his own life as a bishop. Since he has participated in other synods as well, he draws from his broader experience, and focuses on the Synod for Africa before looking at the last two synods on the family.

360

Canonist 7/2 (2016), 175–178: Pope Francis: Apostolic Letter, *Motu Proprio*, Instituting the Dicastery for the Laity, the Family and Life; Statutes of the Dicastery for the Laity, the Family and Life. (Documents)

See *Canon Law Abstracts*, no. 118, pp. 49, 51-53. Pope Francis established a new Dicastery for the Laity, the Family and Life replacing, as of 1 September 2016, the Pontifical Councils for the Laity and for the Family. In a separate document the statutes of the new Dicastery are set out, in three separate sections, and approved experimentally with effect from 1 September 2016.

360

Canonist 7/2 (2016), 179–182: Pope Francis: Apostolic Letter, *Motu Proprio*, Instituting the Dicastery for Promoting Integral Human Development; Statutes of the Dicastery for Promoting Integral Human Development. (Documents)

See *Canon Law Abstracts*, no. 118, p. 51. Pope Francis created a new Dicastery for Promoting Integral Human Development incorporating the

Pontifical Councils for Justice and Peace, *Cor Unum*, the Spiritual Care of Migrants and Travellers and of Health Workers. It has additional responsibilities for other underprivileged groups such as prisoners and victims of war or natural disasters. It took effect on 1 January 2017. In a separate document the statutes of the new Dicastery are set out, in five articles, specifying its name, structure, remit, and its relationship with the Curia and with other bodies (e.g. international associations).

360

Canonist 7/2 (2016), 183–189: Peter Slack: Reforming the Curia: an Update 2013–2016. (Article)

S. gives an overview of the changes to the Roman Curia introduced under Pope Francis: the Council of Cardinals, the Secretariat of the Economy, changes to universal law, the Secretariat for Communications, the Dicastery for the Laity, the Family and Life, and the Dicastery for Promoting Integral Human Development. He also comments on the scope of the work accomplished.

360

IE XXIX (2017), 491–512: Statuto dell'Ufficio del Lavoro della Sede Apostolica (riportando tutte le modifiche disposte da Papa Francesco e con commento di Alessio Sarais, *Alcune recenti modifiche allo statuto dell'ufficio del lavoro della Sede Apostolica*). (Document and comment)

The text is given of the statutes of the Labour Office of the Apostolic See which were approved by Pope Benedict on 7 July 2009 and which came into force on 1 July 2010 (see *Canon Law Abstracts*, no. 105, p. 55), together with the various amendments introduced by Pope Francis. In his comment S. points out the important role which the Labour Office plays in ensuring the correct and harmonious functioning of those working for the Holy See.

362–367

J 76 (2016), 489–529: Roman Walczak: Papal Diplomacy – Characteristics of the Key Issues in Canon Law and International Law. (Article)

The diplomatic mission of the Holy See is a little-known and often underappreciated facet of the Church's life. Not only does this work provide

an invaluable network of intra-ecclesial communication, ensuring the universality and unity of the Church through the maintenance and strengthening of bonds of communion, but it also extends to the interaction of the Holy See with other sovereign States. W. presents the history and development of the diplomatic work of the Holy See, and provides an overview of the principal means by which such work is carried out

371

SC 51 (2017), 251–262: Edwine Saint-Louis: Les enjeux canoniques et pastoraux dans la nomination d'un administrateur apostolique dans un diocèse. (Article)

According to canonical structures, the diocese, which is always headed by a bishop, remains the archetype of pastoral governance in the Latin Church. The Pope may decide, however, to appoint an apostolic administrator in a diocese to provide for its pastoral governance. Canon 371 §2 defines an apostolic administration as a "certain portion of the people of God which, for special and particularly serious reasons, is entrusted to an apostolic administrator, who governs it in the name of the Supreme Pontiff." S.-L. examines the nature of these "special and particularly serious reasons", the *munus* of apostolic administrators in pastoral governance, and the canonical and pastoral issues arising in connection with the appointment of an apostolic administrator.

372

IC 57 (2017), 203–228: José María Chiclana Áctis: Los fieles miembros de ordinariatos para antiguos anglicanos y su incorporación a la diócesis. (Article)

Personal Ordinariates for faithful from the Anglican Communion are open to Anglicans who want to be individually or collectively received into the Catholic Church while retaining their pastoral, spiritual and liturgical heritage. C.A. looks more deeply into who may become a member of a personal Ordinariate, and studies the question of whether the faithful of the Ordinariate are also faithful of the diocese where they have domicile or quasi-domicile.

372

SC 51 (2017), 149–179: Andreas E. Grassmann: The Latin Ordinariates for the Faithful of the Eastern Rites. Genesis, Constitutional Positioning and Exposition of the Current Situation. (Article)

G. offers an overview on the legal institution of Latin Ordinariates for the faithful of the Eastern *Ecclesiae sui iuris*. These Ordinariates constitute a personally (as distinct from territorially) defined particular Church unit of the Catholic Church. G. first evaluates the possibilities and existing manifestations of non-territorial structural elements within the hierarchical constitution of the Church, in accordance with the CIC/83 and the CCEO, before focusing on the Latin Ordinariates for the faithful of the Eastern *Ecclesiae sui iuris.* He analyses the five currently existing Latin Ordinariates for the Eastern-rite faithful: those in Poland, Argentina, Brazil, France and Austria, describing their historical development and the nature of the Latin Ordinary's *potestas iurisdictionis.*

375

CLSN 189/17, 35–44: Paul Churchill: Authority in the Church. (Article)

See above, canon 331.

377

IE XXIX (2017), 353–379: Fernando Puig: La provvista dell'ufficio episcopale come azione di governo relativa all'organizzazione istituzionale della Chiesa. (Article)

Every act of provision of office of a bishop involves the threefold dimension of the episcopate: the sacramental aspect (*ordo*), the organizational aspect, and the collegial aspect. At each of these levels episcopal appointments have obvious importance for the mission of perpetuating the apostolic testimony entrusted to the episcopal ministry. P. studies the relationship between the functions of the episcopal office and the personal condition of the holder of the office, examining the provision of office in relation to the three main types of episcopal figure: bishops at the head of ecclesial structures, auxiliary bishops, and those carrying out episcopal tasks in the service of the Apostolic See.

383

AnCrac 48 (2016), 345–360: Piotr Kroczek – Paweł Ulman: Kanoniczne spojrzenie na statystyczne badanie skuteczności duszpasterskiej: komunia święta (*Canonical assessment of statistical survey on the effectiveness of pastoral work: Holy Communion*). (Article)

http://dx.doi.org/10.15633/acr.2031

Pastoral work is a very important element of the Church's functioning in the world. Using statistical tools, K. and U. aim to demonstrate the most suitable distribution of priests for parishes so as to achieve the best results in terms of numbers of people receiving Communion. They offer several conclusions which may be of help to the diocesan bishop concerning the distribution of priests and the size of parishes. They also recommend the introduction of laws for local Churches regarding the collection of statistical data on Church life.

383

Ius Comm V (2017), 25–46: Leonardo Sandri: El Concilio Vaticano II y los católicos orientales. Notas sobre la atención de los católicos orientales en la diáspora. (Article)

See above, CCEO canon 916.

391

EIC 57 (2017), 105–127: Giuseppe Comotti: La funzione legislativa del Vescovo diocesano. (Article)

C. looks at the exercise by the diocesan bishop of his legislative function. He examines how to identify what constitutes a legislative act; the scope of the bishop's legislative power; the bishop's personal exercise of the power and his use of consultative bodies; the principle of the subordination to higher law; the role of the legislative function as regards customary law; reasonableness and the common good in the exercise of the legislative function.

391

EIC 57 (2017), 129–159: Ilaria Zuanazzi: Dalle norme alla prassi pastorale: l'amministrazione a servizio della comunione nella realtà locale. (Article)

Z. highlights the essential role of the administrative function in the diocesan bishop's pastoral activity, and the mediating function it performs between general abstract rules and their application in specific cases. This function needs to be carried out according to the principles of communion which inform the ecclesial mission, both as regards the substantial content of the decision, and in relation to the procedures by which the decision is reached. It therefore places a serious responsibility on pastors.

439–446

Canonist 8/1 (2017), 74–93: Peter Blayney: Plenary Council Australia 2020. (Article)

In anticipation of the planned Australian 2020 Plenary Council, B. comments on the origins of conciliar gatherings and plenary councils in the very early Church. He then sets out the context for the canons on plenary councils in the CIC/83 at the beginning of Book II: the canons on the Christian faithful, their rights, and specifically those of the faithful (canons 204–231). He comments on canons 439–446 on particular councils, of which there are two types: plenary and provincial, giving special attention to those that are more relevant to Australia.

447–459

ADC 6 (abril 2017), 119–139: José R. Villar-Saldaña: Fundamentos teológicos de las Conferencias Episcopales. (Article)

The theological foundation for episcopal conferences is to be found in the collegial nature of the episcopate and the various forms of exercising collegiality – sometimes "effectively" as in an ecumenical council, sometimes "affectively" as in the episcopal conference. While the latter is not a collegial event in the juridical sense, it does pose questions about whether its decisions are binding and the basis for their binding nature. The answer to the question must necessarily take into account conciliar teaching and subsequent reflection, the CIC/83, the 1985 Synod of Bishops and its ensuing debate, and the Apostolic Constitution *Apostolos Suos*. From all of these it can be concluded that the decisions of the episcopal conference, with

the *recognitio* of the Apostolic See, are binding upon the bishops not by virtue of the authority of the College or the Pope, but rather by virtue of the authority of the episcopal conference itself, derived from the joint application of the power of each individual bishop.

450

SC 51 (2017), 181–205: Alexander M. Laschuk: Participation of Eastern Hierarchs in Conferences of Bishops. (Article)

The collaborative activity of bishops of different Churches *sui iuris* has its foundation in the texts of the Second Vatican Council. This collaborative activity has been implemented in various structures, including the episcopal conference. While conferences are part of the hierarchical constitution of the Latin Church, canon 450 permits the participation of Ordinaries of another rite. The episcopal conference is examined for its interecclesial collaborative potential both as laid out in the Latin Code and as implemented in the statutes of various conferences.

455

EIC 57 (2017), 53–72: Michele Madonna: La valorizzazione delle conferenze episcopali come fonte di diritto particolare nei più recenti concordati. (Article)

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

455

SC 51 (2017), 55–87: Brian T. Austin: Due Process of Law and the USCCB Essential Norms. (Article)

On 15 May 2006, the second revised edition of the United States Conference of Catholic Bishops' decree *Essential Norms for Diocesan/Eparchial Policies Dealing with Allegations of Sexual Abuse of Minors by Priests or Deacons* came into effect. More than ten years later, certain questions remain. A. considers the legality of the *Essential Norms,* in particular the question of the apparent absence of a special mandate, before looking at prescription in cases of clerical sexual abuse of minors, in particular the question of the interpretation of the faculty granted to the Congregation for the Doctrine of the Faith to derogate from the terms of prescription on a

case-by-case basis. He then examines the right of defence, in particular the right of the accused to some form of *contradictorium.*

460

Ap LXXXIX (2016), 225–237: Patrick Valdrini: Le Synode diocésain. Un Conseil synodal de participation des fidèles du Diocèse. (Conference presentation)

V. deals first with the specific characteristics of the diocesan synod as a council of the particular Church, in which the diocesan bishop plays a decisive role, since it is the diocese which is the community where the catholicity of the Church is fulfilled, and where the faithful actually decide how to live and realize in history the eschatological perspective established in and by Christ himself. He then shows that this particular juridical nature comes from the necessity of the participation of the faithful, who exercise their mission, received from Christ through the sacraments of initiation; a responsibility deriving from their baptism. Finally he explains why the diocesan synod expresses the original characteristics of the hierarchical constitution of the Church and the ministers who exercise the unique function of guarantors as well as providing a visible sign of the unity of the Church of Christ, based on the three *vincula* mentioned in canon 205. In short, V. seeks to answer the question of how and to what extent it may be possible to apply to the diocesan synod the canonical notions of consultation and counsel.

460

EIC 57 (2017), 73–103: Matteo Visioli: Una forma privilegiata di produzione normativa nella chiesa locale: il sinodo diocesano. (Article)

After a period of relative popularity, interest in the diocesan synod seems to have waned in the local Churches. The institution, however, remains one of absolute importance (albeit not the only one) for the local production of norms, harmonizing the synodal dimension of the Church with the legislative power of the diocesan bishop. V. examines the juridical nature of the synod, in the light of the relationship between the universal Church and the particular Church, with a view to rediscovering its nature and identifying its role in today's Church. This centuries-old institution could be the place in which the legislative function of the bishop is exercised with due recognition of the true identity of the community over which he presides. To this end certain tendencies should be avoided and a number of theological

and juridical elements kept in their proper perspective: the universal and particular Church, the legislative power of the bishop and the participation of the People of God, universal and particular laws, law and pastoral life.

476

QDE 29 (2016), 395–406: Alberto Perlasca: Il vicario episcopale per la vita consacrata. Competenze. (Article)

P. looks at the various ways an episcopal vicar for religious can help in the work of a diocese. He then surveys the various actions which can be entrusted to such a vicar, either by his decree of appointment or by a special mandate. He draws particular attention to assistance with visitations, and outlines the merits of a council to assist the vicar.

476

QDE 29 (2016), 407–427: Alfredo Rava: Il ministero del vicario episcopale nei confronti delle forme di vita consacrata specialmente affidate alla cura pastorale del vescovo diocesano. (Article)

R. looks at the way in which the ministry of the episcopal vicar for religious relates to the various forms of consecrated life in a diocese. He surveys the individual forms – consecrated virgins, hermits and consecrated widows – and the collective forms – religious institutes of both pontifical and diocesan right (paying special attention to nuns), secular institutes, societies of apostolic life and associations of the faithful and new forms of consecrated life. He concludes by noting the possible role of the episcopal vicar in the structures of collaboration between those living the consecrated life.

515

EIC 57 (2017), 187–212: Giovanni Parise: Soppressione, unione e modifica di parrocchie (can. 515 § 2) e riduzione ad uso profano non indecoroso di edifici sacri (can. 1222 § 2): recenti evoluzioni della giurisprudenza della Segnatura Apostolica in materia. (Article)

Examining the jurisprudence of the Apostolic Signatura on the suppression, merging and substantial alteration of parishes (canon 515 §2) and the reduction of a sacred building to secular but not unbecoming use (canon 1222 §2), P. demonstrates that the contentious–administrative process has a clear and valid function in the life of the Church, while still being in need of

refinement, and shows the role which the Signatura's jurisprudence plays in ensuring correct administrative practices for the good of the faithful. Hence it is desirable that such jurisprudence should be published in a systematic fashion.

515

IE XXIX (2017), 327–352: Giovanni Parise: Analisi degli aspetti rilevanti della normativa canonica sul mutamento di stato di parrocchie ed edifici sacri (cann. 515 §2 e 1222 §2): riflessioni e proposte. (Article)

P. analyses the canons on the suppression, union and alteration of parishes (canon 515 §2) and the transfer of sacred buildings to secular but not unbecoming use (canon 1222 §2), evaluating whether what is currently prescribed by the norms is sufficient to protect the goods that the legislator intends to safeguard. He offers some reflections as to possible future developments to ensure a fuller and truer guarantee of the rights of the faithful, while avoiding anything that might give grounds for suspicion of arbitrariness on the part of the administrative authority.

517

Canonist 8/1 (2017), 110–123: Anthony Gooley: Preference for the Ordained in Pastoral and Liturgical Leadership. (Article)

G. examines the question of the appointment of a deacon to the pastoral care of a parish when a bishop is unable to appoint a presbyter because one is not available, in accordance with canon 517 §2. He explores the theological basis for the Church's preference for an ordained person rather than a lay leader in such situations, offering some reflections on the ministerial placement of deacons, and considering the challenges that a preference for a lay person over a deacon would have for our understanding of the sacrament of ordination and our ecclesiology.

528

S 79 (2017), 377–403: Jesu Pudumai Doss: Giovani e scelte nella vita cristiana: alcune considerazioni canoniche. (Article)

See above, canons 234–236.

529

SC 51 (2017), 113–134: Alphonse Borras: La paroisse et les associations de fidèles à l'heure du pape François. (Article)

B.'s study is based on a passage from the Pope Francis's Apostolic Exhortation *Evangelii Gaudium* (EG), concerning the parish and the associative life (nos. 28 and 29), within a section of the document entitled *An ecclesial renewal which cannot be deferred* (EG, 27–33). In this passage the Pope discusses the relationship between the parish and associations, and their contribution to the Church's "missionary transformation" (cf. EG, 19–49). After some preliminary reflections on freedom of association and the mystery of the Church, B. examines EG 28 and 29 to determine the relevance of the parish institution (which as the Pope says " is not the only institution which evangelizes": EG, 28), as well as the richness of associative life. He then looks at the place of the association as such in the parish, the impact of the associative commitment of the parishioners, and the favourable conditions for an integration of associations by parish and parishioners. The diocesan bishop is to promote their integration into diocesan pastoral care. From the associations' perspective it is a question of their wishing to be integrated and to contribute effectively through their charisms and their works of apostolate.

535

IE XXIX (2017), 159–174, 263–269: Pablo Gefaell: Commenti al M.P. "De concordia inter Codices". (Document and comment)

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

535

Canonist 7/2 (2016), 190–201: Pope Francis: Apostolic Letter, *Motu Proprio, De Concordia inter Codices*, with commentary by Rodger J. Austin. (Document and comment)

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

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

587

J 76 (2016), 447–487: Ad Leys: Structuring 'Completion' of a Religious Institute: Some Canonical Provisions. (Article)

The CIC/83 pays minimal attention to the final phase of existence of a religious institute. Since the mid-1990s the Dutch Religious Conference (KNR) has experienced this as a *lacuna iuris*. Diocesan institutes with their principal house in the Netherlands have needed to work with their bishop to find solutions on governance issues in this final phase. At the request of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, the Bishops' Conference of the Netherlands and the KNR jointly submitted proposals for a uniform approach to the problem. On 2 March 2015 the Congregation issued guidelines *ad experimentum* which focus on responsibility for governance and for the administration of goods when an institute no longer has members able to perform these duties. L. explains the guidelines and provides some background information.

600

IE XXIX (2017), 393–412: Agostino Montan: La gestione dei beni negli Istituti di vita consacrata e nelle Società di vita apostolica dopo l'Anno della vita consacrata (2015–2016). (Article)

See below, canons 634–640.

605

IC 57 (2017), 277–320: Christina Hip-Flores: Estudio canónico sobre la viudez consagrada. (Article)

See above, CCEO canon 570.

605

KIP 6 (19) 2017, nr. 1, 75–89: Mariusz Marszałek: Rola biskupa diecezjalnego w rozeznawaniu nowego charyzmatu instytutu życia zakonnego (*The role of the diocesan bishop in the process of discernment of a new charism of religious life*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-6

The CIC/83 permits the diocesan bishop to erect a new religious institute. In reality the process of the formation of a new religious institute is a long one and consists of various steps regulated by canon law. One of these is the discernment of a new charism of religious life. M. explains the role of the diocesan bishop in that process.

605

REDC 74 (2017), 195–215: Juan F. Martínez-Sáez: Actualidad teológica y canónica de las nuevas formas de vida consagrada. (Article)

The possibility of approving new forms of consecrated life is contemplated in canon 605. Nevertheless, the debate held in the aftermath of the promulgation and implementation of the CIC/83 is centred on whether there really do exist ways of living the consecrated life according to canon 573 that are actually a novelty with respect to those already in existence, or whether these are simply different and new variations of the traditional forms of consecrated life. M.-S.'s article contains a synthesis of this question as a prologue to the work of a seminar promoted by the Episcopal Commission for Consecrated Life of the Spanish Episcopal Conference, on the new forms of consecrated life. The conclusions of the seminar proceedings have been published in a book *Multiforme armonía. Actualidad teológico–canónica de las Nuevas Formas de Vida Consagrada* (Lourdes Grosso García (ed.), Biblioteca Autores Cristianos, Madrid, 2015, ISBN 978-8422017721), and M.-S. offers a summary of each chapter of the book so as to show the novelty which these new foundations offer for consecrated life. Finally he reflects on the process of the ecclesial discernment needed for the approval of new forms of consecrated life, as well as the role that canon lawyers play in this process.

605

SC 51 (2017), 89–111: Marta Balog: Famille ecclésiale de vie consacrée. Une nouvelle forme d'institut de vie consacrée. (Article)

Most new associations founded after the Second Vatican Council with the characteristics of a new form of evangelical life, after the publication of the CIC/83 sought to be recognized as new forms of consecrated life under canon 605. Within these plurivocational foundations there are some common ecclesial and spiritual elements, along with the desire of the founders or the founding generations to preserve unity within their community. Their complexity, however, has led to two types of recognition: a form of institution with the *visum* of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, and a new associative form under the Pontifical Council for the Laity. [*Editor's note*: the Pontifical Council for the Laity has now been absorbed into the Dicastery for Laity, the Family and Life: see above, canon 360.]

616

REDC 74 (2017), 159–194: Alejando González-Varas Ibáñez: Régimen jurídico de los bienes de interés cultural de los monasterios y conventos que dejan de estar habitados. (Article)

G. looks at the juridical situation of the goods belonging to monasteries and convents that face closure. This is an increasing phenomenon in countries of ancient Christian tradition such as Spain, as they undergo progressive secularization. In many cases both immovable and movable property are of historical and artistic importance, which affects their use and the way they are treated juridically. G. studies the juridical mechanisms provided by canon law for the suppression of a house and for identifying the new owner of the goods. He also addresses the question of juridical and civil requirements concerning the conservation of the property and, where applicable, its transfer.

634–640

IE XXIX (2017), 393–412: Agostino Montan: La gestione dei beni negli Istituti di vita consacrata e nelle Società di vita apostolica dopo l'Anno della vita consacrata (2015–2016). (Article)

The Year of Consecrated Life (2015–2016) has brought into sharper focus the importance of the management – acquisition, possession, administration

and alienation – of temporal goods in institutes of consecrated life and societies of apostolic life. This has led to a deeper analysis of the current legislation regarding the economic aspects of consecrated life, leading to an awareness of the need for better training not only of the finance officer but also of all the members, and for a renewal of existing legislation and of the law of each institute.

634–640

Paweł Kaleta: Legal Aspects of the Management of Church Property. (Book)

See below, canons 1273–1289.

659

Cla n.s. 8, 57 (2017), 329–346: Jorge Carlos Patrón Wong: La *Ratio Fundamentalis Institutionis Sacerdotalis* con particolare referimento alla Vita Consacrata. (Article)

The Secretary for Seminaries of the Congregation for the Clergy offers guidance as to how the *Ratio Fundamentalis Institutionis Sacerdotalis* may be transposed and adapted to the specific situation of consecrated life. In particular he looks at the topics of the house of formation, the gradual process of formation, the project of integral formation, and vocational discernment.

667

J 76 (2016), 379–414: Nancy Bauer: *Vultum Dei Quaerere*: New Norms for Nuns. (Article)

In June 2016, Pope Francis issued an Apostolic Constitution that contains new legislation for monasteries of contemplative nuns. *Vultum Dei Quaerere* addresses twelve "matters calling for discernment and renewed norms." The matters in question are formation, prayer, the word of God, the sacrament of the Eucharist, the sacrament of Reconciliation, community life, autonomy, federations, cloister, work, silence, communications media, and asceticism. The Congregation for Institutes of Consecrated Life and Societies of Apostolic Life is expected to issue an Instruction on the new norms in the near future. B. begins with a review of relevant documents from the decades preceding *Vultum Dei Quaerere* in order to put the new

legislation into a proper developmental context. She then offers a brief canonical commentary on each of the new norms.

667

J 76 (2016), 415–446: Sean O. Sheridan: To Seek the Face of God: The Cloister and Renewal of Women's Contemplative Monasteries. (Article)

The Apostolic Constitution *Vultum Dei Quaerere* addresses those who embrace the highly esteemed vocation of women's contemplative life and regulates the vocation in twelve areas. S. focuses on the notion of the four traditionally recognized disciplines of cloister – papal cloister, constitutional cloister, monastic cloister and the discipline of cloister required of members of all religious institutes – and undertakes a consideration of *Vultum Dei Quaerere*'s new norms for women's contemplative monasteries, with particular emphasis on the implications of these norms for the disciplines of papal and constitutional cloisters. He also offers reflections to assist members of women's contemplative monasteries in discerning the will of God with regard to the form of cloister appropriate to the monastery as requested by *Vultum Dei Quaerere*.

667

Canonist 7/2 (2016), 151–174: Pope Francis: Apostolic Constitution *Vultum Dei Quaerere* On Women's Contemplative Life, with comment by Elizabeth Delaney. (Document and comment)

See preceding entry. The English version of *Vultum Dei Quaerere* is accompanied by a comment from D., who notes that in the document there is a sense of Pope Francis speaking directly to contemplative religious. The Pope is reminding religious, as it were, that although the Second Vatican Council initiated and supported the renewal of religious life in the years following the Council, there is need now for further renewal and for further examination of life in the context of the 21st century.

667

KIP 6 (19) 2017, nr. 1, 91–114: Monika Menke: Klauzura mniszek po konstytucji apostolskiej *Vultum Dei quaerere* (*Cloistered nuns after the Apostolic Constitution "Vultum Dei quaerere"*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-7

M. looks at the question of cloistered nuns in monasteries, focusing solely on contemplation (as applied specifically to one monastery of Dominican nuns) and on changes in perception following the Apostolic Constitution *Vultum Dei Quaerere*. Papal cloister has up to now always been conceived as a privilege and a specific way to seclusion from the world. In *Vultum Dei Quaerere* Pope Francis refers to various types of cloister, which are to be an enrichment and not an obstacle to the religious life of a specific community and are to be based on the real conditions of the monastery. He thus calls for a review of the manner of implementation of specific forms of seclusion of nuns in various convents in the context of their own tradition. He offers nuns the possibility of opting for some form of cloister (not necessarily papal cloister), and of asking for the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life's approval of a suitably modified *ius proprium* for the institute.

667

IE XXIX (2017), 437–469: Papa Francesco: Costituzione apostolica *Vultum Dei quaerere* sulla vita contemplativa femminile, 29 giugno 2016 (con commento di Grzegorz Ruranski, *Verso il rinnovamento della vita contemplativa femminile*). (Document and comment)

See preceding entries. The Italian text of the Apostolic Constitution is followed by a comment from R., who sees the document as an important step towards the renewal of women's contemplative life. It aims to help each monastery, and each contemplative sister, to live their vocation in the Church to the full. R. considers that it has a certain flexibility, which allows it to be adapted to the specific conditions of monasteries and sisters in different parts of the world. He also sees it as presenting a challenge, particularly for the Congregation of Institutes of Consecrated Life and Societies of Apostolic Life, whose responsibility it is to prepare a specific Instruction for its application. Beyond that there is the further challenge of harmonizing autonomy and communion within the federation itself: a challenge which will also involve the religious orders as they set about adapting their own proper law to the new dispositions.

BOOK III: THE TEACHING OFFICE OF THE CHURCH

767–769

J 76 (2016), 361–378: Wilton D. Gregory: Liturgical Preaching in the 21st Century. (Lecture)

When considering the future of the Church in the United States and throughout the world, and the task of the new evangelization in an increasingly secular and even "post-Christian" society, certainly in the Western world, the homily takes on a more crucial significance than ever. G., Archbishop of Atlanta, GA, starts with a brief historical survey of the evolution of liturgical preaching over the centuries, leading up to the Second Vatican Council and the implementation of the liturgical reforms. He then considers the homily in the light of recent magisterial documents, including Pope Benedict's post-synodal Apostolic Exhortation *Verbum Domini* and Pope Francis's Apostolic Exhortation *Evangelii Gaudium*. Finally, he addresses the United States context, and the challenges to faithful preaching in an increasingly multicultural and diverse Church that is the North American reality today.

776–777

S 79 (2017), 377–403: Jesu Pudumai Doss: Giovani e scelte nella vita cristiana: alcune considerazioni canoniche. (Article)

See above, canons 234–236.

795

S 79 (2017), 377–403: Jesu Pudumai Doss: Giovani e scelte nella vita cristiana: alcune considerazioni canoniche. (Article)

See above, canons 234–236.

796

IE XXIX (2017), 91–111: Paola Buselli Mondin: Scuola e famiglia. Quale alleanza educativa è possibile in un contesto multietnico e multireligioso? (Article)

The religious and cultural pluralism of our time offers new operational parameters for the teaching of religion in State schools. In terms of both doctrine and case law there are conflicting approaches, and B.M. enters into the heart of the debate by offering, not a solution as such, but a model which will be able to deal with the conflict behind the debate. On the basis of canon 796 she proposes that the interpretative key should be the school–family relationship, and she examines and assesses the possible models which may arise from this.

796

REDC 74 (2017), 13–42: Miguel Ángel Asensio Sánchez: Libertad de conciencia del alumno y naturaleza jurídica del centro educativo. (Article)

Under the 1978 Spanish Constitution education is considered to be aimed at fully developing the personality of the student (art. 27.2). Fundamental rights and liberties play a decisive role in this personality development process, especially the right to freedom of conscience, conscience being an essential part of the individual's personality. The freedom of conscience of the student is conditioned by whether the educational centre is considered public or private under the law and, as a result, is also conditioned by the specific characteristics of the educational centre: the duty not to indoctrinate in State schools, and the transmission of beliefs in private schools. This relationship between the freedom of conscience of the student and the type of school is a consequence of the attempt to harmonize the rights of the various parties who make up the school community and, ultimately, to understand education mainly as a means of passing on values.

799

S 79 (2017), 377–403: Jesu Pudumai Doss: Giovani e scelte nella vita cristiana: alcune considerazioni canoniche. (Article)

See above, canons 234–236.

807

AnCrac 48 (2016), 331–343: Jan Dyduch: Zadania Uniwersytetu Papieskiego Jana Pawła II w Krakowie w świetle jego aktualnego Statutu (*The aims of the Pontifical University of John Paul II in Krakow in the light of its current Statutes*). (Article)

http://dx.doi.org/10.15633/acr.2030

The main aim of the Pontifical University of John Paul II in Krakow is to be of service to the Church and nation of Poland. The University is part of the community of the Catholic Church. Consequently evangelization and the creation of special bonds among the members of the academic community are a method of achieving this aim. The fostering of the model of a teacher–student relationship is the most important element of the practice of the University. The University authorities are responsible for the studies programmes, developing fields of research and science, and also educating young people in patriotism.

812

Ap LXXXIX (2016), 241–278: Andrea Stabellini: *Mandatum* e *Missio canonica* per la docenza accademica. Un utilizzo improprio dei termini. (Article)

Among the juridical–canonical instruments regulating the academic teaching of theology are the *mandatum* of canon 812, and the *missio canonica* of art. 27 §1 of the Apostolic Constitution *Sapientia Christiana*. A proper examination of the terms *mandatum* and *missio*, both in their literal meaning and, above all, in the meaning deriving from the use made of them in the documents of the Second Vatican Council and the CIC/83, shows their inadequacy for expressing the reality which they aim to protect: the communion *in fide et moribus* of teachers of theological disciplines in institutes of higher education. At the same time it reveals the need to ensure that the law is made ever more suitable to the needs of those whom it affects.

813

S 79 (2017), 377–403: Jesu Pudumai Doss: Giovani e scelte nella vita cristiana: alcune considerazioni canoniche. (Article)

See above, canons 234–236.

819

S 79 (2017), 377–403: Jesu Pudumai Doss: Giovani e scelte nella vita cristiana: alcune considerazioni canoniche. (Article)

See above, canons 234–236.

BOOK IV, PART I, TITLE I: BAPTISM

868

IE XXIX (2017), 159–174, 263–269: Pablo Gefaell: Commenti al M.P. "De concordia inter Codices". (Document and comment)

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

868

Canonist 7/2 (2016), 190–201: Pope Francis: Apostolic Letter, *Motu Proprio, De Concordia inter Codices*, with commentary by Rodger J. Austin. (Document and comment)

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

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

915

IC 57 (2017), 153–201: Javier Otaduy: *Dulcor Misericordiae*. Justicia y misericordia en el ejercicio de la autoridad canónica. II. El capítulo octavo de *Amoris Laetitia*. (Article)

(For the first part of this article see *Canon Law Abstracts*, no. 118, p. 20.) Chapter 8 of the Apostolic Exhortation *Amoris Laetitia* has given rise to different, sometimes contradictory, interpretations. However, it cannot be said that the papal document admits divorced Catholics who have entered into new unions to Eucharistic communion. Chapter 8 requires careful interpretation *in altum* (in full and in depth). The object of mercy is not only suffering, but above all situations of sin; and it is directed not only to the one currently experiencing misery, but to anyone subject to potential fragility and future misery. Mercy requires that moral and juridical norms be applied without any sense of cruelty, but not that they be ignored. Marriage does not admit of indiscriminate analogical varieties, because it is not a merely ideal model. In the case of so-called irregular situations, reception of the Eucharist always requires a change of life.

916

AnCrac 48 (2016), 125–140: Krzysztof Niewiadomski: Blogosławiony Jan Duns Szkot o możliwości przyjęcia komunii świętej w stanie grzechu śmiertelnego. Analiza w kontekście współczesnych dyskusji teologiczno-dyscyplinarnych (*Blessed John Duns Scotus on the possibility of receiving Holy Communion in a state of mortal sin. Analysis in the context of contemporary theological–disciplinary discussions*). (Article)

http://dx.doi.org/10.15633/acr.2020

The discussion in the Church on the admission of divorced and remarried Catholics to Holy Communion is a part of a broader debate on the possibility of reception of Communion while in a state of mortal sin. Theologians of various periods in the Church's history have given their opinion on the subject. The great Franciscan Scholastic theologian Blessed John Duns Scotus considers such an action to be a further mortal sin. At the same time he respects the judgement made by an upright conscience regarding such a prior sin, and allows reception of Communion in order to

avoid scandal on the part of the faithful, provided there is a firm resolution to confess the sin in the sacrament of Reconciliation as soon as possible. These exceptions cannot refer to those who do not have the firm resolution of rejecting the sin. N. reflects that allowing such persons to receive Communion would damage their own spiritual life and would contribute to an increased loss of the sense of sin among contemporary Catholics.

940

QDE 29 (2016), 428–455: Maria Grazia Colucci: La lampada eucaristica (can. 940). (Article)

C. examines the history of sanctuary lamps and the prescriptions of the CIC/83 and the liturgical books, looking at their purpose, regulations about the use of oil, wax and electricity, and the relationship of the lamp to the tabernacle veil. C. also looks at practice in the Orthodox churches.

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

966

REDC 74 (2017), 279–299: Carta apostólica *Misericordia et Misera* del Santo Padre Francisco al concluir el Jubileo Extraordinario de la Misericordia, 20.11.16. Texto. Comentario al nº 12 (Ángel David Martín Rubio). (Document and comment)

See below, canon 1398.

967

CLSN 190/17, 5–16: Pontifical Commission *Ecclesia Dei:* Letter to the Ordinaries of the Episcopal Conferences concerned on the faculties for the celebration of marriages of the faithful of the Society Saint Pius X, with comment by Gordon Read, "Marriage Delegation for the Priests of the Society of St Pius X and Jurisdiction for Marriage". (Document and comment)

Having previously recognized the validity of absolution given by priests of the Society of St Pius X (SSPX) (see *Canon Law Abstracts*, no. 118, p. 96), Pope Francis now goes one step further in his desire to assist the followers of the SSPX, and authorizes local Ordinaries to grant faculties to SSPX priests for the celebration of the weddings of faithful of the SSPX in certain conditions. Commenting on the letter sent to the episcopal conferences on 4 April 2017 making known this possibility, R. summarizes and counters the arguments hitherto utilized by the SSPX to justify their priests' celebrating marriages without a grant of delegation from the Ordinary or the local parish priest. He then examines the motivation for the letter, the faculty granted, the nature of the faculty, and the reaction of the SSPX.

967

Canonist 8/1 (2017), 11–12: Pontifical Commission *Ecclesia Dei*: Letter to the Ordinaries of the Episcopal Conferences concerned on the faculties for the celebration of marriages of the faithful of the Society Saint Pius X. (Document)

See preceding entry.

978

BV 77 (2017), 131–144: Stanislav Slatinek: Pastoralni izzivi za uspešen pogovor z duhovnikom *in foro interno* v luči posinodalne apostolske spodbude *Radost ljubezni – Amoris laetitia* (*Pastoral challenges for successful conversation with priest* in foro interno *in the light of the post-synodal Apostolic Exhortation "The Joy of Love – Amoris Laetitia"*). (Article)

In *Amoris Laetitia* Pope Francis encourages the Church to enter into a process of accompaniment and discernment of the faithful. In this connection an important role is that of the confessor. Through a conversation with the priest in the internal forum (in confession) people will be better placed to make a judgement on their lives and to identify what hinders the possibility of their fuller participation in the life of the Church. S. looks into the question of what constitute the fundamental criteria of discernment *in foro interno*.

983–984

KIP 6 (19) 2017, nr. 1, 115–131: Natalia Grochowska: Tajemnica spowiedzi w prawie kanonicznym (*The seal of confession in canon law*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-8

See below, canon 1388.

BOOK IV, PART I, TITLE VI: ORDERS

1009

ITQ 82 (2017), 19–36: Thomas O'Loughlin: The Order of Deacons in Early Irish Canonical Sources: A Contribution to Understanding the Evolution of a 'Major Orders' in the Western Church. (Article)

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

1029

J 76 (2016), 531–580: Michael C. Johnson: Psychology and the Seminarian: Historical Developments and Praxis in the United States. (Article)

See above, canon 241.

1041

IE XXIX (2017), 191–212, 277: Manuel Ganarin: Le irregolarità a ricevere gli ordini sacri secondo una recente risposta autentica del Pontificio Consiglio per i Testi Legislativi (can. 1041, nn. 4 e 5). (Document and comment)

G. comments on the 2016 authentic reply of the Pontifical Council for Legislative Texts to the effect that non-Catholics who have carried out the acts specified in canon 1041, nos. 4 and 5, incur irregularity for orders (see *Canon Law Abstracts*, no. 118, pp. 75–76). (The Italian text of the document is given on p. 277.)

1041

Canonist 7/2 (2016), 212: Pontifical Council for Legislative Texts: Authentic Interpretation, CIC Canon 1041. (Document)

See preceding entry.

BOOK IV, PART I, TITLE VII: MARRIAGE

1055

Canonist 7/2 (2016), 213–226: Anthony Kerin: Current Issues in Marital Jurisprudence. (Article)

K. looks at some of the more important issues of the present time concerning the theology of marriage and the canonical discipline accompanying it, including the proper understanding of *Amoris Laetitia*; the reforms introduced by *Mitis Iudex Dominus Iesus*; the question of "cultural Catholics" who approach the Church for a traditional wedding, but have little or no comprehension of the sacramental significance of the chosen ceremony; the sacramentality of marriage as between the baptized; whether marriage as "restored" by Christ in the Scriptures is a restoration of the original natural marriage or indeed something quite new and distinct; and the challenges posed by gender theory.

1055

IC 57 (2017), 105–128: Montserrat Gas-Aixendri: La dimensión jurídica del matrimonio canónico a la luz del magisterio reciente. Observaciones a propósito de la reforma del proceso de nulidad realizada por el Motu Proprio *Mitis Iudex*. (Article)

The 2014 and 2015 Synods on the Family have highlighted the difficulty which people may experience in understanding God's plan for marriage. G.-A. analyses the juridical elements that constitute the substance of Christian marriage in the light of the teachings of Popes John Paul II, Benedict XVI and Francis. She shows that the Church maintains her traditional teaching on the natural character of marriage as an institution, affirming the possibility of "connatural" knowledge (as described by St. Thomas Aquinas). As a result of postmodern culture it may be more difficult for people to know and desire marriage according to the plan of God. The second part of the article applies the essential juridical categories of marriage to certain aspects of the reform of the matrimonial nullity process in *Mitis Iudex*.

1055

Héctor Franceschi – Miguel A. Ortiz (eds.): Ius et Matrimonium II. Temi processuali e sostanziali alla luce del Motu Proprio *Mitis Iudex Dominus Iesus*. (Book)

See below, canons 1671–1691.

1055–1056

IC 57 (2017), 129–150: Carlos José Errázuriz: La indisolubilidad del matrimonio: su problemática comprensión actual y la importancia de una fundamentación antropológico–jurídica. (Article)

E. focuses on the issue of understanding matrimonial indissolubility, a problem of key practical importance for the proper application of *Mitis Iudex* and *Amoris Laetitia*. It is not possible to achieve a suitable foundation for the indissolubility of marriage if law and justice are ignored. To this end, he analyses some of the common arguments in favour of the indissolubility of marriage (the goods of marriage, the role of conjugal love, the sacramentality of marriage) and demonstrates how the idea of marriage understood as a relationship of justice can help bring about a proper understanding of indissolubility.

1055–1165

IE XXIX (2017), 159–174, 263–269: Pablo Gefaell: Commenti al M.P. "De concordia inter Codices". (Document and comment)

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

1056

BV 77 (2017), 145–157: Sebastijan Valentan: L'infedeltà come capo di nullità matrimoniale. (Article)

The infidelity of one or both spouses has a serious impact on matrimonial communion, and can sometimes bring about the failure of the marriage. V. examines those cases in which infidelity may be a cause of nullity. In recent years there have been extensive discussions of Rotal sentences dealing with exclusion of the *bonum fidei*, a concept which has been – and remains – rather unclear, especially in what concerns matrimonial unity. The

jurisprudence of the Roman Rota is a fundamental reference point in so far as its decisions provide guidance for other tribunals around the world.

1063

CLSN 189/17, 4–7: Pope Francis: Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year, 21 January 2017. (Address)

The Pope returns in this address to the subject of the relationship between faith and matrimony. He speaks of trying to find remedies to the problem of so many people lacking or being far from the faith and so potentially influenced by a mentality that seeks to obscure access to eternal truths. He calls for better formation of young people in relation to marriage and family life, and a formation plan for newly-weds to follow up their journey in the faith and in the Church, showing them how their mutual love is a sign and instrument of God's love.

1063

Canonist 8/1 (2017), 3–10: Pope Francis: Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the Judicial Year, 21 January 2017. (Address and comment)

See preceding entry. The text of the Pope's address is accompanied by a comment from Anthony Kerin, Episcopal Vicar for Life, Marriage and the Family in the Archdiocese of Melbourne, Australia.

1063

IE XXIX (2017), 471–489: Papa Francesco: Discorso in occasione dell'inaugurazione dell'anno giudiziario del tribunale della Rota Romana, 21 gennaio 2017 (con commento di Montserrat Gas Aixendri, *Tutelare la formazione del vincolo familiare. Apertura alla verità e fede di fronte alla validità del matrimonio*). (Address and comment)

See preceding entries.

1063

REDC 74 (2017), 271–278: Discurso del Santo Padre Francisco con motivo de la inauguración del Año Judicial del Tribunal de la Rota

Romana, Sala Clementina, 21.01.17. Texto. Comentario (Ángel David Martín Rubio). (Address and comment)

See preceding entries.

1063

S 79 (2017), 377–403: Jesu Pudumai Doss: Giovani e scelte nella vita cristiana: alcune considerazioni canoniche. (Article)

See above, canons 234–236.

1063

Héctor Franceschi – Miguel A. Ortiz (eds.): Ius et Matrimonium II. Temi processuali e sostanziali alla luce del Motu Proprio *Mitis Iudex Dominus Iesus*. (Book)

See below, canons 1671–1691 (article by M. Brancatisano Manzi).

1072

S 79 (2017), 377–403: Jesu Pudumai Doss: Giovani e scelte nella vita cristiana: alcune considerazioni canoniche. (Article)

See above, canons 234–236.

1095 2º

Canonist 7/2 (2016), 250–261: Sentence *coram* Arokiaraj, 20 April 2016 (TX, USA). Defect of Discretion of Judgement: Lack of Internal Freedom (can. 1095, 2º). (Sentence)

The woman petitioner was raised in a number of dysfunctional families. Her biological parents were each married and divorced several times, as also was her stepfather. Her biological mother was an alcoholic and addicted to pain medications. As a result the petitioner soon became the surrogate mother of her siblings from these marriages. In her childhood the family moved several times on account of their stepfather's inability to maintain steady employment. This created a need for stability in her life and the conflicting need for her to escape from her home and from her premature responsibility of parenting her siblings at such a young age. Her dating experiences were

rather limited and erratic before her brief courtship with the respondent, whom she married when she was 19 years of age. Members of her family and friends saw in her early responsibilities at home compensatory behaviours, and some voiced their concern that because of her false sense of maturity she was too young to marry at the time. It was the feeling of being trapped at home that led her to marry in order to escape. Furthermore, expert psychological evidence indicated several traits of serious personality disorder. In particular the fact that she was prematurely saddled with responsibility for her siblings led to an underdevelopment of her cognitive ability for good decision-making. The compensatory behaviours of homemaking and raising children, while still a child herself, led her to the false belief that she was mature and responsible enough to make her own decision to marry. Her compensatory childhood thinking pattern persisted as she pursued marriage. She had no sense at the time that these circumstances of being homemaker and surrogate mother were actually due to culpable behaviours of her own mother and stepfather. Since they were beyond her control she in all innocence internalized them. Because of the heavy burdens of her childhood duties at home, she did not experience the freedom needed to make a decision to marry. Very much a child herself in years and with stunted development at the time of the wedding, she did not have the necessary freedom to give free consent. Hence the Rota adjudged the marriage to be invalid on the ground of grave defect of discretion of judgement on the woman petitioner's part.

1095 2º

Canonist 7/2 (2016), 262–272: Sentence *coram* Pinto, 13 May 2014 (Italy). Exclusion of Indissolubility (can. 1101, §2). Defect of Discretion of Judgement: Affective Immaturity (can. 1095, 2º). (Sentence)

This case is unusual in that whereas the grounds of partial simulation and grave defect of discretion of judgement would normally be dealt with separately, the Rota decided to deal with the two grounds simultaneously because of the particular circumstances of the case. The man petitioner and woman respondent had met early in 1996, and by 13 April that year they were already married. Conjugal life, though gifted with two children, was marked by discord and dissension, and ended in 2004 when the couple separated. The Rota noted that there is a link between a person's decision to simulate and his or her incapacity to establish an appropriate interpersonal relationship. Nowadays it may be legitimate to speak of simulation flowing from a disordered will (even though the spheres of incapacity and simulation remain distinct, because in the first a voluntary act is totally lacking, while

in the second the voluntary act is present, albeit reduced). The evidence in the case showed the petitioner to be extremely weak and therefore not disposed to the perpetuity of the bond, largely on account of his abnormally strong bond with his mother, who made decisions for her son not only in his daily and academic activities but also in his relationships with others, friends, girls, etc. The speed with which the decision to marry was taken also indicated that the petitioner never attained sufficient discretion of judgement. The cause of the decision to marry seems to have been the idea that the respondent's father would be able to help the petitioner in his professional career, while also enabling the petitioner to escape from his parental home. The Rota gave an affirmative decision on both grounds – exclusion of the good of the sacrament on the part of the petitioner and grave defect of discretion of judgement, also on the part of the petitioner. The petitioner was prohibited from entering into another marriage without consulting the Rota.

1095 2º–3º.

Héctor Franceschi – Miguel A. Ortiz (eds.): Ius et Matrimonium II. Temi processuali e sostanziali alla luce del Motu Proprio *Mitis Iudex Dominus Iesus*. (Book)

See below, canons 1671–1691 (article by H. Franceschi).

1097

CLSN 190/17, 40–55: Paul Churchill: Error as a Ground of Nullity of Marriage. (Article)

C. sets out the general canonical principles concerning error, before looking specifically at the concepts and interpretation of error about a person and error about a quality of the person in matrimonial canon law. In relation to error about a person he focuses on the work of St Thomas and St Alphonsus and more recent reflection on the idea of person. In relation to error about a quality of the person he examines what is meant by a quality "directly and principally intended" and the proofs necessary for establishing such error.

1099

EIC 57 (2017), 213–243: Benedict Ndubueze Ejeh: Giurisprudenza rotale sulla rilevanza della fede nel matrimonio cristiano. (Article)

Oscillating as it does between traditional and innovative approaches, the jurisprudence of the Roman Rota does not offer univocal criteria for examining the relationship between the faith of the spouses and marriage validity. E. stresses the fundamental importance of adherence to the original divine project of marriage, highlighting the limitations of a merely human understanding of consent and the matrimonial bond.

1099

IE XXIX (2017), 135–157: Tribunale Apostolico della Rota Romana: *Lafayetten. in Indiana* – Nullità del matrimonio – *Error determinans voluntatem* – Sententia definitiva – 4 novembre 2015 (A. 202/2015) – Abdou Yaacoub, *Ponente* (con nota di Álvaro González Alonso, *Error determinans voluntatem*: errore, volontà e proprietà essenziali del matrimonio). (Sentence and comment)

Canon 1099 states that error concerning the unity or the indissolubility or the sacramental dignity of marriage does not vitiate matrimonial consent, provided it does not determine the will. Since consent is an act of the will and not of the intellect, it is possible for an error concerning the essential properties of marriage to coexist with a true will to contract a valid marriage (simple error). When however the error in the intellect is so deeply rooted that it decisively affects the will, leading it positively to exclude an essential property, the consent is null. Indissolubility can only be excluded by a positive act of the will and not by opinions, tendencies, ideas, etc., which of themselves do not vitiate consent. Hence a generic idea or a "form of mind" favourable to divorce is not sufficient. An error which is deep-rooted or stubborn (*pervicax*) does vitiate consent if it so affects the will that the contracting party is unable to act differently, and cannot help but choose that erroneous concept of marriage. When it comes to proof of exclusion, the circumstances of life of the party concerned, apart from his or her own declarations, are of great importance. In this particular case the female petitioner was a Protestant who had been immersed in a family and social atmosphere where indissolubility was given no importance, such that she had no other concept of marriage than that of a dissoluble one, in which divorce was the normal solution if things did not work out.

1101

Canonist 7/2 (2016), 262–272: Sentence *coram* Pinto, 13 May 2014 (Italy). Exclusion of Indissolubility (can. 1101, §2). Defect of Discretion of Judgement: Affective Immaturity (can. 1095, 2º). (Sentence)

See above, canon 1095 2º.

1101

EIC 57 (2017), 213–243: Benedict Ndubueze Ejeh: Giurisprudenza rotale sulla rilevanza della fede nel matrimonio cristiano. (Article)

See above, canon 1099.

1101

QDE 29 (2016), 460–485: Massimo Mingardi: Simulazione del consenso: l'esclusione della sacramentalità e del matrimonio stesso. (Article)

M. argues, from the teaching of Pope St John Paul II, that for the exclusion of sacramentality to invalidate a marriage it is not enough to show that there is an absence of faith on the part of one of the spouses, but that an intention to exclude what is required by the law of nature must be demonstrated. M. then examines the few Rotal sentences which treat of this, and goes on to compare them with Rotal sentences on total exclusion. In both cases he notes the reluctance of the Rota to find this head of nullity and the importance of careful examination of the facts, especially the reason for the simulation, if either is to be established.

1101

Héctor Franceschi – Miguel A. Ortiz (eds.): Ius et Matrimonium II. Temi processuali e sostanziali alla luce del Motu Proprio *Mitis Iudex Dominus Iesus*. (Book)

See below, canons 1671–1691 (articles by G. Bertolino and H. Franceschi).

1105

KIP 6 (19) 2017, nr. 1, 249–266: Sławomir Szustak: Pełnomocnictwo do zawarcia małżeństwa w prawie kanonicznym i w polskim prawie

cywilnym (*The mandate to contract marriage in canon law and Polish civil law*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-16

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

1108–1109

IE XXIX (2017), 159–174, 263–269: Pablo Gefaell: Commenti al M.P. "De concordia inter Codices". (Document and comment)

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

1108–1109

Canonist 7/2 (2016), 190–201: Pope Francis: Apostolic Letter, *Motu Proprio, De Concordia inter Codices*, with commentary by Rodger J. Austin. (Document and comment)

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

1111–1112

IE XXIX (2017), 159–174, 263–269: Pablo Gefaell: Commenti al M.P. "De concordia inter Codices". (Document and comment)

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

1111–1112

Canonist 7/2 (2016), 190–201: Pope Francis: Apostolic Letter, *Motu Proprio, De Concordia inter Codices*, with commentary by Rodger J. Austin. (Document and comment)

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

1116

IE XXIX (2017), 159–174, 263–269: Pablo Gefaell: Commenti al M.P. "De concordia inter Codices". (Document and comment)

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

1116

Canonist 7/2 (2016), 190–201: Pope Francis: Apostolic Letter, *Motu Proprio, De Concordia inter Codices*, with commentary by Rodger J. Austin. (Document and comment)

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

1124–1129

CLSN 190/17, 17–39: John McKeever: The Evolution of Canon Law regarding Mixed Marriages from 1917–2017. (Article)

McK. examines developments in the Church's law on mixed marriages, looking at the relevant provisions of the CIC/17, the relaxations contained in three post-Vatican II documents (Sacred Congregation of the Doctrine of the Faith, Instruction on Mixed Marriages *Matrimonii sacramentum*, 1966; Sacred Congregation for the Eastern Churches *Crescens matrimoniorum*, 1967; Paul VI, Apostolic Letter motu proprio *Matrimonia mixta*, 1970), and the CIC/83. He also reflects on possible changes for the future.

1127

IE XXIX (2017), 159–174, 263–269: Pablo Gefaell: Commenti al M.P. "De concordia inter Codices". (Document and comment)

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

1127

Canonist 7/2 (2016), 190–201: Pope Francis: Apostolic Letter, *Motu Proprio, De Concordia inter Codices*, with commentary by Rodger J. Austin. (Document and comment)

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

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

1176

IE XXIX (2017), 175–190, 271–275: Bruno Esposito: La vigente disciplina della Chiesa Cattolica riguardo la sepoltura, cremazione e destinazione delle ceneri dei defunti: l'Istruzione "Ad resurgendum cum Christo". (Document and comment)

E. comments on the 2016 Instruction of the Congregation for the Doctrine of the Faith on burial and cremation *Ad resurgendum cum Christo* (see *Canon Law Abstracts*, no. 118, pp. 85–87). The document responds to a diminished sense of the dignity of the body of a deceased person, while calling the People of God to deeper faith in living the mystery of death and burial. It points out the incompatibility with the Christian faith of certain choices regarding the conservation of ashes. (The Italian text of the Instruction is given on pp. 271–275.)

1176

REDC 74 (2017), 301–316: Congregación para la Doctrina de la Fe: Instrucción *Ad resurgendum cum Christo* acerca de la sepultura de los difuntos y la conservación de las cenizas en caso de cremación. Texto. Comentario (Gustavo Rivieiro D'Angelo). (Document and comment)

See preceding entry. The Spanish text of the document is accompanied by a comment in which R. points out that, while confirming that burial remains the preferential and desirable option, the document recognizes for the first time that there has been a generalized increase in the use of cremation and that those who make use of cremation consider it to be something positive. He offers a brief history of the Church's attitude to cremation, stressing that the main objectives of *Ad resurgendum cum Christo* are to reaffirm the doctrinal and pastoral reasons for preferring the burial of the body of the deceased, and to provide norms concerning the conservation of ashes when cremation is chosen for valid, sufficient and lawful reasons.

1176

Canonist 7/2 (2016), 208–211: Congregation for the Doctrine of the Faith: Instruction, *Ad resurgendum cum Christo.* (Document)

See preceding entries.

BOOK IV, PART III: SACRED PLACES AND TIMES

1222

EIC 57 (2017), 187–212: Giovanni Parise: Soppressione, unione e modifica di parrocchie (can. 515 § 2) e riduzione ad uso profano non indecoroso di edifici sacri (can. 1222 § 2): recenti evoluzioni della giurisprudenza della Segnatura Apostolica in materia. (Article)

See above, canon 515.

1222

IE XXIX (2017), 327–352: Giovanni Parise: Analisi degli aspetti rilevanti della normativa canonica sul mutamento di stato di parrocchie ed edifici sacri (cann. 515 §2 e 1222 §2): riflessioni e proposte. (Article)

See above, canon 515.

BOOK V: THE TEMPORAL GOODS OF THE CHURCH

1254–1298

PCH 7 (2017), Number 1, 209–221: Robert Kantor: Administration of Ecclesiastical Temporal Goods in the Light of the Instruction of the Polish Episcopal Conference of 2015. (Article)

http://dx.doi.org/10.15633/pch.1989

In order to fulfil her mission in the world, the Church needs to be supported by appropriate material goods and to have the freedom to administer them. In 2015 the Polish Episcopal Conference issued an Instruction on the administration of ecclesiastical temporal goods, in the light of which K. discusses the right of the Church to acquire, retain and alienate goods, the different kinds of temporal goods, the ways in which they can be acquired, the duties of administrators of ecclesiastical goods, and the question of priests' remuneration.

1254–1310

J 76 (2016), 339–359: Bernard A. Hebda: Where Canon Law Connects with Caritas: The Norms of *Intima Ecclesiae Natura*. A Year of Mercy Examination of Challenges to Compliance in a US Context. (Lecture)

Pope Francis is often referred to as the Pope of Charity, but for canonists the one who perhaps merits that title is Pope Benedict XVI, in view of his writings in *Deus Caritas Est* and *Intima Ecclesiae Natura*. From both personal reflections and knowledge of the legislation itself, H., Archbishop of St Paul and Minneapolis, MN, examines the genesis and development of *Intima Ecclesiae Natura*, and asks how its principles can be implemented in the local Church.

1271

CLSN 189/17, 8–34: Velasio de Paolis: Offerings for Peter's Pence and Canon 1271: A Contribution to the Service of the Apostolic See. (Article)

C. offers a general overview of the norms of the CIC/83 concerning offerings, taxes and fees of the faithful, before looking specifically at Peter's Pence, particularly its revival since 1870. He then examines the sources of

canon 1271 and its interpretation, and concludes with a summary of Pope John Paul II's address at the meeting of the presidents of the bishops' conferences in April 1991. (The article originally appeared in Stanisław Dubiel – Paweł Kaleta (eds.), *The Temporal Goods of the Church. Selected Issues*: see *Canon Law Abstracts*, no. 118, p. 90.)

1273–1289

Paweł Kaleta: Legal Aspects of the Management of Church Property. (Book)

K. reviews the current problems related to the administration of ecclesiastical goods, at the diocesan and parochial level and in religious institutes. In Chapter I he explains the basic concepts related to the administration of ecclesiastical goods, defining the various types of administration in the CIC/83 and setting out the basic criteria governing the administration of ecclesiastical goods. In Chapters II and III he deals with administration at the diocesan and parochial level, examining the notions of juridical personality, representation of the diocese and of the parish, subsidiary bodies involved in the administration of goods, acts of ordinary and extraordinary administration (and acts of "major importance" in the case of the diocese), responsibility for acts of administration, and removal of the parish priest from office for poor administration of temporal goods. In Chapter IV he looks at the administration of ecclesiastical goods in religious institutes, following a similar structure to that of Chapters II and III but taking into account the specific norms for religious institutes contained in canons 634–640, and making reference to the witness of charity and poverty as characteristics of administration in religious institutes. In Chapter V he addresses the differences between acts of administration and other acts related indirectly to administration, including representation and supervisory authority. He also points out the difference between acts of alienation and acts of extraordinary administration, and between transactions (canon 1295) and acts of extraordinary administration. In his conclusion he offers some suggestions *de lege ferenda*. (For bibliographical details see below, Books Received.)

1277

Ius VII 2/16, 181–200: Luigi Sabbarese: The Extraordinary Administration of Ecclesiastical Goods in CCEO: A Missing Update. (Article)

See above, CCEO canon 263.

1281

QDE 29 (2016), 490–499: Mauro Rivella: Rilevanza civile dei controlli canonici. (Article)

R. examines the provisions of the concordat with the Italian State which deal with canon law's requirements concerning authorization for acts of administration. He goes on to look at the way in which the Italian courts have handled cases where this has been relevant, especially when third party rights have come into question. He suggests that the vital provision is the publicity given to the limitations on the power of the administrator who has acted beyond those powers.

1284

EE 92 (2017), 33–51: Gonzalo Villagrán Medina: La gestión de los bienes de congregaciones religiosas: del profesionalismo al servicio de la misericordia. (Article)

The effective management of material goods seems hard to reconcile with the exercise of compassion, and yet compassion needs to be present when it comes to dealing with the goods of religious congregations. In this connection there are certain preconditions to be fulfilled: legality and professionalism, to which should be added observance of the prescriptions of canon law, as a guarantee of ecclesiality. Taken on their own these presuppositions lead to a rather unsatisfactory means–ends paradigm. In order to introduce compassion into the management of the goods of religious congregations, three criteria should be taken into account: the mission, the effort to transform the economy from within, and coherence of life. All this should be put into practice with the aid of advisory committees that bring together various professional and spiritual sensibilities and facilitate prudent discernment.

1290

KIP 6 (19) 2017, nr. 1, 43–54: Michał Skwierczyński: Kościelna osoba prawna jako licencjobiorca autorskich praw majątkowych (*Ecclesial legal entity as a licensee of royalties*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-4

Ecclesial legal entities which purchase royalties based on licensing agreements in conformity with canon 1290 as well as canon 22 of the CIC/83 need to comply with civil copyright laws. S. looks at the particular regulations applicable in Poland.

BOOK VI: SANCTIONS IN THE CHURCH

1311

Verg 4 (2017), 21–38: Bernard Ardura: "Misericordia e verità s'incontreranno, giustizia e pace si baceranno" (*Ps 84*,11). La *novitas* cristiana della reconciliazione. (Article)

http://vergentis.ucam.edu/revistas/numero4/1-BERNARD-ARDURA.pdf

The Law of Talion is an essential reference point since it is based on the principle of "proportionality" between crime and punishment. The originality of the Old Testament is to unite the requirements of the Law and the mercy of God. In the New Testament, the presence of sinners is not associated with condemnation or punishment, but with forgiveness, which is embodied in the practice of penance. The idea that any punishment must aim at the moral improvement of the culprit is present in the two most significant penalties of canon law, excommunication and interdict: two punishments which are present in the current law, even though over the centuries they have undergone a profound evolution. The Christian novelty consists in a person, the reconciling Christ. For the Christian, reconciliation is the result of a life made fruitful and transformed by the practice of prayer and sacraments, especially Penance and the Eucharist, the source of divine life.

1311–1399

IC 57 (2017), 323–385: Jorge Miras: Guía para el procedimiento administrativo canónico en materia penal. (Document)

See below, canons 1717–1720.

1311–1399

SC 51 (2017), 135–148: Patrick Connolly: The Concept of Scandal in a Changed Ecclesial Context. (Article)

Beginning with an outline of how the word "scandal" is used in popular culture, in the social sciences, and in contemporary disputes within the Church, C. studies the concept from a specifically theological and canonical perspective, focusing on the meanings and nuances of the term itself, rather than its application to particular situations or cases. He traces the evolution of the concept from its New Testament origins, through the Church Fathers,

Aquinas, and the influential Tridentine manuals of moral theology, to the post-Vatican II Catechism. This provides the background for an analysis of the use of the term in the CIC/83, and of the apparent effort within the Declaration of the Pontifical Council for Legislative Texts (June 2000) to refocus the ecclesial concept of scandal for a more secularized culture.

1331

Canonist 7/2 (2016), 227–245: Brendan Daly: Excommunication: A Red Card in the Catholic Church. (Article)

D. looks at the scriptural basis for excommunication; the penal discipline of the first centuries; the penitential system of public penance from the fourth century; the growth of penalties; excommunication in Gratian's Decree; the penalty of excommunication in the Council of Trent; the CIC/17; excommunicated "*vitandi*" *and* "*tolerati*"; the process of revision of the CIC/17; the CIC/83; imposition of excommunication; *latae sententiae* excommunication; the effects of excommunication; undeclared *latae sententiae* excommunication; declared *ferendae* or *latae sententiae* excommunications; specific crimes with the penalty of *latae sententiae* excommunication; removal of the penalty of excommunication; and remission in the internal forum. The reference to a "red card" in the title of the article is by analogy to a player in a sports team who on receiving a red card remains a member of the team, but cannot play. So too an excommunicated person remains a member of the Church but cannot celebrate or receive any sacraments. More than exclusion from the Church excommunication means exclusion from the goods of the Church.

1362

SC 51 (2017), 55–87: Brian T. Austin: Due Process of Law and the USCCB Essential Norms. (Article)

See above, canon 455.

1388

KIP 6 (19) 2017, nr. 1, 115–131: Natalia Grochowska: Tajemnica spowiedzi w prawie kanonicznym (*The seal of confession in canon law*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-8

The seal of confession relates to information disclosed during individual confession while the penitent reveals his or her sins to the priest. In canon law it is absolute and inviolable, and there is no authority that may allow the priest to betray the seal. Betrayal of the seal of confession is considered as a breach of the law, and as a consequence it is sanctioned by appropriate penalties. The legislator in canon 1388 distinguishes between direct and indirect forms of violation. Both incur mandatory punishment. As a result of direct betrayal of the seal of confession the priest is excommunicated *latae sententiae* (this punishment is reserved to the Apostolic See), while the indirect betrayal of seal of confession is to be punished with an appropriate penalty. The crime of violating the seal of confession is also regulated by the *Normae de gravioribus delictis* (2001) and the *Normae de delictis reservatis* (2010).

1395

Canonist 8/1 (2017), 135–167: Rocío Figueroa Alvear – David Tombs: Listening to Male Survivors of Church Sexual Abuse: Voices from Survivors of Sodalicio Abuses in Peru. (Report)

Given here are the results of a report on sexual abuse occurring within the *Sodalitium Christianae Vitae* (more commonly known as "*Sodalicio"*), a society of apostolic life operating in several South American countries as well as in Italy and the United States. The accusations have had a high public profile in Peru. The topics covered by the report include the psychological consequences of abuse (damage to self-esteem, damage to identity, guilt, sexualization, powerlessness) and the spiritual consequences (feelings of betrayal and lack of trust, damage to faith). (See also *Canon Law Abstracts*, no. 117, p. 88, regarding the effects of such abuse on matrimonial consent.)

1398

REDC 74 (2017), 279–299: Carta apostólica *Misericordia et Misera* del Santo Padre Francisco al concluir el Jubileo Extraordinario de la

Misericordia, 20.11.16. Texto. Comentario al nº 12 (Ángel David Martín Rubio). (Document and comment)

With the Apostolic Letter *Misericordia et Misera* of 20 November 2016 the Pope concludes the Jubilee Year of Mercy, pointing out that mercy "cannot become a mere parenthesis in the life of the Church; it constitutes her very existence, through which the profound truths of the Gospel are made manifest and tangible." In the document he grants to all priests, in virtue of their ministry, the faculty to absolve those who have committed the sin of procured abortion, adding that those who attend churches officiated by the priests of the Priestly Fraternity of Saint Pius X can continue to receive the sacramental absolution of their sins from those priests until further provisions are made, "lest anyone ever be deprived of the sacramental sign of reconciliation through the Church's pardon". Commenting on no. 12 of the Apostolic Letter, M.R. refers to a response of the Pontifical Council for Legislative Texts of 29 November 2016 which clarifies that the Holy Father has granted all confessors with due ministerial faculties the faculty to absolve from the sin of abortion and to remit the corresponding excommunication *latae sententiae* (canon 1398). The confessor in such cases should, within the sacrament of confession, remit the censure annexed to the offence of abortion (not to other offences) so as to be able to absolve from the sin of abortion and from any other sins confessed. To remit the censure it is enough for the confessor, on giving sacramental absolution in the normal way, to have the intention of absolving from the censure according to the norms of Law. However, if he prefers, he may use the form of absolution from censures given in the Rite of Penance, Appendix I, prior to giving sacramental absolution. (See also the references in *Canon Law Abstracts*, no. 118, pp. 96–97.)

BOOK VII: PROCESSES

1403

Ius VII 2/16, 279–292: Cherian Thunduparampil: Recognition of Miracles: Its Process in Rome and Lourdes. Part II: The Process in the CCS – A Comparative Note. (Article)

Miracles are a sign of God's presence in the world and his mighty deeds, and veneration of the Church's Saints is part and parcel of her history. For the official beatification and canonization of these holy people, the Church considers miracles performed by God through their intercession a prerequisite. Many miracles occur at Lourdes, an ecclesiastically-recognized place of pilgrimage, through the intercession of Our Lady. In Part I of this article T. dealt with the process of recognition of miracles at Lourdes (see *Canon Law Abstracts*, no. 118, p. 100). In this second part he looks at the canonical process for recognizing miracles of confessors and martyrs as currently followed by the Congregation for the Causes of Saints. He concludes with an analysis of the similarities and dissimilarities between the recognition processes observed by Congregation for the Causes of Saints and the Medical Bureau of Lourdes.

1403

Ius VII 2/16, 293–299: Regolamento della Consulta Medica della Congregazione delle Cause dei Santi, 23–09–2016. (Document)

The Italian and English versions are given of the regulations for the medical panel required to investigate miracles in canonization cases. These were approved on 24 August 2016 and published on 23 September 2016. (See also *Canon Law Abstracts*, no. 118, pp. 99–100.)

1403

Ius Comm V (2017), 123–138: José Carlos Martín de la Hoz: Teología del milagro y causas de canonización. (Article)

On 17 May 2006 Pope Benedict XVI approved the publication of the Instruction *Sanctorum Mater* of the Congregation for the Causes of Saints. The Instruction reflects changes to the legislation on causes of saints which had been introduced under Popes Paul VI and John Paul II, and in particular it stresses the importance of a reputation of holiness, favours and miracles as

the driving force of the process. M. looks at the theology of miracles and at how the question of the reputation of miracles, favours and graces of the servants of God is approached in theological, canonical, philosophical and scientific literature. In the first part of his study he examines the response of theology, philosophy and science to miracles. In the second part he asks why the Church requires one miracle for beatification and another for canonization, before explaining what is involved in the canonical process *super miro*.

1403

KIP 6 (19) 2017, nr. 1, 161–175: Zbigniew Suchecki: Prymas Wyszyński kandydat na ołtarze (Primate Wyszyński candidate for the altars). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-11

See above, Historical Subjects (*20th century*).

1419

Ius Comm V (2017), 47–63: Antoni Stankiewicz: Algunas consideraciones en torno al ejercicio personal y vicario de la potestad judicial con referencia al proceso matrimonial más breve ante el obispo diocesano. (Article)

See below, canon 1683.

1432

Héctor Franceschi – Miguel A. Ortiz (eds.): Ius et Matrimonium II. Temi processuali e sostanziali alla luce del Motu Proprio *Mitis Iudex Dominus Iesus*. (Book)

See below, canons 1671–1691 (article by P. A. Moreno).

1438

RDC 67/1 (2017), 229–238: Claudius Luterbacher: La mise en œuvre du motu proprio *Mitis Iudex Dominus Iesus* dans les Officialités diocésaines de Suisse. (Article)

L. examines the reorganization of second instance tribunals in Switzerland as a result of the changes introduced by *Mitis Iudex*.

1438

RDC 67/1 (2017), 239–246: Roch Pagé: Les conséquences de la mise en œuvre du motu proprio *Mitis Iudex Dominus Iesus* par les tribunaux ecclésiastiques au Canada. (Article)

P. examines the potential impact on Canada's one and only tribunal appeal of the changes introduced by *Mitis Iudex*. For the moment the Canadian Episcopal Conference has decided to retain the status quo, but is considering the options of either a second instance tribunal for each ecclesiastical province, or else an appeal tribunal in each of the geographic regions of the Conference. Since there are very few formal appeals, it is likely that the status quo will remain.

1462

Ius Comm V (2017), 141–156: Romanae Rotae Tribunal: Decreto coram McKay, 25 febrero 2013. Derechos y reparación de daños. Cuestión incidental: excepción de "pleito acabado"; Santiago Panizo Orallo: Comentario al Decreto coram McKay, 25 febrero 2013. (Decree and comment)

The Rota was called upon to decide whether to admit an exception pleaded by its own promoter of justice, to the effect that the matter which the Rota was being asked to consider had in fact already been agreed between the parties (canon 1462 §1). The circumstances were that, under a contract agreed with the Archdiocese of Sydney (the defendant in the case), the petitioner had been employed for a number of years, but at a particular point the terms of the contract were altered by the Archdiocese with the result that the petitioner suffered financial loss. He had presented a claim to the Archdiocese, which had eventually agreed an amount in compensation. The agreement was formalized in a "deed of release", which included a provision ("Clause 6") to the effect that once the deed had been executed, the petitioner would be prevented from taking any further action against the

Archdiocese, whether under canon law or under the civil law. Having received payment, the petitioner subsequently presented a claim for damages to the Roman Rota, arguing that Clause 6 should be set aside as it represented an act of moral coercion, since the petitioner at the time of agreeing to it was in a state of penury and had no other alternative than to sign the deed of release in order to receive the money from the Archdiocese. Consequently the act of signing the deed should be considered invalid as having been obtained through the imposition of fear (cf. canons 124–125). The Rota however considered that the petitioner had in no way proved that he had signed the deed through an unjust intervention on the part of the Archdiocese imposing fear upon him. Nor did the Rota admit a separate argument from the petitioner's advocate that the petitioner was under a psychic disability at the time of signing the deed, the little evidence adduced in this respect being inadequate to allow the conclusion that the petitioner was deprived of the use of intellect and will at the time of signing the deed. Thus the exception pleaded by the promoter of justice was admitted and the case was not allowed to proceed. Commenting on the Rota's decision, P.O. raises the question as to whether the matter should have come to the Rota at all or whether it should more appropriately have been dealt with in the civil forum.

1481–1490

CLSN 190/17, 70–91: Frederick C. Easton: Ecclesiastical Advocacy in Penal and Administrative Cases. (Article)

E. looks at the role of the advocate at the various stages of penal trials, and in extrajudicial processes for applying penalties, administrative processes concerning lack of suitability of a cleric for public ministry, and administrative processes concerning imposed exclaustration. He looks at some of the potential pitfalls of acting as an advocate, and at the question of costs and remuneration. At the end of the article he gives a sample mandate of representation, to be adapted as circumstances require.

1481–1490

IC 57 (2017), 239–276: José María Martí Sánchez: El abogado ante las causas matrimoniales canónicas. Ciertas cuestiones deontológicas. (Article)

Advocates play an important role in the canonical process; and need to act according to certain established ethical standards which guarantee their

commitment to the institutional purpose of the process, that of establishing the truth of the marriage being examined. Loyalty to this purpose is a basic requirement. M.S. looks at the tension arising between the public nature of the process and the need to respect personal privacy.

1481–1490

KIP 6 (19) 2017, nr. 1, 227–247: Katarzyna Komoniewska: Rola pełnomocnika w procesie unieważnienia małżeństwa w prawie polskim i w procesie stwierdzenia nieważności małżeństwa w prawie kanonicznym (*The role of the attorney in the Polish marriage annulment process and in the canonical marriage nullity process*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-15

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

1608

AnCrac 48 (2016), 313–329: Aleksandra Brzemia-Bonarek: Metody odkrycia prawdy procesowej przez sędziego w kanonicznym procesie małżeńskim (*The methods by which a judge arrives at the truth in the matrimonial nullity process*). (Article)

http://dx.doi.org/10.15633/acr.2029

B. focuses on the main aim of the matrimonial nullity process which is that of arriving at the objective truth. She describes the criteria for attaining such truth: the free assessment of evidence, objectivity, and moral certitude. She stresses the role of the judge in searching for justice. She also sets out some characteristics and attitudes that may assist the judge in this task but may also – in some circumstances – be a hindrance to objectivity. No reasons of a "pastoral" nature should impair the moral and legal requirement of achieving the material truth in the canonical matrimonial process. This is reflected in the Code of Canon Law in the fundamental principle of *salus animarum*.

1628–1640

Ius Comm V (2017), 65–87: Grzegorz Erlebach: Algunas cuestiones sobre la apelación en las causas de nulidad matrimonial. (Article)

See below, canon 1680.

1671–1691

CLSN 190/17, 56–69: Sebastijan Valentan: Searching for Truth in the Marriage Nullity Process. (Article)

Marriage nullity causes are influenced by many factors. Although the judge who must decide the matter has the greatest responsibility, his final decision is still shaped by the defender of the bond, the parties and their witnesses, as well as advocates and others who participate in the process. The most important aim of the process is to arrive at the truth, even though this may not always result in the outcome desired by the parties. The precise, careful and conscientious work of everyone involved in the ecclesiastical tribunal will contribute to the perception of the Church as a guarantor of truth and love.

1671–1691

CLSN 190/17, 92–103: Vincent Pereira: *Episcopus*, *Parochus*, *Christifideles* and then some in *Mitis Iudex Dominus Iesus*. (Article)

P. looks at the responsibilities of the bishop-judge in *Mitis Iudex*, the duties of the *parochus*, especially in relation to the pre-judicial or pastoral enquiry, the role of the Christian faithful in continuing to uphold the Church's Magisterium concerning the sacrament of matrimony with all its goods (*bona sacramenti, fidei, prolis et coniugum*), and the invitation to those in complicated circumstances to approach their pastor or tribunal to seek the truth of their irregular marriage situation.

1671–1691

IC 57 (2017), 9–44: Gerardo Núñez González: La fase preliminar del nuevo proceso de nulidad. (Article)

As part of the reform of the marriage nullity process in *Mitis Iudex* the Pope has ordered the establishment of a diocesan pastoral service to help the faithful who experience difficulties in their marriage. There are many aspects to this pastoral service, depending on the circumstances of the faithful concerned: offering spiritual accompaniment; mediating in situations of marital crisis; validating the marriage if possible; advising spouses as the feasibility of a marriage nullity process. The structure and staff of this service will vary from diocese to diocese, and episcopal conferences are encouraged to draw up a handbook or vademecum to ensure unified pastoral care.

1671–1691

IC 57 (2017), 83–104: Paolo Bianchi: Il servizio alla verità nel processo matrimoniale. (Article)

The truth which is sought in the canonical marriage process can be understood in different ways: factual truth (the reality of the events being presented for judicial examination); the doctrinal truth which needs to be respected in the decision; juridical truth, which contextualizes the marriage in terms of the canonical discipline; and finally, truth oriented towards the salvation of souls. The pursuit of truth has been a recurring theme in the papal addresses to the Roman Rota, from Pius XII to Francis, and it is set out once more in *Mitis Iudex*, which is characterized by the pursuit of and service to the truth. Various elements of the process are designed to facilitate this quest for the truth: the respective positions of the petitioner and the defendant; the primacy of *favor veritatis* over both *favor personae* and *favor matrimonii*; the fundamental importance of moral certainty in the canonical process; and the recognition of the probative value of the statements of the parties, made use of in a prudent and balanced way.

1671–1691

RDC 67/1 (2017), 93–106: Roland Minnerath: Les références doctrinales dans le motu proprio *Mitis Iudex Dominus Iesus*. (Article)

According to M., Archbishop of Dijon, *Mitis Iudex* makes use of a number of biblical quotations and teachings from Vatican II whose relationship with the topic is somewhat tenuous. Concepts such as collegiality and synodality are also treated, he says, in an inaccurate fashion. The motu proprio adopts the stance that those seeking a declaration of nullity are the victims of the present system of administration of justice, while the judicial personnel are called to a significant conversion. It is true, he says, that the Church should show herself to be a loving and merciful mother, but not to the point of risking becoming negligent in the search for the truth of the matrimonial bond which she is being called upon to declare non-existent.

1671–1691

RDC 67/1 (2017), 107–119: Patrick Hubert: «*Ad certitudinem moralem iure necessariam…*». La question des preuves à la lumière du motu proprio *Mitis Iudex Dominus Iesus*. (Article)

H. looks at the innovations of *Mitis Iudex* regarding proofs, in the context of the principles of the free evaluation of evidence and of moral certitude. He looks at such innovations at the introductory phase, the instruction of the case and the decision stage, pointing out certain dangers in respect of the briefer process before the bishop.

1671–1691

RDC 67/1 (2017), 151–170: Alphonse Ky-Zerbo: Quel rôle pour les Conférences épiscopales dans la mise en œuvre du motu proprio *Mitis Iudex Dominus Iesus*? (Article)

Number IV of the Fundamental Criteria guiding the reform of the canonical process for the declaration of nullity of marriage attributes a specific role to episcopal conferences. But over and above that role they will need to adhere to the spirit of the reform. They are called upon to enact the reform within their own territory in accordance with the new tasks assigned to them, such as the setting up of the elements of the pre-judicial inquiry, the drawing up of guidelines, and the ongoing formation of the tribunal members, as well as initiatives corresponding to their status as an intermediate level of Church organization.

1671–1691

RDC 67/1 (2017), 171–187: Anne Bamberg: Justice, vérité et miséricorde au risque du mensonge. (Article)

B. begins with an outline of the study of lying: within doctrine, the CIC/83 and the jurisprudence of the Roman Rota. She then sets out various problems which, following the recent reform, favour resorting to the use of lies, especially during the pre-judicial inquiry or in anticipation of the briefer procedure before the bishop. It is necessary to be aware of all the possible obstacles to the search for truth.

1671–1691

RDC 67/1 (2017), 247–267: Yacob Yoda: Le motu proprio *Mitis Iudex Dominus Iesus*, une solution pour les tribunaux ecclésiastiques en Afrique? L'expérience du Burkina Faso. (Article)

The new norms in *Mitis Iudex* seem at first sight to provide an answer to an urgent need for ecclesiastical tribunals. However, they will be welcomed in accordance with the tangible needs of the local Churches. There is a great diversity of situations from one Church to another. In the case of Burkina Faso, and probably other local Churches in Africa, the motu proprio will only achieve its goal if the structures required for implementing the reform are appropriately set up.

1671–1691

Héctor Franceschi – Miguel A. Ortiz (eds.): Ius et Matrimonium II. Temi processuali e sostanziali alla luce del Motu Proprio *Mitis Iudex Dominus Iesus*. (Book)

This book contains the proceedings of a conference organized by the Faculty of Canon Law of the Pontifical University of the Holy Cross, Rome, in September 2016. It focuses on the novelties relative to the marriage nullity process introduced by *Mitis Iudex*, and attempts to provide answers to various questions that have arisen in connection with the new procedures. The contributors are Dominique Mamberti (criteria and attitudes for interpreting the new law), Joaquín Llobell (reasons for *Mitis Iudex* and its insertion into the system of canonical sources), Marino Mosconi (phase prior to the introduction of the *libellus*), Carlos Morán Bustos (organizational and operating criteria for tribunals and those working in them), Pedro A. Moreno (role of the defender of the bond), Miguel A. Ortiz (declarations of the parties and their evidential value), Adolfo Zambon (evaluation of the proofs), Carmen Peña García (the appeal), Paolo Bianchi (criteria for accepting the *processus brevior*), Felipe Heredia (instruction of and decision in the *processus brevior*), Marta Brancatisano Manzi (preparation for the sacrament of marriage), Giacomo Bertolini (doctrine and jurisprudence on the relationship between sacramental and matrimonial intention), and Héctor Franceschi (the *bonum coniugum* from the perspective of simulation and incapacity). (For bibliographical details see below, Books Received.)

1673

Canonist 8/1 (2017), 124–134: Marcus Francis: What is the Potential for Collegial and Sole Lay Judges on Ecclesiastical Tribunals? (Article)

F. argues that the reason why the legislator does not allow sole lay judges on ecclesiastical tribunals, or collegial tribunals consisting of lay persons alone, goes beyond the merely practical or political and is to be found in the nature of the Church herself. To allow these possibilities would run contrary to the constitution of the Church and would undermine the complementarity of the lay and ordained states of life, which are of divine institution. He stresses the essentially ecclesial and ultimately sacramental nature of Church governance and tribunals which reflect the structure of the Church as a whole.

1679–1682

RDC 67/1 (2017), 139–149: Henri Moreau: La sentence unique exécutoire en faveur de la nullité et les modalités d'appel à la lumière du motu proprio *Mitis Iudex Dominus Iesus*. (Article)

The function of the defender of the bond and the double conforming sentence in declarations of nullity did not exist at the *Officialité de Paris* – the Parisian diocesan marriage tribunal – until 1918. After the Second Vatican Council, the CIC/83 lightened the procedure and allowed the second instance tribunal to issue a simple decree of confirmation. Pope Francis has now made the first instance sentence executive, while retaining the former possibilities of appeal, including an appeal to the Roman Rota.

1680

Ius Comm V (2017), 65–87: Grzegorz Erlebach: Algunas cuestiones sobre la apelación en las causas de nulidad matrimonial. (Article)

After *Mitis Iudex* it might appear that the institute of the appeal in matrimonial nullity cases remains the same as in the former legislation. However, the new norms present some interesting new aspects. A number of these points are well founded in the canonical tradition, while others alter some of the elements of the right of appeal. This calls for further reflection and clarification, particularly in the area of judicial praxis.

1683

Ius Comm V (2017), 47–63: Antoni Stankiewicz: Algunas consideraciones en torno al ejercicio personal y vicario de la potestad judicial con referencia al proceso matrimonial más breve ante el obispo diocesano. (Article)

What guides the canonical process is the search for truth. For that reason an unjust sentence never constitutes a true pastoral solution, given that God's judgement on the life of the faithful is what counts for eternity. In that context, the motu proprio *Mitis Iudex* has restored the personal exercise of the diocesan bishop's judicial power in the *processus brevior*. S., Emeritus Dean of the Roman Rota, looks at the relationship between the norms of the CIC/83 on proper and vicarious exercise of judicial power and the teachings of Vatican II; the limitation on the vicarious exercise of the judicial power in the briefer process before the diocesan bishop; and the historical precedents for the personal and monocratic exercise of judicial power on the part of the diocesan bishop.

1683–1687

IC 57 (2017), 45–81: Juan Ignacio Bañares: El artículo 14 de las reglas de procedimiento del M. P. *Mitis Iudex*. Supuestos de hecho y causas de nulidad. (Article)

The new canons 1683–1687 established by *Mitis Iudex* foresee the possibility of a briefer matrimonial process before the bishop for certain causes of nullity relating to defects or lack of matrimonial consent, subject to specified conditions. Article 14 of the Rules of Procedure includes a list of situations in which those conditions may be present. The subsequent *Subsidium applicativum* from the Dean of the Rota to the bishops offers further elaboration of this. B.'s article starts out from the *ius connubii*, which provides meaning to the entire canonical law of marriage, and offers an analysis of each of the cases referred to in Article 14 of the Rules from a substantive viewpoint: that is, the good protected by the corresponding cause of nullity and the criteria for assessing the gravity of the harm that may be produced in each case.

1683–1687

Ius Comm V (2017), 89–114: José Luis López Zubillaga: El nuevo proceso más breve ante el obispo. (Article)

The briefer process under *Mitis Iudex* reminds us that the ordinary process should also be brief, and therefore this one should be even briefer. The possibility of the diocesan bishop judging some cases is not an innovation in itself. In the early Church the judicial power came within the bishop's function of vigilance. The power has its roots in the Gospel itself. Later, in recent times, this possibility was discouraged because the presence of the bishop in matrimonial processes – especially those of a contentious nature – could undermine his pastoral authority.

1683–1687

KIP 6 (19) 2017, nr. 1, 195–208: Agnieszka Freliszka: Proces skrócony według motu proprio *Mitis Iudex Dominus Iesus* (*The briefer process in the motu proprio "Mitis Iudex Dominus Iesus"*). (Article)

http://dx.doi.org/10.18290/kip.2017.6.1-13

F. sets out the main factors to be taken into account in determining whether a particular case should be dealt with according to the new briefer process introduced by *Mitis Iudex*.

1683–1687

RDC 67/1 (2017), 121–138: Engelbert Frank: Juger ou faire juger: l'Évêque diocésain juge dans le procès plus bref et le nouveau rôle du Vicaire judiciaire à la lumière du motu proprio *Mitis Iudex Dominus Iesus*. (Article)

F. sets out to show that while *Mitis Iudex* clearly wishes to emphasize the role of the bishop, this nevertheless remains symbolic, while the role in fact emphasized is that of the judicial vicar. Looking at the way in which the briefer process is conducted, he asks whether the emphasis on the judicial vicar's power indirectly (and not only symbolically) emphasizes the bishop's judicial power. The answer depends on how the judicial vicar's power – which is ordinary vicarious power – is perceived. If what is done by the judicial vicar is considered as done by the bishop, it should also be possible for the bishop's power in the briefer process to be delegated to the judicial vicar.

1683–1687

RDC 67/1 (2017), 219–227: Raphaël Willot: Premiers procès plus brefs dans les diocèses de l'Officialité de Lille. (Article)

W. looks at the activity of the diocese of Lille in relation to nullity cases involving the briefer process, commenting that while the part played by the judicial vicar is crucial, so too is that of the defender of the bond, who not only defends the matrimonial bond, but also watches over the procedure so that it constitutes a true judicial process.

1713–1715

Ius Comm V (2017), 141–156: Romanae Rotae Tribunal: Decreto coram McKay, 25 febrero 2013. Derechos y reparación de daños. Cuestión incidental: excepción de "pleito acabado"; Santiago Panizo Orallo: Comentario al Decreto coram McKay, 25 febrero 2013. (Decree and comment)

See above, canon 1462.

1717–1720

IC 57 (2017), 323–385: Jorge Miras: Guía para el procedimiento administrativo canónico en materia penal. (Document)

The first part of this guide summarizes some basic concepts and elements of penal canon law. The second illustrates one possible way of proceeding administratively in penal matters. The appendix offers an outline of some possible singular decrees, prior to the procedure of imposing a penalty.

1717–1720

REDC 74 (2017), 217–236: Raúl Ramón Sánchez: La investigación previa al proceso penal canónico y la defensa del acusado. (Article)

The preliminary investigation of the canonical penal process involves some delicate aspects, as the actions it involves may affect the fundamental rights of the person under investigation. The means that the party concerned should know from the first moment what the accusation is, and from that moment he should be given the opportunity to defend himself.

1717–1731

Canonist 8/1 (2017), 94–109: Brendan Daly: Removal of the Faculties of a Priest by a Diocesan Bishop. (Article)

A faculty granted to a priest is an authorization by an ecclesiastical authority, usually a bishop, enabling him to participate in the ecclesiastical power of teaching, sanctifying or governing for the good of the faithful. D. looks at the importance of faculties to minister; the distinction between diocesan and religious priests receiving or losing faculties; reasons for withdrawing faculties of priests; the question of administrative leave or removal of faculties; the process for removal of faculties; and the capacity of priests to function without faculties. He then looks at some particular cases in Canada and Australia. He concludes that when it is necessary to remove the faculties of a priest, this cannot be done in an arbitrary manner. The promoter of justice is to be involved. There must be a proper canonical investigation and due process. The right of the priest to a good reputation must be upheld. There must be a proper preliminary investigation to establish the facts and the correct procedures for either an administrative or a judicial process.

1717–1731

SC 51 (2017), 55–87: Brian T. Austin: Due Process of Law and the USCCB Essential Norms. (Article)

See above, canon 455.

1732–1739

ADC 6 (abril 2017), 15–48: Francisco J. Zamora–García: Resolución del recurso jerárquico. (Article)

Hierarchical recourse is one of the two methods of administrative safeguarding provided for in canon law, and consists in challenging an administrative act before the hierarchical superior of the authority which placed the act, the matter thereby remaining within the realm of administrative procedures. Wide-ranging powers are granted to the competent superior to resolve the recourse: these may take the form of confirming, declaring null, rescinding, revoking, correcting, replacing, abrogating or amending the original act.

1740–1747

Ius VII 2/16, 231–257: Johnson Kovoorputhenpurayil: The Right of Defence in the Administrative Process of the Removal of a Parish Priest. Part II: Recourse against the Decree of Removal and Resolution of the Recourse. (Article)

See above, CCEO canons 1389–1396.

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
- Irish Theological Quarterly
- Ius Canonicum
- Ius Communionis
- 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
- Revista Española de Derecho Canónico
- Revista Mexicana de Derecho Canónico
- Revue de Droit Canonique
- Revue Théologique de Louvain
- 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

ACR	Australasian Catholic Record, New South Wales – V. Rev. Ian B. Waters, Melbourne.
ADC	Anuario de Derecho Canónico, Valencia – Abstracts supplied by publisher.
AnCrac	Analecta Cracoviensia, Krakow – Abstracts supplied by publisher.
Ap	Apollinaris, Rome – Abstracts supplied by publisher.
BV	Bogoslovni vestnik, Ljubljana – Abstracts supplied by publisher.
Canonist	The Canonist, Journal of the Canon Law Society of Australia and New Zealand, Sydney – Editor.
Cla n.s.	Claretianum ITVC, new series, Rome – Abstracts supplied by publisher.
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.
IC	Ius Canonicum, Pamplona – Abstracts supplied by publisher.
IE	Ius Ecclesiae, Pisa–Rome – Abstracts supplied by publisher.
ITQ	Irish Theological Quarterly, Pontifical University, Maynooth – 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.
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.
NRT	Nouvelle revue théologique, Brussels – Abstracts supplied by publisher.
PCH	The Person and the Challenges, Krakow – Abstracts supplied by publisher.
PS	Philippiniana Sacra, Manila – Abstracts supplied by publisher.
QDE	Quaderni di Diritto Ecclesiale, Milan – Fr Luke Beckett OSB, Ampleforth, York.
RDC	Revue de Droit Canonique, Strasbourg – Abstracts supplied by publisher.
REDC	Revista Española de Derecho Canónico, Salamanca – Abstracts supplied by publisher.
S	Salesianum, Rome – Abstracts supplied by publisher.
SC	Studia Canonica, Ottawa – Abstracts supplied by publisher.
Verg	Revista de Investigación de la Cátedra Internacional conjunta Inocencio III: Universidad Católica San Antonio de Murcia – Abstracts supplied by publisher.

ENGLISH-LANGUAGE BOOKS REVIEWED IN THE ABOVE PERIODICALS

- Cathy CARIDI, *Making Martyrs East and West, Canonization in the Catholic and Russian Orthodox Churches*, Dekalb, IL, Northern Illinois University Press, 2015, 224pp., ISBN 978-0-87580-495-8 (*reviewed by Patrick Cogan, SC 51 [2017], 299-300*)
- José GRANADOS – Stephan KAMPOWSKI – Juan José PÉREZ-SOBA: *"Amoris Laetitia": accompagnare, discernere, integrare. Vademecum per una pastorale familiare*, Cantagalli, Siena, 2016, 174pp., ISBN 88-6879-442-X [available in English as *Accompanying, Discerning, Integrating. A Handbook for the Pastoral Care of the Family According to "Amoris Laetitia"*, Emmaus Road, Steubenville, 2017, 122pp., ISBN 978-1-945125-36-2] (*reviewed by Giovanni Parise in IE XXIX [2017], 249–254*)
- Rob MEENS, *Penance in Medieval Europe. 600–1200*, Cambridge University Press, 2014, x + 282pp., ISBN 978-0-521-69311-0 (*reviewed by Joaquín Sedano, IC 57 [2017], 474–477*)
- Mathew John PUTHENPARAMBIL: *Role of the Laity in the Diocesan Curia: A Comparative Study of the Latin and the Eastern Codes*, Dharmaram Canonical Studies 13, Bangalore, 2015, xvi + 337pp. (*reviewed by Zabrina R. Decker, J 76 [2016], 603–604*)
- Lucy VICKERS: *Religious Discrimination and the Workplace,* 2nd ed., Hart Publishing, Oxford and Portland, 2016, 282pp, ISBN 978-1-84946-636-3 (*reviewed by Peter Smith, LJ 178 [2017], 105–108*)

BOOKS RECEIVED

- Carlos J. ERRÁZURIZ M.: *Corso fondamentale sul diritto della Chiesa. II: I beni giuridici ecclesiali. La dichiarazione e la tutela dei diritti nella Chiesa. I rapporti tra la Chiesa e la società civile*, Giuffrè, Milan, 2017, xii + 734pp., ISBN 978-88-14-22120-0 [see above, General Subjects (*General introductions to canon law*)]
- Héctor FRANCESCHI – Miguel A. ORTIZ (eds.): *Ius et Matrimonium II. Temi processuali e sostanziali alla luce del Motu Proprio "Mitis Iudex Dominus Iesus"*, Pontificia Università della Santa Croce, Facoltà di Diritto Canonico, Rome, 2017, 512pp., ISBN 978-88-8333-656-0 [see above, canons 1671–1691]
- PAWEŁ KALETA: *Legal Aspects of the Management of Church Property*, Wydawnictwo KUL (John Paul II Catholic University of Lublin, Faculty of Law, Canon Law and Administration), 2017, 204pp., ISBN 978-83-8061-403-1 [see above, canons 1273–1289]
- Miguel Ángel TORRES-DULCE: *Cánones y leyes de la Iglesia. Nociones de Derecho Canónico*, Pelicano, Madrid, 2017, 685pp., ISBN 978-84-9061-593-5 [see above, General Subjects (*General introductions to canon law*)]