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

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## GENERAL SUBJECTS

### *Comparative law*

**AnC 14 (2018), 87-122: Piotr Skonieczny: Zamieszkanie w prawie kanonicznym. Założenia i ewolucja koncepcji (*Domicile in canon law. Principles and evolution of the concept*). (Article)**

See below, canons 100-107.

**AnCrac 49 (2017), 371-387: Urszula Miernik: Rozwód w prawie Polskiego Autokefalicznego Kościoła Prawosławnego: ewolucja instytucji w XX wieku (*Divorce in the law of the Orthodox Church in Poland: evolution of the institution during the 20th century*). (Article)**

Christian religions differ significantly in their approach to the termination of marriage by means of divorce. The Orthodox Church, though accepting the sacramental character of marriage, allows divorce and remarriage. M. discusses the internal statutes of the Polish Autocephalous Orthodox Church regulating the termination of marriage.

**Ap LXXXX (2017), 525-562: Andrea Zappulla: Le Cause incidentali nel Processo civile ordinario e nel Processo canonico: elementi comparatistici. (Article)**

See below, canons 1587-1591.

**KIP 7 (20) 2018, nr. 2, 173-190: Natalia Grochowska: Pojęcie świadka w kanonicznym i polskim postępowaniu karnym (*The definition of witness in canonical criminal procedure and Polish criminal procedure*). (Article)**

See below, canons 1547-1573.

**RMDC 22/1 (2016), 190-203: PP. Francisco: Carta Apostólica en forma de motu proprio *De concordia inter Codices*, del 31 de mayo de 2016. (Document)**

Italian text and unofficial Spanish translation of the Pope's motu proprio addressing various discrepancies between the provisions of the CIC/83 and

the CCEO (see *Canon Law Abstracts*, nos. 118, pp. 2-3, 32-33; 119, p. 2; 120, pp. 2-5).

**SC 52 (2018), 319-329: Phillip J. Brown: The Right of Defense and Due Process: *Fulcrum of Justice, Heart of the Law.* (Article)**

B. explores the similarities between the concept of the “right of defence” in canon law and “due process” in the Anglo-American legal tradition, proposing that the essential elements and purposes of the two are essentially the same. He proposes further that they represent the fulcrum upon which the scales of justice function and are the heart of the law, because it is only through assiduous application of the procedures required by the right of defence and due process that just results can be achieved.

**SC 52 (2018), 331-374: Daniel Camirand: Le secret des délibérations du jury et du conclave. (Article)**

Writing from the perspective of comparative law, C. draws on the history of the institution of the jury and that of the conclave, two institutions born around the 13th century, in the wake of the Gregorian reform. He is particularly interested in the development and content of the norms relating to the secrecy of jurors and voters, the *incommunicado* and the perpetual secrecy of deliberations. The similarity of the norms is due to the fact that, in both institutions, they play a similar role. Secrecy is closely linked to the quality of the deliberations, the preservation of the final character of the decision taken, the protection against outside interference, and the personal protection of jurors and cardinal electors. Although fundamental, the secret poses certain challenges, in this era of information and the multiplication of communication networks.

**SPW 21 (2008), 123-140: Marek Bielecki: Status osoby duchownej w związku wyznaniowym “Świadkowie Jehowy w Polsce” (*The status of a minister in the religious organization of Jehovah’s Witnesses in Poland*). (Article)**

Jehovah’s Witnesses are the third largest religious organization in Poland, with almost 120,000 members. The doctrine of Jehovah’s Witnesses has undergone a major change regarding the status of ministers: from complete negation to the introduction of structures of ministers. B. sets out the

evolution and current situation of the internal law of the organization in this regard.

**SPW 21 (2008), 141-155: Agnieszka Filak: Charakter prawny służby duchownego w Kościele Ewangelicko-Augsburskim w Rzeczypospolitej Polskiej (*The legal character of the ministry of the clergy in the Evangelical-Augsburg Church in the Republic of Poland*).** (Article)

F. examines the legal character of the ministry of clergy in the Evangelical Church of the Augsburg Confession in the Republic of Poland. The Lutheran Church recognizes one office with the threefold order of ministry: bishop, presbyter, and deacon. The ecclesiastical office is not hierarchical – all orders of the ecclesiastical office are equal, although they do differ in terms of duties. What unites them is their shared authority to exercise the Power of the Keys, and thus to forgive or retain sins, proclaim the Gospel, and administer the sacraments. Ordination is not sacramental in character. The law of the Church specifies the terms and conditions of ordination, and the rights and duties of clergy, as well as the rules for appointment to or removal from office.

**SPW 21 (2008), 157-181: Marek Strzala: Prawo odmowy zeznań przez duchownego w polskiej i niemieckiej procedurze cywilnej – analiza prawno-porównawcza (*The right of a cleric to refuse to testify in the Polish and German civil procedure – a legal comparative study*).** (Article)

S. presents the regulations of the German *Zivilprozessordnung* concerning a cleric's right to refuse to give testimony, and compares them with the current provisions of the Polish Code of Civil Procedure.

### ***Compilations***

**Jesu Pudumai Doss (ed.): *Iustitiam perseguere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica.*** (Book)

See below, Historical Subjects (*1917 Code*).

## ***Ecclesiology***

### **ACR XCV 4/18, 412-423: Elissa Roper: Synodality – A Process Committed to Transformation. (Article)**

This is not a canonical article drawing on canonical documentation; it examines synodality, a process fostered by Pope Francis. R. sees synodality as a breakthrough into fuller self-understanding and self-appropriation, and as an opening into transformation of the entire Church. She argues that the key elements of a synodal Church (journeying, bridgebuilding and responsibility) lead to transformation. Journeying leads to corporate living – including conversing, listening and observing. R. notes recent examples in the Church of effective synodality aided by leadership, creativity and communication; and sees this as a hard path.

### **EIC 58 (2018), 461-478: Carlo Fantappiè: Chiesa e sinodalità: per un confronto con Eugenio Corecco. (Article)**

F. reviews the thought of Eugenio Corecco on synodality. After examining Corecco's position on the reception of conciliar ecclesiology in the CIC/83, he offers insights and inputs on the theme of synodality in the Church.

### **FCan XII/2 (2017), 81-84: Papa Francisco: No Centenário do Código de 1917; Miguel Falcão: Comentário. (Message and comment)**

See below, Historical Subjects (*1917 Code*).

### **NRT 140 (2018), 554-571: Luc Forestier – Dominique Waymel: Les laïcs dans l'Église aujourd'hui: Benoît ou François? (Article)**

The publication in 2016 of an important letter addressed to Cardinal Marc Ouellet, in his role as President of the Pontifical Commission for Latin America, has revived the debate about the place of the laity in the life of the Church. Some commentators have sought to set Benedict XVI and Francis in opposition to each other. In reality, against any alleged implication of "clericalism", the two Popes strongly endorse the initiative of lay people. Nevertheless, a nuance between them comes to light on the question of synodality and the relationship to the world, which can be illustrated by what Francis has insisted on in Europe.

**REDC 75 (2018), 709-712: Francisco José Campos Martínez: Comisión Teológica Internacional. La sinodalidad en la vida y la misión de la Iglesia, 2.03.2018. (Comment)**

C.M. comments on the International Theological Commission's document *Synodality in the life and mission of the Church*, which explores the theological meaning of synodality along the lines of Catholic ecclesiology, suggests pastoral orientations at both local and universal levels, and refers to spiritual and pastoral conversion and the communal and apostolic discernment that are necessary for an authentic synodal experience of Church.

**Verg 7 (2018), 279-297: Émile Kouveglo: La sinodalidad en la actualidad, a la luz del Concilio Vaticano II. (Article)**

K. argues that synodality, as a constitutive dimension of the Church, must be expressed in its *modus vivendi* and *modus agendi*. Synodality should permeate all ecclesial institutions, even those that participate in continuous daily discernment. Pope Francis has also perceived this need and insists that the whole Church must allow itself to be increasingly configured as a synodal Church in order to respond effectively to its missionary vocation.

***Ecumenism and interreligious dialogue***

**ELJ 20 (2018), 290-304: Frank Cranmer: The Statement of Principles of Christian Law: A Quaker Perspective. (Article)**

An ecumenical group of experts in Church law produced a *Statement of Principles of Christian Law* based on a comparative examination of the internal regulations of their respective Churches. C. examines the detail of the Statement from the point of view of the regulations and practice of Quakers in Britain, and concludes that, based as it is on a Trinitarian, sacramental view of "the Church", while there is much in it with which Friends – and members of other non-sacramental, non-hierarchical denominations – would agree, there is also much which has little resonance for them.



## ***Human rights***

**IC 58/116 (2018), 671-708: Jorge Salinas Mengual: Protección de datos: entre el derecho a la intimidad y la autonomía de las confesiones religiosas. El caso finlandés y el español (a propósito de la Sentencia Jehovan Todistajat del TJUE).** (Article)

A recent judgment issued by the Court of Justice of the European Union (Grand Chamber) marks a jurisprudential shift with regard to the right to privacy, via the protection of personal data, and the autonomy of religious confessions. S.M. analyses the content of the judgment and the relationship between the two rights, and explores new European legislation regarding the protection of personal data. He offers a comparative account of the assumption implicit in the Court decision in relation to parish baptismal records in Catholic churches in Spain.

**LJ 181 (2018), 156-170: Andrew Hambler: Cake, Compelled Speech, and a Modest Step Forward for Religious Liberty: the Supreme Court Decision in *Lee v Ashers*.** (Article)

H. considers the importance of the UK Supreme Court judgment in *Lee v Ashers Baking Company Ltd and others* (2018) from a religious liberty perspective, and in the context of a series of recent cases where religious claims have often been defeated. He concludes that the decision – upholding the right of a Christian bakery to refuse to bake a cake supporting same-sex marriage – is an important and welcome one, but that its impact on religious discrimination law should not be overstated. (For previous lower instance decisions in the case see *Canon Law Abstracts*, no. 118, p. 9.)

**LJ 181 (2018), 227-262: Frank Cranmer – David Pocklington: Casebook.** (Compilation)

Notes are given for various cases on a range of human rights issues decided in 2017 and 2018 by the European and United Kingdom courts.

*General Subjects (Human rights / Law reform / Legal theory)*

**RMDC 23/2 (2017), 269-284: Luis de Jesús Hernández M.: ¿Reconocimiento o concesión de los derechos humanos? A 70 años de la Declaración Universal.** (Article)

H. points out that natural law has not always been taken as the starting point and end point in the recognition and protection of fundamental human rights, and that juridical positivism and voluntarism have been an obstacle to achieving those ends.

### ***Law reform***

**Canonist 9/2 (2018), 125-139: Brendan Daly: Changing Canon Law to include Sexual Abuse of a Minor as an Irregularity.** (Article)

See below, canons 1040-1049.

**AnC 14 (2018), 183-202: Jan Dohnalik: Forma kanoniczna zawierania małżeństwa – spojrzenie historyczne i postulat reformy (*Canonical form of marriage – historical perspective and proposal for reform*).** (Article)

See below, canons 1108-1118.

### ***Legal theory***

**Ap LXXXX (2017), 463-499: Paolo Gherrì: La Teologia del Diritto canonico a quindici anni dalla sua nascita: *status quaestionis* dal punto di vista epistemologico.** (Article)

Fifteen years after the emergence of “Theology of Canon Law” as an academic discipline (following the reform of canonical studies introduced in September 2002 by the Decree *Novo Codice*), G. sets out the *status quaestionis* and considers the direction in which the discipline should develop. He refers to the various different approaches to the subject which have been adopted to date.

**EIC 58 (2018), 513-532: Andrea Favaro: La Prudenza del Giurista e la Natura del Diritto.** (Article)

F. examines the link between law, understood in its intrinsic nature as *res iusta*, and juridical science as the interpreter of “what is right”. He offers a possible approach to this complex topic, underscoring the prudential role of the jurist in interpreting and applying the law.

**IC 58/116 (2018), 635-670: Javier Otaduy Guérin: Unidad y pluralidad en la Iglesia. El pluralismo carismático.** (Article)

The term “plurality” (variety, multiplicity) is often more apt than that of “pluralism” to describe the doctrinal and liturgical diversity within the Church. But in certain ecclesiological dimensions there is true pluralism, such as the pluralism of the lay faithful in temporal affairs, or charismatic pluralism. Charismatic pluralism has been the focus of considerable academic and pastoral attention since the Second Vatican Council. At the same time, however, the concept of charism has become broader, more fluid and more difficult to define. With regard to the complementary (never antagonistic) relationship between charism and institution, the function of canon law is, first, to foster spaces of freedom to exercise charisms; second, to establish rules and regulations governing reasonable practices in this regard; and finally, to distinguish between authentic charisms and fabricated movements.

**Per 107 (2018), 445-464: Stefano Guarinelli: La centralità dei confini psichici e della loro vulnerabilità nella diagnosi e nella terapia.** (Presentation)

On 9 November 2017, a Study Day was organized by the Canon Law Faculty and the Institute of Psychology of the Pontifical Gregorian University around the theme “*The Church between a commitment to transparency and protection of confidentiality*”. In his presentation, G., a psychologist and psychotherapist, addresses the delicate topic of psychological boundaries and their vulnerability. He begins by considering some matters regarding professional confidentiality in accordance with Italian law; he then moves to consider some psychological problems which, paradoxically, can arise from or be exacerbated by adherence to the law.

**Per 107 (2018), 465-492: Ulrich Rhode: Trasparenza e segreto nel diritto canonico.** (Presentation)

See preceding entry. R.'s presentation is composed of two major sections. In the first he looks at the concept, juridical norms and practice of confidentiality in canon law, devoting particular attention to the "Secret of the Holy Office" – later the "Pontifical Secret". In the second he presents the concept and norms relating to transparency in canon law – a much more recent explicit concern. In a brief conclusion, he indicates possible conflicts between the need for confidentiality and the desire for transparency.

**Per 107 (2018), 537-543: G. Paolo Montini: La Chiesa tra l'impegno per la trasparenza e la tutela del segreto. Alcune conclusioni al termine della Giornata di Studio.** (Presentation)

See preceding entries. M. seeks to highlight the principal insights gained from the papers presented at the Study Day.

**QDE 31 (2018), 264-278: G. Paolo Montini: Il diritto disciplinare canonico.** (Article)

M. looks at why disciplinary law has been neglected, and distinguishes it from penal law and administrative law. He offers a positive definition, seeing it as connected with the exercise of office in the Church, to deal with failures by office holders. He argues that a code of duties, a list of sanctions and a specified procedure are useful but not necessary for such law. He surveys existing examples of disciplinary law, such as the *Regolamento* of the Roman Curia, and argues that these can serve as a model for other disciplinary processes. However, a more comprehensive and universal regulation is desirable.

**QDE 31 (2018), 279-319: Paolo Bianchi: Diritto disciplinare e amministrazione della giustizia canonica.** (Article)

See below, canons 1446-1475.

**RMDC 24/1 (2018), 39-77: Marco Antonio Hernández H.: Una aproximación al derecho natural y algunos aspectos basilares desde la filosofía del derecho. (Article)**

H. argues for the need of the recovery of the great natural law tradition, especially in an era of illusory and inconsistent theories such as the present.

**Verg 7 (2018), 19-44: Manuel Jesús Arroba Conde: Progreso y cultura procesal en la justicia eclesiástica. (Article)**

The legal system of the Church is born and develops in a relationship of meeting, rarely of confrontation and more often of dialogue and mutual complementarity with regard to the past and present legal systems. A.C. highlights the dynamics of interaction between canon law and civil law in procedural matters, with particular emphasis on the way in which the law of the Church has been able to embrace institutions that already existed in the civil legal systems, but has also been able to regulate them in an original way in order to remain faithful to the ecclesiastical mission. He addresses three themes: the use of the procedural institution for resolving controversies arising in the community according to justice; the evidence system; and the obligation of giving reasons for judgments.

**Verg 7 (2018), 151-169: Elena Di Bernardo: La natura contrattuale della *litiscontestatio* classica e la teoria del contratto giudiziario. Gli albori della concezione pubblicistica del processo e della funzione sociale della giustizia. (Article)**

The theory of “judicial contract”, which prevailed until the beginning of the 19th century in most European court systems and in canon law, characterizes trials as an agreement whereby the parties submit their conflict to the judge and settle it by accepting his solution. This theory arose from the allegedly contractual nature of Roman *litiscontestatio*, which was based upon various particular interpretations by scholars who glossed and commented upon a famous passage by Ulpian-Marcellus-Papinian found in the Digest. The misunderstanding convinced medieval and early modern scholars to conceive of the trial as being governed by a conventional element, thus characterizing it as a private matter between parties. Such conception was rendered obsolete by the rise of two theories: that of the legal “action”, and that of procedural relationship. By stressing the crucial role the public judicial body plays in bringing about justice, the State’s interest in how litigation is administered was stressed at the beginning of the

20th century. In this way the modern concept of jurisdiction was born, as was the trial's public social role.

**Verg 7 (2018), 267-278: Antonio Iaccarino: Il processo quale locus dialogico per la ricerca della verità. (Article)**

I. reflects on the dialogical-relational model of law, focusing on the dialogical narration of the facts by the parties during the course of the canon law process. The proper tools of due process involve an openness to dialogue.

***Relations between Church and State***

**AnC 14 (2018), 123-146: Małgorzata Tomkiewicz: Czynności przeszukania w pomieszczeniach kościołów i innych związków wyznaniowych. Zatrzymanie dokumentów i innych rzeczy (*Search activities in the rooms of churches and religious organizations. Retention of documents and other items*). (Article)**

T. analyses whether Polish law allows for the possibility of conducting searches in religious buildings and other premises belonging to churches and religious organizations, and whether any writings and documents held by confessional entities disclosed in the course of these activities are subject to any protection.

**AnC 14 (2018), 237-252: Piotr Kroczek: Znaczenie preambuły do konkordatu z 1993 roku dla interpretatora (*The significance of the preamble to the 1993 concordat for the interpreter*). (Article)**

K. examines the question whether, in the specific case of the Polish concordat, the general principle that the preamble to a law helps to interpret it, is working.

**AnC 14 (2018), 323-344: Lucjan Świto – Małgorzata Tomkiewicz: Czynności administracyjne i cywilnoprawne poprzedzające zawarcie małżeństwa konkordatowego przez pełnomocnika w Polsce (Administrative and legal acts preceding entering into concordat marriage by proxy in Poland).** (Article)

S. and T. look at civil law aspects of marriages by proxy in Poland.

**AnCrac 49 (2017), 357-370: Piotr Kroczek: State law as a determinant of church legislation: the case of Poland.** (Article)

K. looks at the problem of the influence of State law on canon law, with reference to the current situation in Poland.

**CLSN 194/18, 39-55; also ELJ 20 (2018), 261-277: Edward Morgan: *De minimis non curat lex: A Profound Juridical Unity?*** (Article)

In recent years, those involved in regulating, forming or advising faith communities have had much to contend with: the expansion of the vicarious liability doctrine, the status of ministers of religion and the decision in *Shergill v Khaira* concerning the justiciability of the internal rules of a faith community, not to mention the General Data Protection Regulation. These issues share a common denominator: they require faith communities to give close consideration to the values which they seek to articulate and foster in the expression of their own autonomy and right of self-determination. That is, they serve as a prompt to reconnect with the *intellectus* and *vinculum iuris* of their own ecclesial norms. M. aims to encourage such an exercise and to contribute to a discussion of the potential points of collaboration between the civil law and faith communities in securing dispute resolution by which ecclesial values may be accommodated.

**EE 93 (2018), 893-906: Rafael Navarro-Valls: El factor religioso en las elecciones presidenciales de EE. UU.** (Article)

N.-V. notes that for presidential candidates in the United States the religious factor is significant, and that distance from religion would negatively affect a candidate's prospects of being elected.

**EE 93 (2018), 907-928: Rufino Callejo de Paz: Consideraciones sobre un posible cambio en las relaciones Estado-Iglesia en España. (Article)**

C. assesses the current state of Church-State relations in Spain, where attempts are being made on behalf of the State to bring about a drastic change in its relationship with the Church, through the amendment or repeal of the agreements with the Holy See and of the Organic Law on Religious Freedom.

**EIC 58 (2018), 293-306: Pietro Parolin: La guerra: una sconfitta per tutti. A cento anni dalla fine del primo conflitto mondiale. (Article)**

Benedict XV repeatedly denounced the “useless massacre” of the First World War. His impartial stance brought about a dramatic isolation of the Holy See, but eventually bore positive fruits: the Church operated free from the previous interference of States; missionary strategies radically changed; and a new season of concordats came about in the midst of constructive relations with the State.

**EIC 58 (2018), 365-392: Isabella Bolgiani: Il lavoro dei religiosi negli Istituti di appartenenza tra diritto della Chiesa e diritto dello Stato. (Article)**

See below, canon 702.

**EIC 58 (2018), 413-442: Giuseppe Comotti: La rilevanza civile dei controlli canonici sull’amministrazione dei beni della Chiesa destinati al servizio della carità. Considerazioni in margine alla riforma del Terzo settore. (Article)**

See below, canons 1291-1295.

**IE XXX (2018), 543-569: Dominique Le Tourneau: Les droits des fidèles du canon 215 de fonder des associations et de se réunir et leur protection en droit français. (Article)**

See below, canon 215.



**IE XXX (2018), 571-591: Fabio Vecchi: Il Concordato del 2012 tra la Santa Sede e la Repubblica del Burundi alla prova di un'inculturazione che precede il diritto alla libertà religiosa. (Article)**

The Holy See has intensified its concordat policy in Africa in recent years. The 2012 concordat with Burundi is based on two cornerstones: mission and the local episcopate. The Church faces two orders of problems in Burundi: one of an anthropological-cultural nature (the contrast between traditional and ethnic models), the other political (widespread corruption among the ruling classes). These problems overlap, and the local episcopate has a crucial role to play in evangelizing and in awakening consciences.

**Ius Comm VI (2018), 203-234: Antonio M<sup>a</sup> Rouco Varela: El episcopado español y su doctrina sobre el nacionalismo. (Article)**

R.V. looks at three documents of the Spanish Bishops' Conference (2002, 2006 and 2017) on the ecclesiological and pastoral aspects of the nationalist problem in Spain.

**Ius Comm VI (2018), 333-350: José Luis López Zubillaga: La posición de la jurisdicción eclesiástica en el ordenamiento jurídico español. (Article)**

In canon law the term jurisdiction refers to the public power of direct governance over the baptized with a view to their sanctification and eternal happiness. In its judicial meaning, ecclesiastical jurisdiction refers to the mission of judging and enforcing what has been judged. The Holy See's interest in seeking an agreement with the Spanish State is to secure recognition of canonical marriage and of the Church's jurisdiction in the most important causes concerning canonical marriage. Ecclesiastical jurisdiction is neither special, nor exceptional, nor arbitrary, nor customary, with regard to the State, but is external (though not foreign) to it. Hence its function does not go against the principle of exclusivity and jurisdictional unity included in the Spanish Constitution. Canonical jurisdiction has its own proper and unique power to judge matters concerning canonical marriage.

**KIP 7 (20) 2018, nr. 2, 191-207: Agnieszka Romanko: Geneza i przedmiot Konkordatu między Stolicą Apostolską i Rzeczpospolitą**

**Polską z 1993 roku (*The origin and subject of the 1993 Concordat between the Holy See and the Republic of Poland*). (Article)**

The concordat between the Holy See and the Republic of Poland was signed on 28 July 1993 and ratified on 23 February 1998. It regulates among other matters the following: recognition of the legal personality of the Catholic Church and its organizational units; the Church's discretion to make changes in its territorial structure; protection of marriage and the family, including recognition of the civil consequences of a marriage entered into according to canonical form; and cooperation of Church and State in matters of marriage and the family.

**LJ 181 (2018), 207-218: Paul Barber: Catholic Schools and the Admissions Cap. (Article)**

B. gives the background to the decision of the UK Government in May 2018 to retain the 50% cap on faith-based admissions for free schools. He considers the historic role of Catholic schools in promoting community integration, and considers the creation of academies as a necessary prelude to understanding the 2010 legislation which introduced the 50% cap, and its impact on school admissions. He traces recent developments up to the most recent announcement in May 2018 that the cap would be retained. He concludes by arguing that the retention of the cap continues to fail to achieve any of its stated policy objectives.

**REDC 75 (2018), 493-527: José María Martí Sánchez: Libertad de enseñanza y pluralismo. La programación educativa y la formación moral. (Article)**

M.S. looks at the reasons for teaching religion according to the beliefs of the parents, and the manner of defending such teaching within a legal system open to freedom of religion, pluralism and the neutrality of the public authorities.

**REDC 75 (2018), 529-553: Antonio Sánchez-Bayón: Una historia del poder y lo sagrado en Occidente: revelaciones del influjo del dualismo cristiano en la cultura democrática. (Article)**

S.-B. studies Christian dualism and its role in the development of the West, its history of freedom and its democratic culture. Starting from the original

sources, he traces their influence in the transition in the West from the monism of antiquity to the dualism of the Middle Ages, and finally the pluralism of Modernity. He also evaluates the development of Church-State relations in the West, highlighting the centrality of freedom (*libertas Ecclesiae et legislatio libertatis*) and the fostering of a democratic culture, marked by parliamentarism and constitutionalism.

**REDC 75 (2018), 645-683: Francisco José Zamora García: Aceptaciones y manifestaciones de la confesionalidad de los Estados.** (Article)

A State can be “confessional” in different ways, including the adoption of one particular religion as official, or the granting to it of preferential status. As a result, there are several criteria to consider when describing the confessional model of relations between the earthly power and the spiritual power.

**RMDC 22/1 (2016), 109-128: Jorge Antonio Di Nicco: La legislación canónica: Derecho vigente para el ordenamiento jurídico argentino. Sus particularidades.** (Article)

In Argentina, acknowledgement and observance of canon law on the part of the civil legal order has a number of particular characteristics, which Di N. analyses, starting with the *Patronato* (the constitutional right claimed by the State, and rejected by the Holy See, to intervene in the creation of dioceses and the appointment of bishops). He examines the various developments leading up to the current situation.

**S 80 (2018), 643-674: Michele Ferrero: The issue of “recognition” in the 2007 Letter of Pope Benedict XVI to Catholics in China.** (Article)

In relation to Pope Benedict XVI’s 2007 letter to “bishops, priests, consecrated persons and lay faithful of the Catholic Church in the People’s Republic of China”, F. highlights the significance of “recognition”. There are different kinds of recognition: recognition which the Catholic Church gives to civil authorities; recognition given by the civil authorities to bishops; recognition by civil authorities of religious people or places; recognition not as acknowledgment of a fact but as a reward for certain behaviour; recognition by civil authorities of the so-called “underground Church”; and recognition by the Pope of the Chinese Episcopal Conference. After setting out the history behind the letter and the situation of the Church

in China in the last 25 years, F. deals with the theory and meaning of “recognition” from two points of view. One is recognition in Catholic theology, ecclesiology and canon law. The other is recognition in Chinese culture, Chinese law and Chinese contemporary society. F. ends the article with a synthesis and some conclusions.

**SPW 21 (2008), 7-26: Anna Tunia: Duchowny jako podmiot administrujący w sprawach z zakresu administracji stanu cywilnego (*The religious minister as an administrative entity in cases concerning civil status administration*).** (Article)

T. looks at the functions carried out by a religious minister – in particular, weddings – in so far as these have the character of civil administrative tasks. The religious minister performs this function on behalf of a Church or other religious organization entitled to apply the religious form of marriage in accordance with the relevant legal regulations.

**SPW 21 (2008), 27-49: Michał Poniatowski: Zespół praw i obowiązków osoby duchownej jako pokrzywdzonego w postępowaniu karnym zwyczajnym (*The system of rights and obligations of the religious minister as the injured party in ordinary criminal proceedings*).** (Article)

P. presents the rights and obligations of religious ministers in cases in which they are the injured party in ordinary criminal proceedings, taking into account the constitutional and international principle of respect for the autonomy and independence of the Church and State in their own spheres.

**SPW 21 (2008), 51-74: Mariusz Grabowski: Prawne aspekty działalności publicznej duchownych (*Legal aspects of the public activity of clergy*).** (Article)

In Poland, clerics, as Polish citizens, have the same rights as all other citizens. The Code of Canon Law strictly prohibits the clergy from holding public offices connected with the exercise of secular power (canon 285 §3), and from participating in associations whose activities are incompatible with the duties of the clergy (canon 278 §3). There is also a prohibition on actively participating in political parties or in directing trade unions (canon 287 §2). Thus any restrictions on the public activity of the clergy can be considered only under canon law, and not under civil law, on account of the

existing legal order, including the constitutional principle of the autonomy of Church and State.

**SPW 21 (2008), 75-94: Jan Krajczyński: Prawno-kanoniczny zakaz podejmowania przez duchownych niektórych rodzajów działalności i jego znaczenie na gruncie prawa polskiego (*Canon law prohibition on conducting certain kinds of activities by the clergy and its significance under Polish law*). (Article)**

K. deals with the prohibited activity of clergy under canons 285 §4 and 286, according to which clerics may not administer goods belonging to lay persons, hold a secular office entailing the obligation to render accounts, or conduct trade and transactions solely for profit. This prohibition, however, cannot be considered effective under Polish law. As a consequence, a cleric who, contrary to canon law, was a member of the board of a joint stock or limited company, or of a State-owned enterprise, would be considered to be acting within his rights under civil law.

**SPW 21 (2008), 95-122: Michał Ożóg: Charakterystyka stosunku prawnego łączącego kapelana z podmiotem leczniczym w świetle przepisów prawa polskiego i wybranych regulacji prawa wewnętrznego Kościoła katolickiego (*Characterizing the legal relationship between chaplains and medical facilities in the context of Polish law and selected regulations of the Roman Catholic Church*). (Article)**

O. looks at the legal forms of establishing cooperation between medical facilities and chaplains with a view to guaranteeing patients' rights to pastoral care under Polish law.

**SPW 21 (2008), 183-204: Jerzy Nikolajew: Status kapelanów duszpasterstw specjalnych w ukraińskim systemie prawnym (*The status of chaplains of special chaplaincies in the Ukrainian legal system*). (Article)**

N. studies the functioning of the military, police and prison chaplaincies in Ukraine.

**SPW 21 (2008), 205-220: Michał Hucal: Wybrane zagadnienia dotyczące pozycji prawnej duchownego w orzecznictwie Europejskiego**

**Trybunału Praw Człowieka (Selected issues regarding the legal position of the religious minister in the case law of the European Court of Human Rights). (Article)**

H. studies various aspects of the legal position of religious ministers on the basis of the case law of the European Court of Human Rights. Overall the Court has tended to hold that matters concerning religious ministers lie outside the jurisdiction of the State. However, the controversy surrounding the ruling in *Károly Nagy v. Hungary* (2017) indicates that the religious minister's status may undergo some changes in the future.

**SPW 21 (2008), 221-238: Andrzej Szymański: Sprawa operacyjnego sprawdzenia kryptonim „Zakonnik”. Inwigilacja ks. Henryka Surmy przez Służbę Bezpieczeństwa w latach 1974-1977 (*The case of operational investigation, code name: “Monk”. Invigilation of Rev. Henryk Surma by the Security Service in the years 1974-1977*). (Article)**

Focusing on one particular case as an example, S. describes the operational activity of the Polish Security Service towards clergy suspected of “anti-State” activity. Rev. Henryk Surma was subjected to numerous forms of control and pressure. Ultimately, the investigation was closed after several years, and the charges against him were not proved.

**SPW 21 (2008), 239-254: Tadeusz Stanislawski: Formy zatrudnienia duchownego w instytucjach kościelnych po II wojnie światowej (*Forms of employment of clergy in Church institutions after World War II*). (Article)**

S. studies the existing possibilities for the employment of clergy by Church institutions in Poland, describing how the situation has evolved since the end of World War II.

**SPW 21 (2008), 255-269: Dimitry Gegenava: Church-State Relations in the Democratic Republic of Georgia (1918-1921). (Article)**

Despite the history of relations between Church and State in Georgia the Democratic Republic of Georgia (1918-1921) chose to adopt French secularism, which was incorporated into the Constitution of 1921. G. looks at Church-State relations during the period 1918-1921, the positive and negative aspects of the chosen form of secularism, and the challenges that

the newly independent State faced in the sphere of religious freedom until the Soviet occupation.

**SPW 21 (2008), 271-300: Abiodun Akeem Oladiti: The state, sectarian violence, and freedom of association in a secular context: the case of the Islamic Movement of Nigeria.** (Article)

O. examines the interrelationship between the State, freedom of association, and sectarian violence, among faith communities in Nigeria. He specifically discusses the role of the State in maintaining peace, and the government's official response to sectarian violence among religious associations.

**SPW 21 (2008), 301-322: Katarzyna Krzysztofek: Wpływ prawodawstwa okresu Polski Ludowej na przepisy prawa wyznaniowego III Rzeczypospolitej Polskiej – wybrane zagadnienia** (*The influence of the legislation of the Polish People's Republic on the law on religion of the Third Republic of Poland – selected issues*). (Article)

The period of the Polish People's Republic, from the end of World War II to 1989, is known as a time when law was an instrument in the hands of the authorities, and human and citizens' rights, including freedom of conscience and religion, were only illusory. Nevertheless some parts of the legislation of that period were considered suitable for incorporation into the new realities of the free Poland after 1989.

**SPW 21 (2008), 323-343: Lucjan Świto – Małgorzata Tomkiewicz: Zaświadczenie o braku okoliczności wyłączających zawarcie małżeństwa w procedurze *matrimonium per procura* (Certificate of absence of impediments in the procedure for marriage by proxy).** (Article)

The authors look at problems arising from the civil aspects of marriage by proxy in Poland, and suggest solutions.

**SPW 21 (2008), 391-411: Giorgio Feliciani: 30 lat dobra wspólnego (30 years of the common good).** (Lecture)

In this paper presented during the National Conference of the Diocesan Delegates of "Sovvenire" (a service of the Italian Bishops' Conference for the economic support of the Church), entitled *Partecipazione e*

*corresponsabilità dei fedeli a sostegno di una Chiesa in uscita* (Venezia Mestre, 7-9 May 2018), F. assesses the 30 years of the functioning of the Italian system of financing the Catholic Church, also utilized at present by other religious organizations. He considers that the system, though imperfect, has contributed significantly not only to creating suitable conditions for the exercise of religious freedom, but also to the democratization of the tax system, and has allowed the Church to undertake many important initiatives of a social, protective or cultural nature for the benefit of Italian society and the populations of the Third World. The experiences described can be regarded in terms of the sound cooperation (*sana cooperatio*) recommended by the Second Vatican Council, to which both the Italian Republic and the Holy See committed themselves in the Agreement of 1984.

**Verg 7 (2018), 331-345: Lucio Morcillo Peñalver: Notas sobre el principio de libertad religiosa en España. Especial consideración al principio de igualdad.** (Article)

M.P. assesses the development of relations between the Catholic Church and the Spanish State since the coming into force of the 1978 Constitution.

### ***Religious freedom***

**ELJ 20 (2018), 278-289: Peter W. Edge: Oppositional Religious Speech: Understanding Hate Preaching.** (Article)

E. explores the regulation of hate preaching by criminal law, discussing the particular problems posed by oppositional religious speech, before concluding with suggestions for a number of ways to reduce these problems.

**FCan XII/2 (2017), 5-22: Lourdes Ruano Espina: El derecho fundamental a la Libertad Religiosa. Especial referencia a su regulación en el derecho portugués.** (Article)

Religious freedom is one of the most important freedoms enjoyed by human beings. Grounded on the dignity of the human person, the right of every person to religious freedom must be recognized by State legal systems as a fundamental right whose guarantee and effectiveness can be pursued through the exercise of an action in the judicial system. Its protection



requires a positive obligation on the part of public authorities to promote the conditions for it to be real and effective, but it also implies a negative requirement, which assures to individuals and confessions a space of immunity. R.E. analyses the legal recognition of the right to religious freedom and freedom of conscience in international law, as well as the holders, content and limits of this right, with particular reference to the content of religious freedom and the legal status of religious denominations in the Portuguese legal system.

**IE XXX (2018), 519-542: Jean-Pierre Schoupe: Les entreprises de tendance dans le domaine de l'enseignement à la lumière de la jurisprudence européenne.** (Article)

The right of autonomy of organizations whose ethos is based on religion or belief has been reinforced by EU Directive 2000/78. In the light of case law from Strasbourg and Luxembourg, S. proposes a draft European regulation for such organizations.

**LJ 181 (2018), 156-170: Andrew Hambler: Cake, Compelled Speech, and a Modest Step Forward for Religious Liberty: the Supreme Court Decision in *Lee v Ashers*.** (Article)

See above, General Subjects (*Human rights*).

**LJ 181 (2018), 171-188: Christopher Grout: Equality, Discrimination and Ecclesiastical Personnel.** (Article)

The secular courts have recently had to grapple with a case involving a Church of England canon whose “permission to officiate” was revoked following his marriage to his same-sex partner. In the light of the Equality Act 2010, G. discusses tensions between the State’s aim to protect individuals from discrimination and the rights of organized religions to uphold and protect their respective theologies and doctrines.

**RMDC 23/1 (2017), 35-67: Jorge Luis Roque Pérez: Libertad religiosa en los contextos del CIC de 1917 y la Constitución de 1917 de México.** (Article)

See below, Historical Subjects (*1917 Code*).

**SPW 21 (2008), 413-422: Roberta Santoro: Educazione religiosa, disagio e minori. Commento alla sentenza della Corte di Cassazione italiana del 24 maggio 2018, n.12954. (Comment)**

S. analyses the 2018 judgment of the Italian *Corte di Cassazione* dealing with children and their religious education. The parents being separated, the father wanted to impose on his daughter the practice of a religion which differed from that of her mother, and with which the daughter herself was unhappy. The judgment addresses the issue of the child's own right to religious freedom under Italian law. S. examines the extent to which this right can be exercised when it conflicts with the decision of one or both of the parents.

***Teaching of canon law***

**EIC 58 (2018), 533-558: Matteo Visioli: Nota bibliografica a tema. Le norme generali. (Article)**

See below, canons 1-203.

## HISTORICAL SUBJECTS

### *1st millennium*

**L 59 (2018), 503-563: Salvatore Vacca: *Prima sedes a nemine iudicatur. Aspetti del primato del vescovo di Roma.* (Article)**

See below, canon 1404.

**PCH 8 (2018), Number 1, 197-216: Jorge Antonio Di Nicco: *La administración de los bienes de la Iglesia hasta el siglo X: algunas de las disposiciones, especialmente de los concilios, y su recepción en el Código de Derecho Canónico de Juan Pablo II.* (Article)**

Di N. analyses the evolution of the administration of the goods of the Church during the first millennium of the Christian era, looking at the first community of Jerusalem where believers held everything in common, the acknowledgement of the Church's juridical capacity in the fourth and fifth centuries, and some of the provisions on the topic arising from the various councils. He deals with the breaking up of the diocesan heritage as a unitary whole from the sixth century on, even though the bishop maintained responsibility for subordinate bodies in the diocese and retained administrative power over diocesan property. Di N. mentions how some of these provisions are reflected in the CIC/83.

**Jesu Pudumai Doss (ed.): *Iustitiam persequere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica.* (Book)**

See below, Historical Subjects (*1917 Code*) (article by Sajovic).

### *Classical period*

**EIC 58 (2018), 479-511: Andrea Errera: *Il Contrasto di Cielo d'Alcamo, la celebrazione del matrimonio e il diritto canonico medievale: tra scienza giuridica e letteratura.* (Article)**

E. considers that the work of the poet Cielo d'Alcamo is a useful tool for understanding the practice of marriage in use in the first half of the 13th

century in the *Regnum Siciliae* of Frederick II of Hohenstaufen. The papal norms introduced between the end of the 12th and the beginning of the 13th century to resolve the longstanding dispute concerning the sufficiency of pure and simple consent for the valid formation of the conjugal bond did not find general and immediate reception in contemporary practice, as is evidenced by the study of the literary characters of the poem *Rosa fresca aulentissima*, one of the masterpieces of Italian literature.

**IC 58/116 (2018), 481-502: Thierry Sol: ¿Una alternativa a la noción de *executio potestatis*? La separación entre *potestas ordinis* y *officium* según Hugo de Amiens y Gerhoch de Reichersberg.** (Article)

Hugh of Amiens (1085-1164), Gerhoch of Reichersberg (1092/93-1169) and William of Auvergne (†1249) gave an emphatically negative answer to the question of whether a cleric chosen by the Church to administer the sacraments can continue to do so if he is sanctioned by deposition or excommunication. This question arose from a particular conception of the relationship between the sacrament of orders and the ecclesiastical or ministerial office. Their reasoning, which attributes great importance to the jurisdictional power of the Church, is particularly relevant in the context of the struggle against simony and heresies.

**IC 58/116 (2018), 781-809: Ciro Tamaro: L'*instructio probatoria* nel processo penale medievale: osservazioni canoniche sull'ammissione e l'assunzione dei mezzi di prova nei secoli XIII e XIV.** (Article)

T. deals with the investigation, collection and evaluation of proofs in the medieval penal process. He looks at the origins of the inquisitorial trial and its gradual differentiation from the traditional accusatorial trial. He then examines the various kinds of proof used in the process, and the criteria governing the judge's assessment of the proofs.

**L 59 (2018), 425-501: José Ángel Echeverría: El ocaso del poder papal y su justificación en los siglos XIV y XV.** (Article)

E. studies the decline in papal power in the period between the reigns of Boniface VIII (1294-1303) and Eugene IV (1431-1447). He provides an outline of the political activities of the Popes, especially in the Avignon period, focusing in particular on John XXII (1316-1334) and – because of his importance for the Hispanic kingdoms – the antipope Benedict XIII

(from his deposition in 1417 to his death in 1423). He also looks at the Council of Constance (1414-1418), where thanks to the so-called (and detested) conciliarism the schism was overcome, with Martin V (1417-1431) being elected; and the Council of Basel-Ferrara-Florence (1431-1449). In the course of his study he makes reference to the criticisms against authority made during this period by Marsilius of Padua, William of Ockham, John Wycliffe and Jan Hus.

**REDC 75 (2018), 435-454: Francisco Cantelar Rodríguez – Jaime Justo Fernández: *El Synodicon hispanum*, algunas aportaciones a diversos saberes.** (Article)

The *Synodicon hispanum* is a critical edition of the diocesan synods celebrated in Spain and Portugal between the Fourth Lateran Council (1215) and the end of the Council of Trent (1563). This article presents some of the contributions of the *Synodicon hispanum* to different areas of knowledge, focusing in particular on the celebration of feast days of saints, the teaching of Christian doctrine, grave abuses dealt with in the synods, and the sacraments.

### ***16th-19th centuries***

**Cla n.s. 9, 58 (2018), 235-344: Giancarlo Rocca: Un modello di costituzioni per gli istituti religiosi soggetti a Propaganda Fide: le costituzioni del 1882 delle Suore di Carità di Nostra Signora del Buono e Perpetuo Soccorso, e le costituzioni del 1883 delle Penitenti Recollettine dell'Immacolata Concezione di Roosendaal (Olanda).** (Article)

R. illustrates the circumstances in which, in 1883, the Sacred Congregation de Propaganda Fide, on account of the many new institutes applying to it for pontifical approval, examined the possibility of creating a single model of constitutions valid for all religious institutes while at the same time diminishing the work of the consultors. In 1885, the Sacred Congregation presented two model constitutions for the new institutes to refer to, that of the Sisters of Charity of Our Lady of Good and Perpetual Succour, Mauritius, and that of the Penitent Recollect Sisters of the Immaculate Conception, Roosendaal, Netherlands.

**EA 53 (2018), 537-575: Fernando Campo del Pozo: Fray Alonso de Veracruz y el Compendio de todos los privilegios de los religiosos.** (Article)

The subject of privileges granted to religious was an important issue in the 16th century in the context of evangelization in the New World; it still has its importance in the present Code (canons 76-84) with a pastoral purpose under the control of the competent ecclesiastical authority. It was not (nor is it) a question of arbitrary authority or special concessions to favourites but rather a recognition of the variety of concrete cases which must be responded to with charity and humanity. It is in this context that C. analyses the work of Alonso de Veracruz, *Compendio de todos los privilegios de los mendicantes en Indias*, which served as a veritable *vademecum* for missionaries and is notable for its defence of the rights of the native peoples as well as of religious missionaries themselves. (See also *Canon Law Abstracts*, no. 118, p. 26.)

**FCan XII/2 (2017), 23-42: Nicolás Álvarez de las Asturias: Francisco Suárez en el caminar histórico del derecho canónico: el caso de la interpretación de la ley.** (Article)

See below, canons 16-18.

**IC 58/116 (2018), 741-780: Francisco José Zamora García: Iglesia y Estado en el constitucionalismo isabelino.** (Article)

Z.G. studies documents relating to the relationship between Church and State during the reign of Isabel II of Spain (1833-1868).

**IusM XII/2018, 61-107: Sunil Kumar D'Souza: Historical Evolution of the Canonical Form.** (Article)

See below, canon 1108.

**LJ 181 (2018), 189-206: Michelle L. Johnson: Christopher St German's *Discourse of the Sacramentes howe many there are*: a reflection on St German's ideas in the context of Law and the Reformation.** (Article)

Christopher St German's 1537 *Discourse of the Sacramentes* represents an important investigation into the central questions of kingly (and

parliamentary) versus ecclesiastical authority in defining the nature of the sacraments. St German denounces papal, clerical and general conciliar authority in matters concerning the naming and identification of the sacraments and firmly situates this authority with the king and parliament. His text addresses the foundational question of the relationship of law to belief.

**REDC 75 (2018), 435-454: Francisco Cantelar Rodríguez – Jaime Justo Fernández: *El Synodicon hispanum*, algunas aportaciones a diversos saberes.** (Article)

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

**REDC 75 (2018), 555-631: Eutimio Sastre Santos: *La discusión sobre un nuevo instituto de votos simples. Alegato del Doctor Mora en la Causa Concepción Calderón, religiosa guadalupana, Zamora (Michoacán), 1882.*** (Article)

The CIC/17 cut short the development of the “new institutes” of simple vows with general superior. This new form of female religious life had been legalized in 1854, and between that date and 1900 the “new institutes” of female religious defined their identity, in juridical contrast to some diocesan institutes which jealously protected their own authority. S.S. sets out the plea of Dr Mora, future archbishop of Mexico (1908-1928), in the case of Concepción Calderón, who in 1882 was condemned by the bishop of Zamora, Mexico, for not obeying his order that she leave the Institute of the Daughters of Mary Immaculate (which he had approved three years earlier) because of her parents’ desire that she return home. Dr Mora’s defence statement is an illustration of the quality of the formation received by Mexican seminarians in Rome.

**RMDC 24/1 (2018), 9-37: Luis de Jesús Hernández M.: *Los inicios de la Iglesia en Hispanoamérica y su incipiente organización.*** (Article)

H. looks at the initial organization of the Church in Hispanic America in the 16th century, which remained closely linked to the events and history of the Catholic Church in the old continent.

### **1917 Code**

**FCan XII/2 (2017), 23-42: Nicolás Álvarez de las Asturias: Francisco Suárez en el caminar histórico del derecho canónico: el caso de la interpretación de la ley.** (Article)

See below, canons 16-18.

**FCan XII/2 (2017), 81-84: Papa Francisco: No Centenário do Código de 1917; Miguel Falcão: Comentário.** (Message and comment)

In a message of 30 September 2017 on the occasion of the 16th International Conference on Canon Law organized by the *Consociatio Internationalis Studio Iuris Canonici Promovendo* (4-10 October 2017), Pope Francis spoke of the need for Church law to be adequate for a globalized world characterized by multiculturalism. He insisted on the pastoral character of law, an instrument at the service of the *salus animarum*, recalling that the CIC/17 was desired by Pope Pius X for pastoral reasons, to enable the Church (especially the hierarchy) to have at its disposal a clear and organically structured set of norms for resolving the questions that would arise throughout the life of the Church. The Pope expressed his hope that canon law might continue to be a good instrument at the service of justice, helping shape the Church in accordance with the ecclesiology of Vatican II as this develops.

**KIP 7 (20) 2018, nr. 2, 153-171: Lucjan Świto – Malgorzata Tomkiewicz: *Matrimonium per procura* w Kodeksie Prawa Kanonicznego z 1917 i 1983 roku – zarys prawnooporównawczy (*Marriage by proxy in the 1917 and 1983 Codes of Canon Law – a comparative outline*).** (Article)

See below, canon 1105.

**RMDC 23/1 (2017), 9-33: Luis de Jesús Hernández M.: La gestación del Código de Derecho Canónico de 1917. Centenario de su promulgación.** (Article)

H. describes the more important antecedents of the CIC/17, the historical circumstances of Pope Pius X's pontificate and the internal circumstances of the Church and the work of codification during that period, the continuation



of the codification work under Benedict XV, and the eventual promulgation of the Code. He provides a brief evaluation of the importance of this legislation for the Church, and its repercussions.

**RMDC 23/1 (2017), 35-67: Jorge Luis Roque Pérez: Libertad religiosa en los contextos del CIC de 1917 y la Constitución de 1917 de México.** (Article)

R.P. looks at the question of religious freedom in the CIC/17 and the Mexican Constitution of the same year.

**RMDC 23/1 (2017), 69-87: Marco Antonio Hernández Huijón: Retos y perspectivas del Derecho canónico a cien años de su primera promulgación.** (Article)

H.G. offers reflections on the first hundred years of codified law in the Church: the CIC/17, the CIC/83 and the CCEO of 1990, taking into account the experiences and clarifications of Roman Pontiffs and canonists.

**Verg 7 (2018), 45-94: Carlos René Salinas Aranceda: Reformas al derecho canónico procesal propuestas por los metropolitanos españoles al iniciarse la codificación canónica de 1917.** (Article)

The drafting of the first Code of Canon Law of the Latin Catholic Church was ordered by Pope Saint Pius X in 1904. The Code was not compiled by a restricted group of experts, but took into account the opinion of the whole episcopate. S.A. focuses on the contributions of the Spanish bishops.

**Jesu Pudumai Doss (ed.): *Iustitiam perseguere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica.*** (Book)

This book to mark the centenary of the CIC/17 contains contributions from Remo Bracchi on the philological aspects of the terms *ius* and *canonicum*; Jozef Slivoň on the history of the CIC/17, looking at the periods of the *ius antiquum*, the *ius novum*, and the *ius novissimum*; Roberto Spataro on the contributions of Popes Pius X and Benedict XV to the CIC/17; Miran Sajovic on the Church as presented in the writings of third and fourth century Christian authors; Giuseppe Duc Dung Do on the concept of universal Church in the CIC/17; Kevin Otieno Mwandha on the concept of moral person; Francisco José Regordán on the distinction of powers in the

CIC/17; Jesu Pudumai Doss on the evolution of the rights and duties of the faithful in and since the CIC/17; Arkadiusz Domaszko on the support of clergy from the CIC/17 to the present; Simona Paolini on the rights of religious in the CIC/17 and the innovative aspects concerning feminine institutes; Enrico C. Eusebio Jr. on the objectives and means of catechesis in the CIC/17; Michaela Pitterová on the right to education in the canonical codification, and the international engagement of the Holy See in this area; Luis Bernardo Mur Malagón on marriage preparation from the CIC/17 to the CIC/83; Giorgio Degiorgi on marriage impediments from the CIC/17 to the present; Seby Kidangan Ouseph on the Church's coercive power in the CIC/17; Anton Padinjarathala on the censure of excommunication in canonical legislation; María Victoria Hernández Rodríguez on oral aspects of canonical processes; and Antonio Inguscio on the publication of the acts and the right of defence in canonical marriage proceedings, from the CIC/17 to *Mitis Iudex*. (For bibliographical details see below, Books Received.)

### ***20th century***

**EIC 58 (2018), 293-306: Pietro Parolin: La guerra: una sconfitta per tutti. A cento anni dalla fine del primo conflitto mondiale.** (Article)

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

**KIP 7 (20) 2018, nr. 2, 9-24: Jitka Jonová: Modification of the Statutes of the Metropolitan Chapter of Olomouc and the Appointment of the Vacant Canons in Connection with the Issue of the 1917 Code of Canon Law.** (Article)

During the episcopate of Archbishop Stojan (1921-1923) the Czechoslovak government very strongly interfered in the resolution of the so-called question of the Olomouc Chapter. Afterwards the issue was perceived primarily as an internal affair of the Church, and negotiations took place between the archbishop of Olomouc together with the Chapter and the Holy See. The Chapter could not ignore the provisions of the new (1917) Code of Canon Law, but did not want to renounce its existing privileges, one of the reasons being that the canons "had sworn by the old statutes". On the other hand, the number of vacant canonical posts had increased and Prečan, who had been made archbishop of Olomouc in 1923, managed to effect the appointment of new canons according to the provisions of the Code. The State did not influence those appointments. The nationality of the Chapter

members was an important issue. The issue of new statutes for the Chapter remained unresolved, and the requirement of the Holy See in 1923 that the statutes be reviewed in accordance with the new Code was not in fact to be fulfilled for 70 years. The Chapter, in collaboration with the archbishop, drafted revised statutes in 1933, but in the end these were not approved. Before his arrest, Archbishop Josef Karel Matocha (1948-1961 – the last 11 years of which were spent in solitary confinement) called upon the Chapter to submit new statutes for approval after World War II, but the Chapter argued that the time was “inopportune”. The Communist regime from 1948 onwards made the situation so difficult that the Olomouc Chapter did not have its new statutes approved until 1994.

**KIP 7 (20) 2018, nr. 2, 25-44: Vasyl Plakhotka: Recepcja norm kodeksowych w Synodzie Łuckim z 1927 roku (*Reception of the Code at the 1927 Synod of Lutsk*).** (Article)

The 1927 Synod of Lutsk, Poland (now Ukraine), resulted in a collection of diocesan laws which were based on the CIC/17, the existing particular law of the Lutsk diocese, documents of the Holy See, the Bible, and secular law.

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

**S 80 (2018), 675-699: Enrico C. Eusebio: L’evoluzione del *Christus Dominus* e del suo insegnamento sul dovere catechistico dei vescovi.** (Article)

See below, canons 773-780.

## CODE OF CANONS OF THE EASTERN CHURCHES

### CCEO 245-251

**KIP 7 (20) 2018, nr. 2, 45-62: Mariusz Bakalarz: Wpływ ustroju prawnego Kościoła łacińskiego na kształtowanie się aktualnego porządku prawnego katolickich Kościołów wschodnich na przykładzie urzędów protosyncyela i syncyela (*Influence of the legal system of the Latin Church on the formation of the current legal order of the Eastern Catholic Churches as illustrated by the offices of protosyncellus and syncellus*). (Article)**

The office of vicar general was created in the Western Church in the 12th century. Gradually, his authority was strengthened until the office became mandatory and he became the main collaborator of the diocesan bishop in the administrative function of the particular Church. During the preparation of the Second Vatican Council the need to establish a new institution within the structure of particular Churches was recognized. In addition to the office of vicar general, the office of episcopal vicar was created – a new function with similar juridical characteristics and competences, but intended to support the diocesan bishop in specific aspects of his activity. In the Eastern Church, it was customary to choose bishops from among religious. Bishops wanted to continue their monastic life. A bishop would choose someone to live with him in his home. Such a life companion was known as *synkellios*, rendered in Latin *syncellus*. The *syncellus* also assisted the bishop in his functions and even represented him in many ecclesiastical matters, which made the *syncellus* a significant figure in the local Church. The unions concluded with Churches that recognized the supremacy of the Bishop of Rome involved the adoption of the Latin system of ecclesiastical law and structural forms existing in the Western Church. One of the elements of this juridical heritage was the office of vicar general. These solutions were laid down in Pius XII's *motu proprio Cleri sanctitati* (1957) and the CCEO. The offices of vicar general and episcopal vicar were introduced and assigned the ancient names of *syncellus* and *protosyncellus*.

### **CCEO 594**

**IusM XII/2018, 55-79: Ernest B. O. Okonkwo: *Territoria missionum in the Light of Codex Canonum Ecclesiarum Orientalium* (= CCEO can. 594).** (Article)

From the prescriptions of CCEO canon 594, there are no clear determinants for the recognition of the term “mission territories”. However, canonical doctrine and the competent authority consider mission territories to be those territories under the jurisdiction of the Congregation for the Evangelization of Peoples, those in which mission law has the force of law, and those where the implanted Church is yet to be firmly rooted and fully constituted. These determinants are not satisfactory, and create some confusion. O. analyses the term from a theological and canonical perspective, and offers a different understanding. Mission territories are those territories where missionary activity or evangelization takes place. Every particular Church or nation experiences evangelization or missionary activity. Every nation or every particular Church is a mission territory.

### **CCEO 646-650**

**SC 52 (2018), 471-490: John M. Huels: *Veritatis Gaudium* and the Canon Law on Ecclesiastical Universities.** (Article)

See below, CIC, canons 815-821.

### **CCEO 1374**

**IE XXX (2018), 625-632: Pablo Gefaell: *L’Abrogazione della sufficienza dell’investigazione prematrimoniale per dichiarare lo stato libero dei cattolici orientali sposati civilmente, operata dal m. p. *Mitis et Misericors Iesus**.** (Article)

Prior to *Mitis et Misericors Iesus*, CCEO canon 1372 §2 provided that in the case of an Eastern-rite Catholic who was obliged to observe canonical form but who had attempted marriage before a civil official or a non-Catholic minister, the pre-nuptial investigation was sufficient to determine his or her free status. This provision does not appear in the new canon 1374 of the CCEO (which is virtually identical to the new canon 1688 of the CIC/83 introduced by *Mitis Iudex*). However, the provision, even though it does not appear in the Latin Code, remains in force in the Latin Church by virtue of a 1984 authentic interpretation of the old canon 1686 of the CIC/83, later incorporated into art 5 §3 of *Dignitas Connubii*, and reaffirmed in a private

response of the Pontifical Council for Legislative Texts (PCLT) of 18 November 2015. Surprisingly, the same PCLT stated on 25 November 2015 that the provision no longer applied under the Eastern Code and that therefore a declaration of nullity would need to be obtained, following the documentary procedure. G. considers some of the consequences and difficulties to which this situation may give rise.

## CODE OF CANON LAW BOOK I: GENERAL NORMS

### 1-203

**EIC 58 (2018), 533-558: Matteo Visioli: Nota bibliografica a tema. Le norme generali.** (Article)

The CIC/83 begins with the book on General Norms, an obligatory course in the study of canon law. However, there is no univocal approach to its study in the various manuals and commentaries. V. examines the *status quaestionis* of the teaching of the first 203 canons of the Code, shedding light on the two most prevalent approaches influencing the study of canon law: the traditional exegetical method and the more modern systematic approach. He offers a brief analysis of the major manuals used in academic centres today which reflect these two methods.

### 4

**Ius Comm VI (2018), 353-393: Supremum Signaturae Apostolicae Tribunal: Voto del Promotor iustitiae deputatus Rvdmo. P. Velasio De Paolis, 25 julio 1989. Derecho de patronato; Matthias Ambros: Comentario: El servicio del “Promotor iustitiae” en el hallazgo de la verdad y en la promoción de la justicia en la dinámica del proceso administrativo en la Signatura Apostólica.** (Votum and comment)

See below, canon 1445.

### 16-18

**FCan XII/2 (2017), 23-42: Nicolás Álvarez de las Asturias: Francisco Suárez en el caminar histórico del derecho canónico: el caso de la interpretación de la ley.** (Article)

The influence of Francisco Suárez on the two codifications of Latin canon law and on canonical science in general is beyond doubt. Historical knowledge makes it possible not only to “measure” the scope of such influence, but also to contextualize his doctrine adequately, so as to get to its original meaning and, above all, discover the reasons for its success. Though not a necessary part of its function, it also allows the possibility of making projections concerning the future in relation to the subject studied. Á. studies Suárez’s teaching on the interpretation of laws, and the reception of

this teaching into the canonical codifications, pointing out certain elements that enable us to assess the degree of success of such reception.

## 20

**Ius Comm VI (2018), 353-393: *Supremum Signaturae Apostolicae Tribunal: Voto del Promotor iustitiae deputatus Rvdmo. P. Velasio De Paolis, 25 julio 1989. Derecho de patronato; Matthias Ambros: Comentario: El servicio del “Promotor iustitiae” en el hallazgo de la verdad y en la promoción de la justicia en la dinámica del proceso administrativo en la Signatura Apostólica.*** (Votum and comment)

See below, canon 1445.

## 37

**Canonist 9/2 (2018), 168-176: Justin Glyn: “Not worth the paper it’s written on?” – Oral Singular Administrative Acts in Canon Law.** (Article)

Although extremely common, oral singular administrative acts are precarious and fragile – at least in the external forum – not least because of the difficulty of proving them if challenged. While not invalid in and of themselves, those acts which require an executor to carry them out as well as those acts required by law to be in writing (such as acts of the diocesan curia) are invalid if placed orally. Oral favours and *licentiae* are both valid and licit but need to be proved by the holder if required. The same is true of oral provisions other than *licentiae* unless they may prejudicially affect the rights of a third party. In this case, they are likely to be held to similar standards as other oral decisions. Oral simple precepts are valid and licit but will not (at least in the Latin Church) bind the recipient; in any case they lapse with the issuer’s authority. While the same is true in principle of oral penal precepts, the inability to issue provable reasons for these makes them impossible in practice. Oral decisions are probably valid but illicit and (except, possibly, in Eastern Churches) unenforceable. In addition, their lack of formality may well contribute to a finding of invalidity on other grounds.



**50**

**RMDC 23/2 (2017), 303-342: Rogelio Ayala Partida: Consultar y Delegar: Los principios del “Buen Gobierno”.** (Article)

A.P. identifies consulting and delegating as being the two key principles of good governance. In this regard canon 50 (“Before issuing a singular decree, the person in authority is to seek the necessary information and proof and, as far as possible, is to consult those whose rights could be harmed”) represents a “golden rule”. A healthy bureaucracy facilitates the decentralization of functions in the Church in an orderly manner, while a full awareness of what authority-service means favours initiative and creativity on the part of everyone in building up the Body of Christ.

**73**

**Ius Comm VI (2018), 353-393: Supremum Signaturae Apostolicae Tribunal: Voto del Promotor iustitiae deputatus Rvdmo. P. Velasio De Paolis, 25 julio 1989. Derecho de patronato; Matthias Ambros: Comentario: El servicio del “Promotor iustitiae” en el hallazgo de la verdad y en la promoción de la justicia en la dinámica del proceso administrativo en la Signatura Apostólica.** (Votum and comment)

See below, canon 1445.

**76-84**

**EA 53 (2018), 537-575: Fernando Campo del Pozo: Fray Alonso de Veracruz y el Compendio de todos los privilegios de los religiosos.** (Article)

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

**97-99**

**IC 58/116 (2018), 539-580: Jorge Castro Trapote: La mayoría de edad como presunción *iuris tantum* de capacidad en los códigos civiles y canónicos.** (Article)

Civil and canonical codes have inherited from Roman law the idea that “capacity to act” is based on the definition of legal age. However, a significant part of both civil and canonical jurisprudence has altered the juridical concept by interpreting “age of majority” in a positivist sense, as a

dividing line between those who have capacity and those who do not. This approach gives rise to a rigid and unrealistic system in which the notion of natural capacity is excluded once the legal rule for the age of majority has been established. In response to this, some have called for a direct legal recognition of natural capacity or capacity appropriate to different age ranges. Apart from these opposing positions, and in line with the classical legal tradition, the legal age of majority may be understood as a presumption *iuris tantum*, thus allowing any person with natural capacity to act in a juridically effective manner.

### 100-107

**AnC 14 (2018), 87-122: Piotr Skonieczny: Zamieszkanie w prawie kanonicznym. Założenia i ewolucja koncepcji (*Domicile in canon law. Principles and evolution of the concept*). (Article)**

S. outlines the history of the concept of domicile, which he regards as a term individualizing the physical person and not an element affecting the person's canonical condition. Its role in the canonical order is merely disciplinary. It refers to a fact; hence its acquisition cannot be a juridical act. Thanks to its roots in Roman law, it is an institution common to many legal systems, and therefore a comparative legal comment is possible.

### 113

**Jesu Pudumai Doss (ed.): *Iustitiam perseguere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica*. (Book)**

See above, Historical Subjects (*1917 Code*) (article by Mwandha).

### 135

**Jesu Pudumai Doss (ed.): *Iustitiam perseguere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica*. (Book)**

See above, Historical Subjects (*1917 Code*) (article by Regordán).

**144**

**RMDC 22/2 (2016), 329-343: Decisio R.P.D. Joseph Sciacca, Sentencia definitiva del 24 de octubre de 2003, en RRDec, 95 (2012), 634-640. (Sentence)**

See below, canon 1108.

**144**

**RMDC 23/1 (2017), 167-187: Decisio R.P.D. Josepho Huber, Sentencia definitiva del 25 de enero de 2001, en RRDec, 93 (2009), 82-85. (Sentence)**

See below, canon 1108.

**145**

**IC 58/116 (2018), 709-740: Antonio Viana: Introducción histórica y canónica al oficio eclesiástico. (Article)**

V. explores the historical background to the ecclesiastical office, a figure defined within the general norms of the canonical order. He presents the references to office in Roman law and in the main sources of medieval canon law, and goes on to examine three aspects that have shaped its content over the course of its historical development: its links to ecclesiastical power; its scope and institutional significance over and above the specific individuals who hold it; and its historical and interdependent relationship with the ecclesiastical benefice.

**193**

**RMDC 22/1 (2016), 204-211: PP. Francisco: Carta Apostólica en forma de motu proprio *Come una madre amorevole*, del 4 de junio de 2016. (Document)**

Italian text and unofficial Spanish translation of the Pope's motu proprio providing for the dismissal of a diocesan bishop for negligence in the performance of his pastoral office (see *Canon Law Abstracts*, nos. 118, pp. 43-44; 119, p. 41; 121, pp. 47, 101-102).

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

### 208-223

**Jesu Pudumai Doss (ed.): *Iustitiam perseguere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica.* (Book)**

See above, Historical Subjects (*1917 Code*) (article by Pudumai Doss).

### 208-231

**Jesu Pudumai Doss: *Accompanying the Young: Rights in the Church.* (Article in Jesu Pudumai Doss – Sahayadas Fernando (eds.): *Prophets with Wings. Accompanying the Young in Today's India*, pp. 23-55)**

D. examines the different ecclesial choices of the young proposed in Church law (choices regarding Christian identity, Christian formation, Christian states of life, and ecclesial and social participation); how these choices are “interpreted” vis-à-vis the rights and duties to be observed in the Church, in the process of accompanying the young; and the challenges of “life choices” in present-day India. (For bibliographical details see below, Books Received.)

### 213

**SC 52 (2018), 375-405: Louise Charbonneau: *Le suicide assisté (euthanasie) et l'accès aux sacrements: considérations canoniques et pastorales.* (Article)**

At the end of the life of the faithful who contemplate or choose assisted suicide or euthanasia and who request the last sacraments, ministers are confronted with a dilemma: to administer, to postpone or to refuse the sacraments. C. looks at legislative sources which give rise to canonical and pastoral considerations, and examines the canons which are pertinent to the faithful and their reception of sacraments and the rights of the faithful to the sacraments. She considers some responses provided by the Canadian bishops to the question of access to sacraments in the case of faithful who are contemplating or have chosen assisted suicide or euthanasia, as well as a parallel source which proposes an approach based on pastoral gradualness and not on doctrinal gradualness. In conclusion, she asks a number of questions to stimulate reflection on the topic, on the options available to the faithful who believe their right to the sacraments has not been respected, and

on the invitation that is possibly being addressed to the Church to consider assisted suicide and euthanasia as a sign of the times (*Gaudium et Spes*, nos. 1-4). She proposes a compassionate and merciful approach, a process of discernment, accompaniment and integration of weakness – an approach which could support a culture of life rather than a culture of death by assisted suicide or euthanasia.

## **215**

**IE XXX (2018), 543-569: Dominique Le Tourneau: Les droits des fidèles du canon 215 de fonder des associations et de se réunir et leur protection en droit français.** (Article)

Le T. looks at the right of associating and meeting in canon law and the way in which it is recognized and regulated in French law. He examines this double right in the context of the right and duty to evangelize, which requires among other things that the laity receive suitable formation.

## **217**

**ITS 55 (2018), 309-327: I. Amalraj: Juridical Elements of *Sufficienti Gaudeant Maturitate*.** (Lecture)

See below, canon 1031.

## **218**

**IE XXX (2018), 495-518: Jorge Otaduy: El derecho de los fieles a la libertad de investigación en las ciencias eclesíásticas.** (Article)

See below, canons 807-821.

## 220

**AnC 14 (2018), 9-22: Piotr Kroczek: Kilka uwag dotyczących Dekretu KEP z 13 marca 2018 roku w sprawie ochrony osób fizycznych w związku z przetwarzaniem danych osobowych w Kościele katolickim na podstawie kazusu przedszkola (*Several comments on the Decree of the Polish Bishops' Conference of 13 March 2018 on the protection of individuals with regard to the processing of personal data in the Catholic Church on the basis of the case study of a kindergarten*). (Article)**

Commenting on a decree of the Polish Bishops' Conference of 13 March 2018, K. discusses various issues concerning the processing of personal data in the Church.

## 220

**AnC 14 (2018), 69-86: Piotr Skonieczny: Zakres podmiotowy Dekretu ogólnego KEP z 13 marca 2018 roku w sprawie ochrony osób fizycznych w związku z przetwarzaniem danych osobowych w Kościele katolickim. Prawnoporównawczy punkt widzenia (*Personal scope of the General Decree of the Polish Bishops' Conference of 13 March 2018 on the protection of individuals with regard to the processing of personal data in the Catholic Church. Comparative legal viewpoint*). (Article)**

See preceding entry. S. identifies certain incompatibilities between the content of the decree and that of canon 220.

## 220

**Per 107 (2018), 513-522: Davide Cito: Trasparenza e segreto nel diritto penale canonico. (Presentation)**

On 9 November 2017, a Study Day was organized by the Canon Law Faculty and the Institute of Psychology of the Pontifical Gregorian University around the theme “*The Church between a commitment to transparency and protection of confidentiality*”. In his presentation C. deals with the balance to be maintained between confidentiality and transparency. This is a serious and highly publicized issue in the wake of the recent scandals concerning sexual abuse committed against minors by clergy and the failure of ecclesiastical authorities to deal adequately with the complaints received. In this delicate situation, it is necessary to find a way to respond to the legitimate need to protect the rights of individuals accused of such behaviour while respecting the need to protect the public good from

those who might or who could commit further crimes. C. notes that the need to maintain a certain level of confidentiality in proceedings does not exempt anyone from scrupulous observance of the laws in force in each State concerning the crimes involved. This kind of collaboration with the State is in the service of the good of the persons involved and of society.

## **220**

**Per 107 (2018), 523-535: Damián G. Astigueta: *Trasparenza e segreto. Aspetti della prassi penalistica.*** (Presentation)

A. highlights several practical matters to be taken into account concerning transparency and confidentiality in penal cases. He begins by commenting on the practice of publishing lists of those accused of crimes of a sexual nature, a phenomenon not uncommon in some parts of the world; he then considers the difficult situation that might arise when a canonical procedure has begun and the State makes a request for documentation in connection with its own investigation into the same crimes. He reflects on what it means to make known the dismissal of an individual from the clerical state imposed as a penalty, and refers to the lack of published jurisprudence from the Congregation for the Doctrine of the Faith on the subject. Finally he offers a critique of some practices found in tribunals of a lower level.

## **220**

**SPW 21 (2008), 369-389: Konrad Dyda: *Prawo i obowiązek przetwarzania danych osobowych byłych wyznawców przez kościoły i inne związki wyznaniowe (The right and obligation to process personal data of former members of Churches and other religious organizations).*** (Article)

D. addresses the question of whether the constitutional status of religious organizations in Poland entitles them to process the personal data of former members, which he answers in the affirmative.

## **227**

**IC 58/116 (2018), 635-670: Javier Otaduy Guerin: *Unidad y pluralidad en la Iglesia. El pluralismo carismático.*** (Article)

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

**241**

**QDE 31 (2018), 434-464: Andrea Migliavacca: La formazione umana in seminario.** (Article)

M. begins by noting that in the Code human formation seems to be something which is assumed to be complete on entry into the seminary, or is simply a part of spiritual formation. He then reviews comments on human formation in magisterial documents since the Code, and in documents of the Italian bishops. He offers an overview of the *Ratio Fundamentalis Institutionis Sacerdotalis* of 2016, and selects a number of points for deeper consideration, which further explore the importance of human formation in the journey towards priesthood.

**242**

**LW 122/6 (2016), 334-352: Antony Valungal: Spiritual Formation to Become a Missionary Disciple and Pastor in the Document of the Gift of the Priestly Vocation.** (Article)

V. reflects on the manner in which the Congregation for the Clergy's document "The Gift of the Priestly Vocation" (*Ratio Fundamentalis Institutionis Sacerdotalis*) of 8 December 2016 tries to inculcate a missionary pastoral spirit in those undergoing formation.

**242**

**QDE 31 (2018), 392-404: Giuliano Brugnotti: «La formazione sacerdotale risulti sempre conforme alle necessità pastorali delle regioni in cui dovrà svolgersi il ministero» (OT 1): la Ratio e le Rationes.** (Article)

B. begins by referring to the indication in *Optatam Totius* that each nation should produce its own *Ratio Fundamentalis Institutionis Sacerdotalis* and the suggestion of the 1967 Synod of Bishops that there should be a basic *Ratio* to guide this process produced by the competent Congregation. He suggests that the first *Ratio* (of 1970) aimed to meet the need for clarity, universality and contemporary relevance, and goes on to examine the drafting history of the present canon 242, the way in which different bishops' conferences had responded to the call for a *Ratio*, and the question whether the Roman *approbatio* should be a *recognitio* or a *confirmatio* (he argues for the latter). He ends with a consideration of the legal weight of the *Ratio*.



**242**

**QDE 31 (2018), 405-433: Francesco Grazian: La nuova *Ratio* sui seminari: aspetti normativi.** (Article)

G. observes that the new *Ratio Fundamentalis Institutionis Sacerdotalis* of 2016 does not simply reproduce the provisions of the Code, but also offers norms directing how these should be observed. He identifies the major themes of the new *Ratio* as the stress on the idea of a journey of discipleship with the seminarian as an active subject, and greater precision about the various stages of formation (imposing obligatory time limits). He goes on to look at how the *Ratio* affirms the seminary as the location for formation, treats of vocation promotion, continuing formation, the different aspects of formation, and those responsible for formation (who should be a formative community), and looks at a series of norms on admission with especial reference to psychological assessment and homosexuality.

**244**

**ITS 55 (2018), 309-327: I. Amalraj: Juridical Elements of *Sufficienti Gaudeant Maturitate*.** (Lecture)

See below, canon 1031.

**244**

**LW 123/1 (2017), 30-48: Rajesh Pollayil: Psychological Dimensions of Priestly Formation.** (Article)

In relation to the formation of priests the Magisterium is now open to social sciences, especially psychology. P. focuses on the need for considering the psychological dynamism of the human person, and looks for theoretical and practical means and models by which the psychological aspects of the human person can be integrated into the overall formation of the priest.

**244-245**

**LW 124/3 (2018), 95-122: Jobi Thomas Thurackal: Role of Values in Personality and Spiritual Development of Catholic Seminarians in India.** (Article)

T. carries out a study of almost 500 seminarians in India, exploring the relationship between values, personality, and spiritual development. The

findings of the study can help in the reorganization of the seminary formation programme, especially in associating personality and spiritual development factors with the practice of the values of forgiveness, compassion, gratitude and hope.

#### **244-245**

**LW 124/3 (2018), 123-142: Mercitta Kannampuzha: The Role of Virtues in Formation Programmes: Seminaries and Religious Houses.** (Article)

K. looks at virtues in general; faith as a personal encounter with God; the relationship between faith and knowledge; and the role of virtues in seminaries and religious formation houses, based on Church teachings. She suggests possible ways of gearing the formation programme towards a virtue-oriented life.

#### **244-245**

**QDE 31 (2018), 434-464: Andrea Migliavacca: La formazione umana in seminario.** (Article)

See above, canon 241.

#### **265**

**Ius Comm VI (2018), 235-257: Lluís Martínez Sistach: La incardinación en los movimientos eclesiales: una solución reciente y una propuesta.** (Article)

The ecclesiology of Vatican II led to the emergence of ecclesial movements and new communities made up of lay people, religious and priests. As for their canonical configuration, practically all these movements prefer the canonical status of associations of faithful. On 29 May 2017 Pope Francis presided over an interdicasterial meeting in which five criteria were agreed upon for deciding whether or not to grant the faculty of incardinating to a public clerical association of pontifical right linked to an ecclesial movement: 1. the numerical importance of the movement confirmed over a period of time; 2. the ability to guarantee suitable initial and continuing formation, as well as the economic support of the clerics; 3. a well-defined ecclesial rooting consolidated over time; 4. the human, spiritual and moral quality of the founder and of the moderator in office; and 5. statutes that

guarantee legitimate autonomy of governance and of the exercise of the priestly and diaconal ministry in relation to the lay leaders who direct the broader associative reality of the ecclesial movement.

**277**

**ICST 16 (2014), 80-94: Fortunatus Nwachukwu: Faithfulness of Christ, Faithfulness of the Priest: The Priest Today and the Challenges of Celibacy, Chastity, and Virginity.** (Article)

N. aims to find meaning in a life of celibacy, chastity and virginity. History and the experiences of other ecclesial (non-Latin) traditions show that the option of marriage is not a panacea in fighting the problems frequently raised in objection to priestly celibacy. Instead a valid formation stands out as the fundamental remedy. Moreover a study of religious communities with demanding rules of life and monastic orders of strict observance indicates that, even today, young persons are still in search of challenges, and when standards are lowered, many are no longer attracted since they can find easy alternatives elsewhere.

**278**

**SPW 21 (2008), 51-74: Mariusz Grabowski: Prawne aspekty działalności publicznej duchownych (*Legal aspects of the public activity of clergy*).** (Article)

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

**281**

**IE XXX (2018), 593-623: Supremo Tribunale della Segnatura Apostolica: Sentenza prot. n. 29240/98 CA, con commento di Jesús Miñambres, *Diritto al sostentamento e diritto all'intimità dei chierici diocesani*.** (Sentence and comment)

A priest who had been at the centre of difficulties in several parishes in which he had worked, and who was accused of sexual misconduct while working outside the diocese, was recalled to his diocese by the diocesan bishop and ordered to undergo a psychological evaluation to be carried out by diocesan experts. In view of his failure to comply with the bishop's requirements, he was not given any office in the diocese, and was informed that he would be refused financial support for as long as he continued to

withhold compliance. The bishop's decree was confirmed by the Congregation for the Clergy. The Apostolic Signatura considered that there had been a violation of the law *in decernendo*, since a threat to withhold financial support was an unlawful interference with the complainant's right to privacy under canon 220. The Signatura ordered that the complainant be awarded suitable financial compensation for the losses he had sustained.

## **285**

**SPW 21 (2008), 51-74: Mariusz Grabowski: Prawne aspekty działalności publicznej duchownych (*Legal aspects of the public activity of clergy*).** (Article)

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

## **285-286**

**SPW 21 (2008), 75-94: Jan Krajczyński: Prawno-kanoniczny zakaz podejmowania przez duchownych niektórych rodzajów działalności i jego znaczenie na gruncie prawa polskiego (*Canon law prohibition on conducting certain kinds of activities by the clergy and its significance under Polish law*).** (Article)

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

## **287**

**SPW 21 (2008), 51-74: Mariusz Grabowski: Prawne aspekty działalności publicznej duchownych (*Legal aspects of the public activity of clergy*).** (Article)

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

## **290**

**Canonist 9/2 (2018), 177-203: Rikardus Jehaut: Loss of the Clerical State by a Rescript of Dispensation: Procedural Norms and Responsibilities of the Diocesan Bishop.** (Article)

J. focuses on loss of the clerical state freely sought through a rescript of dispensation by the concerned cleric himself. He looks at the historical developments regarding the means and procedures for the loss of the

canonical condition of being a cleric by a rescript of dispensation prior to the CIC/83; and the canonical and pastoral responsibilities of the diocesan bishop.

### **294-297**

**IC 58/116 (2018), 611-634: Luis Navarro: Nuevos movimientos eclesiales. Naturaleza de los carismas, cuestiones jurídicas y límites.** (Article)

See below, canons 298-326.

### **296**

**Canonist 9/2 (2018), 204-219: Marcus Francis: The Situation of Laity under a proposed Personal Prelature of the Society of St Pius X.** (Article)

Some time ago the possibility was considered of applying the juridical structure of a personal prelature to the Society of St Pius X. Although that possibility has receded, F. uses this structure, of which Opus Dei is the single example in the Church at present, to analyse how laity participate in the Church under the CIC/83. He discusses what is meant by “organic cooperation”, which involves the activation and empowerment of laity in cooperation with clergy as part of an integrated pastoral project that cooperates in turn with the wider diocesan church, bishops’ conferences and the universal Church in the one mission to other Christians, religions and the whole of humanity.

### **298-326**

**IC 58/116 (2018), 611-634: Luis Navarro: Nuevos movimientos eclesiales. Naturaleza de los carismas, cuestiones jurídicas y límites.** (Article)

Charismatic phenomena are to be integrated properly within the Church, with respect for the nature of both the charism and the Church herself. The variety of ecclesial movements has often led to different legal structures that do not necessarily help an individual movement’s own proper development. Regardless of the particular juridical structure adopted, the movement’s statutes need to respect the relationships of justice among the members, and enable the exercise of rights and duties arising out of the members’ human

and Christian dignity and ecclesial status (lay, clerical, married, consecrated state). The statutes should reflect the nature of the charism, be it secular or religious. N. discusses ways of safeguarding the unity of movements and of incardinating clerics in them.

### **302**

**IE XXX (2018), 651-673, 735-736: Miguel Delgado Galindo: Movimenti ecclesiali e incardinazione dei chierici: a proposito dell'erezione di un'associazione clericale con facoltà di incardinare.** (Document and comment)

D.G. comments on a decree of the Congregation for the Clergy dated 15 August 2017 erecting the *Association cléricale de la Communauté de l'Emmanuel* (Clerical Association of the Emmanuel Community) as a public clerical association of pontifical right, with juridical personality, and with the right to incardinate clerics and admit to sacred orders candidates destined to be incardinated in the Association itself. He looks at the topic of incardination in ecclesial movements; at clerical associations in canon 302; and at the main features of the statutes of the Association. The French text of the decree is given on pp. 735-736.

### **303**

**EE 93 (2018), 875-892: Raquel Pérez Sanjuán: Asociaciones de fieles y consagración: a propósito del art. 7 del Estatuto del Dicasterio para los laicos, la familia y la vida.** (Article)

Art. 7 of the Statutes of the Dicastery for the Laity, the Family and Life refers to associations of the faithful whose members assume the evangelical counsels, giving rise to a new juridical form still to be defined: "associations of consecrated life".

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

### 342-348

**NRT 140 (2018), 374-387: Alphonse Borras: Le synode des évêques. Quelques réflexions cinquante ans après sa création. (Article)**

50 years after the motu proprio *Apostolica sollicitudo* of Paul VI, B. reflects on the ecclesiological consequences of the creation of the synod of bishops: *sensus fidelium* and pastoral co-responsibility, a dynamic in three moments (*communio fidelium, communio ecclesiarum, communio episcoporum*), and what Pope Francis refers to as “collegial affectivity”.

### 342-348

**REDC 75 (2018), 691-708: Francisco: Constitución Apostólica Episcopal sobre el Sínodo de los Obispos, 15.09.2018. (Document)**

Pope Francis traces the development of the Synod of Bishops since its institution by Paul VI in 1965 and sets out its purposes and functions, before establishing specific norms governing synod assemblies.

### 349

**SC 52 (2018), 331-374: Daniel Camirand: Le secret des délibérations du jury et du conclave. (Article)**

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

### 360

**EIC 58 (2018), 393-412: Carlo Fabris: La presenza e l'attività missionaria degli Istituti di Vita Consacrata e delle Società di Vita Apostolica nel quadro delle competenze della Congregazione per l'Evangelizzazione dei Popoli. (Article)**

See below, canons 673-683.

**360**

**EIC 58 (2018), 443-460: Daniela Tarantino: Per un nuovo sistema comunicativo della Chiesa. Il Dicastero per la Comunicazione nel progetto di riforma curiale.** (Article)

T. describes the new Dicastery for Communications, established by Pope Francis in 2015, which oversees a number of different offices involved in the activity of communications on behalf of the Holy See. (See also *Canon Law Abstracts*, nos. 117, p. 53; 118, p. 51; 119, p. 51.)

**360**

**Ius Comm VI (2018), 259-283: Velasio De Paolis: El secreto pontificio: fundamento moral y jurídico.** (Article)

The Secretariat of State's Instruction, *rescriptum ex audientia*, "Secreta continere" of 4 February 1974, is the norm currently governing the pontifical secret. This applies not only to the dicasteries that were traditionally involved in the so-called secret of the Holy Office, but also to all who are committed in any way to observing the pontifical secret, whether or not they are members of the Roman Curia. To observe the pontifical secret, which applies in respect of matters of major importance, is a grave obligation of justice. Those who violate the secret are to be judged by a special commission which imposes on them an indeterminate *ferendae sententiae* penalty. In 1981 the Secretariat of State issued a reminder of the validity of the 1974 Instruction, urging its observance, and referring to the possibility of sanctions for violation.

**360**

**QDE 31 (2018), 320-328: Mauro Rivella: Il diritto disciplinare della Curia Romana.** (Article)

R. suggests that the two key principles concerning the disciplinary law of the Roman Curia are those of legality and proportionality. He notes the *Regolamento* of the Curia's disciplinary procedure, and within that looks at the relationship of the relevant body in the Curia with the disciplinary commission. He examines how the disciplinary procedure is started and developed, paying attention to the way in which the right to defence is protected, and considers how a decision to apply a sanction is reached and communicated, and what happens if such a decision is not reached.



**360**

**RMDC 22/2 (2016), 392-403: PP. Francesco: Litterae Apostolicae motu proprio datae *I beni temporali*, circa alcune competenze in materia economica-finanziaria, del 4 de julio de 2016.** (Document)

Italian text and unofficial Spanish translation of the motu proprio clarifying the competences of the Secretariat for the Economy and the Administration of the Patrimony of the Apostolic See (*Apsa*) in economic-financial matters (see *Canon Law Abstracts*, nos. 118, pp. 50, 52; 120, pp. 48-49).

**360**

**RMDC 22/2 (2016), 404-406; RMDC 22/1 (2016), 212-223: PP. Francesco: Litterae Apostolicae in forma di motu proprio con cui si istituisce il dicastero per i laici, la famiglia e la vita, del 15 de agosto de 2016; Estatuto del Dicasterio para los Laicos, la Familia y la Vida, del 4 de junio de 2016.** (Documents)

Italian text and unofficial Spanish translation of the Pope's motu proprio establishing a Dicastery for the Laity, the Family and Life, and of the statutes of the new Dicastery (see *Canon Law Abstracts*, nos. 118, pp. 49, 51-53; 119, pp. 50-51; 120, pp. 43, 47-48; 121, p. 49).

**360**

**RMDC 22/2 (2016), 407-419: PP. Francisco: Carta Apostólica en forma de motu proprio con la que se instituye el dicasterio para el servicio del desarrollo humano integral, del 17 de agosto de 2016; Statuto del dicastero per il servizio dello sviluppo umano integrale.** (Documents)

Spanish text of the Pope's motu proprio establishing the Dicastery for Promoting Integral Human Development, and Italian text with unofficial Spanish translation of the statutes of the new Dicastery (see *Canon Law Abstracts*, nos. 118, p. 51; 119, pp. 50-51; 120, p. 48; 121, p. 49).

**360**

**RMDC 22/2 (2016), 420-431: PP. Francisco: Estatuto de la Secretaría para la comunicación, del 6 de septiembre de 2016.** (Document)

Spanish text of the statutes for the new Secretariat for Communication (see *Canon Law Abstracts*, no. 118, p. 51).

**360**

**RMDC 22/2 (2016), 432-454: PP. Francisco: Statuto della Pontificia Accademia per la vita, del 18 de octubre de 2016.** (Document)

Italian text and unofficial Spanish translation of the statutes of the Pontifical Academy for Life (see *Canon Law Abstracts*, no. 118, p. 52).

**360**

**RMDC 23/1 (2017), 229-234: PP. Francisco: Carta Apostólica en forma de motu proprio *Summa familiae cura*, del 8 de septiembre de 2017.** (Document)

Spanish text of the motu proprio reshaping and extending the remit of the Pontifical Institute for the Study of Marriage and the Family (see *Canon Law Abstracts*, no. 121, p. 46).

**360**

**SC 52 (2018), 443-469: Chad J. Glendinning: Pastoral Conversion and the Exercise of Authority in the Church: An Examination of Pope Francis' Criteria for the Reform of Ecclesiastical Structures.** (Article)

G. reflects on how the Pope's call for a "pastoral conversion" of ecclesiastical structures is being implemented with various ecclesiastical structures at the universal, supradiocesan, and diocesan levels. Specifically, the study examines the renewal of ecclesiastical structures through the lens of three examples: the reform of the Roman Curia (at the universal level); the modifications introduced into the procedures for the declaration of marriage nullity by means of the motu proprio *Mitis Iudex* (the diocesan level); and the renewed impetus of the authority exercised by conferences of bishops (supradiocesan or regional level).

**375**

**PS LIII 160 (2018), 475-492: Ross Heruela: Particular Church vis-à-vis Universal Church: Locating the Role and Place of the Bishop.** (Article)

The identity of the bishop is an intricate issue: he has an identity as bishop of the particular Church, and as a bishop in the universal Church. H. examines the matter in the light of the theology of Joseph Ratzinger. The bishop serves as the hinge between the particular Church and the universal

Church. For this reason, his role corresponds to that of the Apostles during the time of Jesus.

### **378**

**CLSN 194/18, 26-28: Modification to the Instruction “The Study of Canon Law in light of the Reform of the Matrimonial Process”, 5 June 2018.** (Document)

See below, canons 807-821.

### **383**

**Verg 7 (2018), 123-149: Luigi Sabbarese: Cura dei migranti tra pastorale della mobilità e mobilità della pastorale.** (Article)

Vatican II provided the basis for a revolution in the pastoral care of migrants, and thanks to the CIC/83 and the CCEO, which have systematized and translated these innovations into juridical-institutional language, the Church now counts on a structured pastoral care of migrants, the organization of which is dealt with in the 2004 Instruction *Erga migrantes caritas Christi*. S. examines the innovations of the Instruction, its strengths and its weaknesses. Overall it is evident that the Church has developed her pastoral care of migrants, of both Latin and Eastern rite, by means of flexible pastoral structures that make it possible to provide pastoral care on the move. Specific pastoral care is not an anomaly that must be tolerated: the inclusion of migrants in the host ecclesial community must be carried out gradually, involving the community which they have left and the one in which they have arrived, under the responsibility of the Pastors.

### **384**

**IE XXX (2018), 593-623: Supremo Tribunale della Segnatura Apostolica: Sentenza prot. n. 29240/98 CA, con commento di Jesús Miñambres, *Diritto al sostentamento e diritto all'intimità dei chierici diocesani.*** (Sentence and comment)

See above, canon 281.

**394**

**SC 52 (2018), 509-540: Pawel Kaleta – Francis G. Morrissey: Sponsorship of Catholic Health Care and Other Apostolic Works in the Church: Legal and Practical Aspects.** (Article)

The authors explore sponsorship as an instrument whereby an institution or public ministry of the Church is exercised in the name of, and in communion with, the family of faith. They also consider certain criteria for Catholic identity to be met in apostolic works carried out through various forms of sponsorship. The preservation of Catholic identity is one of the principal objectives of every sponsorship agreement, by which apostolic activities are undertaken in accordance with the mission, vision and identity of the apostolate. Sponsorship is in the process of being transformed and reshaped as it responds to challenges regarding the maintaining of Catholic identity. K. and M. highlight certain canonical and practical perspectives for the development of various forms of sponsorship, which is constantly affected by social and economic changes.

**401-402**

**AnC 14 (2018), 23-50: Piotr Majer: Rezygnacja z urzędu kościelnego – wybrane aspekty ascetyczne i prawne w oparciu o *motu proprio* papieża Franciszka *Imparare a congedarsi* z 12 lutego 2018 roku (*Resignation from church office – selected ascetical and juridical aspects based on Pope Francis’s motu proprio “Learn to take your leave” of 12 February 2018*).** (Article)

M. comments on Pope Francis’s *motu proprio* on the methods of resignation from office for having reached the age limit in the case of diocesan bishops and others (see *Canon Law Abstracts*, no. 121, p. 51).

**401-402**

**IE XXX (2018), 647-650, 732-734: Fernando Puig, Commento al m. p. *Imparare a congedarsi*.** (Document and comment)

See preceding entry. P. comments on the novelties and clarifications introduced by the *motu proprio*, the Italian text of which is given on pp. 732-734.

**401-402**

**REDC 75 (2018), 687-689: Carta Apostólica en forma de *Motu Proprio* del Sumo Pontífice Francisco *Imparare a congedarsi* con la que se regula la renuncia por motivo de edad, de algunos oficios de nombramiento pontificio, 12.02.2018.** (Document)

See preceding entries. The Spanish text is given of the motu proprio.

**401-402**

**RMDC 24/1 (2018), 140-149: PP. Francisco: Carta Apostólica en forma de motu proprio *Imparare a congedarsi*, del 12 de febrero de 2018.** (Document)

See preceding entries. The original Italian text and unofficial Spanish translation of the document are given.

**431-459**

**KIP 7 (20) 2018, nr. 2, 63-77: Joanna Przybyławska: *Metropolitalne organy władzy w Kodeksie Prawa Kanonicznego z 1983 roku* (*The Metropolitan's authority in the 1983 Code of Canon Law*).** (Article)

Canon 431 §1 stipulates that neighbouring particular Churches are to be grouped into ecclesiastical provinces, so as to promote the common pastoral activities of various neighbouring dioceses and foster relations among diocesan bishops. P. examines the provisions of the Code relating to the authorities within a Church province: the Metropolitan and the provincial council.

**439-446**

**ACR XCV 4/18, 399-411: Ian Waters: *The Plenary Council and Canon Law*.** (Article)

In the light of the fact that the Australian Church is to celebrate a plenary council, commencing in 2020 (the first in Australia since 1937), W. outlines the differences between councils and episcopal conferences, details the participants and functioning of the council, and examines specifically the participation in and contribution to the council of the non-episcopal members.

**447**

**SC 52 (2018), 443-469: Chad J. Glendinning: Pastoral Conversion and the Exercise of Authority in the Church: An Examination of Pope Francis' Criteria for the Reform of Ecclesiastical Structures.** (Article)

See above, canon 360.

**454**

**FCan XII/2 (2017), 43-60: Dominique Le Tourneau: Un évêque a trois voix: l'archevêque de Chambéry. Note Canonique.** (Article)

The archbishop of Chambéry, in the department of Savoie in France, is at the same time bishop of Tarentaise and Maurienne. As such, he has three votes in certain affairs of the episcopal conference. Le T. outlines the origin of the three dioceses, and the evolution they underwent at the time of the French Revolution and after the annexation of Savoie to France by plebiscite in 1860. He looks at the transformation brought about in 1966 by the Apostolic Constitution *Animarum bonum*, in accordance with the dispositions of the Second Vatican Council, following which Tarentaise and Maurienne were united *aeque principaliter* to Chambéry. Le T. then studies the votes of the archbishop of Chambéry at the episcopal conference, and describes the present organization of the three dioceses. He wonders whether, in view of the anticipated shortage of clergy, the arrangement could serve as a model to be followed elsewhere.

**460**

**AnCrac 49 (2017), 343-355: Jan Dyduch: Posługa nauczania w uchwałach II Synodu Katowickiego (*The ministry of teaching in the Second Synod of the Archdiocese of Katowice*).** (Article)

The diocese of Katowice, established in 1925 and elevated to the dignity of archdiocese in 1992, celebrated a diocesan synod in 2016. D. analyses the synodal declarations.

**475-481**

**KIP 7 (20) 2018, nr. 2, 45-62: Mariusz Bakalarz: Wpływ ustroju prawnego Kościoła łacińskiego na kształtowanie się aktualnego porządku prawnego katolickich Kościołów wschodnich na przykładzie urzędów protosyncelna i syncelna (*Influence of the legal system of the Latin***

***Church on the formation of the current legal order of the Eastern Catholic Churches as illustrated by the offices of protosyncellus and syncellus).*** (Article)

See above, CCEO canons 245-251.

## **492**

**QDE 31 (2018), 338-359: Francesco Grazian: Il ruolo del Collegio dei consultori e del Consiglio diocesano per gli affari economici nell'amministrazione dei beni diocesani.** (Article)

G. begins with a general consideration of the nature of co-responsibility in the Church, and goes on to review the constitution and roles of the college of consultors and the diocesan finance committee, focusing on their work in financial matters. He examines some of the legal aspects of their giving consents and opinions, and argues in favour of both groups having their own statutes. He distinguishes the roles of both: the college of consultors is primarily ecclesial and pastoral, and the finance committee primarily organizational and financial. He concludes with a consideration of how these bodies can assist the bishop in his role of supervising temporal goods which are subject to him.

## **492-502**

**SC 52 (2018), 593-626: John Anthony Renken: The Management of Church Property in a Synodal Church: Towards Eliminating Financial Misconduct.** (Article)

See below, canons 1254-1310.

## **502**

**QDE 31 (2018), 338-359: Francesco Grazian: Il ruolo del Collegio dei consultori e del Consiglio diocesano per gli affari economici nell'amministrazione dei beni diocesani.** (Article)

See above, canon 492.

**515**

**RMDC 22/1 (2016), 129-157: Rogelio Ayala Partida: Entregar la parroquia: el arte de la fidelidad.** (Article)

A.P. sets out the steps to be taken in the handing over of a parish, including the presentation of accounts and reports, in such a way that the priest who is about to take over the parish may continue the work of the Kingdom of God on the basis of what has been achieved to date.

**519**

**Ap LXXXX (2017), 565-612: Daniel Juan Tortosa: La actividad administrativa del Párroco: ¿es jurisdicción?** (Article)

Nowadays there is a discussion over whether the hierarchical-pastoral functions of the parish priest, and the faculties attributed to him by the canonical norms, particularly in the area of canonical administrative law, are sufficient to identify him as the holder of *potestas regiminis*. T. analyses the administrative activity of the parish priest in relation to patrimonial management (parish archives, registers, certificates, and tasks) and the liturgy, sacraments and catechesis (dispensations, permissions or delegations). He concludes that the rights and obligations inherent in the office of parish priest do not necessarily imply the existence of a power of jurisdiction; rather, they are ministerial functions at the service of the Christian community, which are proposed and safeguarded by the canonical order.

**564**

**SPW 21 (2008), 183-204: Jerzy Nikolajew: Status kapelanów duszpasterstw specjalnych w ukraińskim systemie prawnym** (*The status of chaplains of special chaplaincies in the Ukrainian legal system*). (Article)

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



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

### **573**

**AnC 14 (2018), 291-321: Beata Stypułkowska: Rady ewangeliczne w życiu dziewicy konsekrowanej (*Evangelical counsels in the life of a consecrated virgin*).** (Article)

See below, canon 604.

### **573**

**ETJ 22 (2018), 169-197: Jisi Kovoorthenpurayil: The Sacramental Nature of the Church Reflected in the Consecrated Life.** (Article)

The aspects of consecration, communion and mission in consecrated life reflect the sacramental nature of the Church, making consecrated life a sign for the Church itself, in the Church and in the world. It is lived out through the evangelical counsels, fraternal life in community, and a life of mission.

### **573-746**

**IC 58/116 (2018), 611-634: Luis Navarro: Nuevos movimientos eclesiales. Naturaleza de los carismas, cuestiones jurídicas y límites.** (Article)

See above, canons 298-326.

### **596**

**IC 58/116 (2018), 581-610: Geraldina Boni – Manuel Ganarin: In merito al problema se i Superiori maggiori degli istituti religiosi di diritto pontificio clericali possano erigere pie fondazioni autonome.** (Article)

See below, canons 1303-1304.

**599**

**ICST 16 (2014), 80-94: Fortunatus Nwachukwu: Faithfulness of Christ, Faithfulness of the Priest: The Priest Today and the Challenges of Celibacy, Chastity, and Virginity.** (Article)

See above, canon 277.

**604**

**AnC 14 (2018), 291-321: Beata Stypulkowska: Rady ewangeliczne w życiu dziewicy konsekrowanej (*Evangelical counsels in the life of a consecrated virgin*).** (Article)

S. deals with consecrated virgins as an individual form of consecrated life. She examines the problem of the definition of consecrated persons and of the profession of evangelical counsels as their characteristic feature, before focusing on consecrated virgins who take only one vow, that of chastity. She examines this vow, and then the manner in which the other evangelical counsels, those of poverty and obedience, are practised. She concludes with a consideration of the problem of freedom and voluntariness in practising the evangelical counsels.

**604**

**CLSN 194/18, 29-35: Amy Hereford: Examination of the Instruction *Ecclesiae Sponsae Imago*, 8 June 2018.** (Article)

H. comments on the Instruction *Ecclesiae sponsae imago*, on the *ordo virginum*, issued by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life on 8 June 2018. The Instruction establishes the normative principles and directive criteria that the pastors of every diocese and individual Churches assimilated to dioceses must apply in the pastoral care of the *ordo virginum*. After outlining the biblical foundations and typical elements of the vocation and witness of consecrated virgins, the Instruction deals with the specific structure of the *ordo virginum* within the particular Church and the universal Church, and then focuses on vocational discernment, formation programmes prior to consecration, and permanent formation.

**604**

**ICST 16 (2014), 80-94: Fortunatus Nwachukwu: Faithfulness of Christ, Faithfulness of the Priest: The Priest Today and the Challenges of Celibacy, Chastity, and Virginity.** (Article)

See above, canon 277.

**605**

**Cla n.s. 9, 58 (2018), 377-416: Ismael Joaquín Barros Peña: Matrimonios misioneros de la Fraternidad Misionera Verbum Dei: ¿Una Forma Nueva de Consagración?** (Article)

What is the juridical and theological status of married members of the New Forms of Consecrated Life in canon 605? The New Forms, called to reflect the entire People of God from the spirituality of communion, include all states in life. In them, the consecrated married live as full members although they do not take vows of poverty, chastity and obedience as the celibate members do. Married couples who belong to one of the New Forms are consecrated by a divine vocation that separates them from the social standard for a specific mission at the service of the Church. This consecration results from a charism that enhances their marital status, and involves dedication to a mission and to the living out of a particular spirituality.

**605**

**EE 93 (2018), 875-892: Raquel Pérez Sanjuán: Asociaciones de fieles y consagración: a propósito del art. 7 del Estatuto del Dicasterio para los laicos, la familia y la vida.** (Article)

See above, canon 303.

**634-635**

**EIC 58 (2018), 333-364: Simona Paolini: Un nuovo diritto a promozione di forme condivise di gestione dei beni, tra differenti Istituti.** (Article)

P. looks at the topic of management of goods in religious institutes. After setting out the basic principles she looks at the specific case of the Catholic Health Care Federation, an American foundation made up of 87 hospitals belonging to 12 religious institutes in 18 different States shared by 35

dioceses. The study is aided by the reflections of Pope Francis, who constantly advocates the adoption of a new economic paradigm in the management of economic goods in general, and of the Church's goods in particular.

### **634-640**

**Cla n.s. 9, 58 (2018), 417-451: Gian Franco Poli: “Economia a servizio del carisma e della missione”. Orientamenti per una corretta “gestione dei beni”.** (Article)

P. offers some “preparatory guidelines” on the document *Economy at the service of the charism and mission* issued by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLSAL) in 2018. The starting point is the teaching of Pope Francis, in continuity with previous Magisterium, regarding the management and administration of goods. Documents of CICLSAL between 2014 and 2018 offer a new perspective on the role of economy in consecrated life, making clear that government of the economy must conform to the institute's charism and help rediscover the “human face” of the management of goods.

### **634-640**

**EE 93 (2018), 819-874: Miguel Campo Ibáñez: Economía al servicio del carisma y de la misión. Orientaciones. Presentación y comentario.** (Article)

See preceding entry. In addition to inviting serious reflection on the management of goods within institutes of consecrated life and societies of apostolic life, *Economy at the service of charism and mission* also calls for a recovery of charism as a key management tool. With the practical guidance it offers, C.I. considers the document to be of interest to all public juridical persons in the Church.

### **634-640**

**VR 125/6-7 (2018), 30-37, 302-307: Jaime Badiola Villa: La economía al servicio de la misión. Comentarios al hilo de la instrucción *Economía al servicio del carisma y la misión*.** (Article)

See preceding entries. In this two-part article B.V. points out that there is a consistency to the document which means that even when focusing on a

particular chapter (specifically, chapter III, “Economic Dimension and Mission”, which deals with sustainability of works; stable patrimony; responsibility, transparency and trust; maintenance of records; and the four principles of *Evangelii Gaudium*) other insights which permeate the whole document also need to be taken into account.

### **638**

**EIC 58 (2018), 307-331: Alessandro Aste: Il patrimonio stabile: profili canonistici.** (Article)

See below, canons 1291-1295.

### **642**

**ITS 55 (2018), 309-327: I. Amalraj: Juridical Elements of *Sufficienti Gaudeant Maturitate*.** (Lecture)

See below, canon 1031.

### **652**

**LW 124/3 (2018), 123-142: Mercitta Kannampuzha: The Role of Virtues in Formation Programmes: Seminaries and Religious Houses.** (Article)

See above, canons 244-245.

### **667**

**EE 93 (2018), 773-818: Teodoro Bahillo Ruiz: La instrucción *Cor Orans*. La renovación de la vida contemplativa femenina en la Iglesia.** (Article)

The norms on women’s contemplative life contained in the 2016 Apostolic Constitution *Vultum Dei quaerere* and the 2018 Instruction *Cor Orans* constitute an important step towards the renewal of women’s monastic life. B.R. presents the main features of *Cor Orans*, looking at the four fundamental matters it deals with: autonomy of monasteries; federations; separation from the world, with special reference to the cloister; and formation. He pays special attention to the new norms introduced by the Instruction – obligation to federate, temporal delimitation of the formative process, loss of juridical autonomy when a minimum autonomy of life is

lacking – as well as the derogation of certain canons of the CIC/83, and the competences of the Holy See, the diocesan bishop, the religious superior and the president of the federation over autonomous monasteries.

**667**

**RMDC 22/2 (2016), 347-391: PP. Francisco: Constitución Apostólica *Vultum Dei quaerere*, sobre la vida contemplativa femenina.** (Document)

Spanish text of the Apostolic Constitution of 29 June 2016 on women's contemplative life (see *Canon Law Abstracts*, nos. 118, pp. 63-64; 119, pp. 64-66; 120, p. 62; 121, p. 58).

**673-683**

**EIC 58 (2018), 393-412: Carlo Fabris: La presenza e l'attività missionaria degli Istituti di Vita Consacrata e delle Società di Vita Apostolica nel quadro delle competenze della Congregazione per l'Evangelizzazione dei Popoli.** (Article)

One of the duties entrusted to the Congregation for the Evangelization of Peoples is that of coordinating and directing the missionary activity of the numerous institutes of consecrated life and societies of apostolic life that are daily engaged in the vast work of evangelization among the populations of newly-evangelized countries. F. offers a juridical profile of these functions in the context of the relationship between the dicasteries of the Roman Curia and the institutions subject to it.

**702**

**EIC 58 (2018), 365-392: Isabella Bolgiani: Il lavoro dei religiosi negli Istituti di appartenenza tra diritto della Chiesa e diritto dello Stato.** (Article)

B. examines the manner in which canon law and Italian civil law affect the relationships between religious and their own institutes.

**721**

**ITS 55 (2018), 309-327: I. Amalraj: Juridical Elements of *Sufficienti Gaudeant Maturitate*.** (Lecture)

See below, canon 1031.

## BOOK III: THE TEACHING OFFICE OF THE CHURCH

### 747-833

**SC 52 (2018), 541-592: Sarath Chandra Sagar Maddineni: Implicit Rights of the Faithful in Book III of the Code of Canon Law. (Article)**

M. develops a theory of implicit rights of the faithful in canon law and applies it to the canons of Book III of the CIC/83. While explicit rights are indicated by the word *ius* or a synonymous term, an implicit right has no explicit terminology indicating a right. Such rights may be implied in the legal obligations of office holders and ministers: that they are obliged by law to do something for the benefit of the faithful implies a concomitant right of the faithful that it be done. Other requirements of the law may also give rise to implicit rights. These can only be known by a careful study and interpretation of the law considered in text and context. There are also certain Latin grammatical expressions commonly used in canon law for obligations or other requirements of law, and frequently these are indicators of an implied right.

### 773-780

**S 80 (2018), 675-699: Enrico C. Eusebio: L'evoluzione del *Christus Dominus* e del suo insegnamento sul dovere catechistico dei vescovi. (Article)**

E. investigates the redaction history of the Vatican II Decree *Christus Dominus* concerning the pastoral office of bishops in the Church, and its teaching on the objectives of catechesis, the means and methods by which it is to be carried out, and those responsible for this task. In fact the doctrine of Vatican II on catechesis was the consequence of the renewal of a mindset that gradually matured before the Council and at the Council itself. The Council rediscovered the essential nature of catechesis and placed the use of the catechism – its learning, understanding and memorization – within the framework of a whole new process of Christian formation wherein doctrine is learned as an effective force through which the Christian spirit is infused into the realities of concrete life.



**773-780**

**Jesu Pudumai Doss (ed.): *Iustitiam persequere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica.* (Book)**

See above, Historical Subjects (1917 Code) (article by Eusebio, Jr.).

**790**

**IusM XII/2018, 17-54: Antoine M. Ndiaye: *La responsabilité de l'évêque diocésain dans l'action missionnaire (can. 790, CIC).* (Article)**

Individual bishops, as guarantors of the universal Church and of all the Churches must have a special concern for missionary work. Canon 790 deals mainly with diocesan bishops in mission territories. All missionaries are subject to its provisions, including those religious called to missionary cooperation by means of suitable agreements. The legislation also determines the scope of dependence on the authority of diocesan bishops, and the agents of missionary action. N. examines the whole history of missionary cooperation and of the magisterial and juridical documents that have stimulated its development and efficiency for the good of the Church. Although the canon may not introduce any innovations regarding the problem of the *munus* of the bishop, it has the merit of addressing the delicate topic of missionary law still to be written and improved.

**790**

**REDC 75 (2018), 455-491: Julio García Martín: *La suerte del sistema de comisión en las misiones apud infideles según las normas canónicas.* (Article)**

The CIC/17 established special norms for the governance of vicarious missions, which were entrusted to an ecclesiastical superior, vicar of the Roman Pontiff, even though the missionaries belonged to a religious institute. This was the cause of conflicts between ecclesiastical and religious superiors. The 1929 Instruction *Quum huic* attempted to resolve these issues by stating that the mission was entrusted to the ecclesiastical superior and that its “commission” to the religious institute was a collaboration in missionary activity. The Second Vatican Council recognized the autonomy of institutes for internal governance and their subjection to the bishop in the apostolate, which Paul VI also applied to mission territories. The present Code has equated particular mission Churches to dioceses, eliminating the need for special norms, and has expressly established that the missions are

entrusted to the ecclesiastical superior, and that the collaboration of the religious institutes and missionaries is achieved by means of agreements between both parties, as happens in dioceses. Thus the previous system of commission and the intervention of the Congregation for the Evangelization of Peoples are no longer needed.

**793**

**IE XXX (2018), 443-471: José T. Martín de Agar: I genitori, primi educatori. *Homeschooling*.** (Article)

M. de A. looks at the general and legal aspects of home schooling in several countries, in the light of the parents' responsibility as principal educators of their children.

**793-821**

**ACR XCV 4/18, 455-471: Anthony Mellor: Catholic Education in the Twenty-First Century: Narrative, Purpose, and Ecclesial Context.** (Article)

M.'s article, although not referring specifically to the current canons on Catholic education, discusses the new realities in this area in places such as Australia.

**793-821**

**IE XXX (2018), 401-417: Angelo Vincenzo Zani: Educazione e insegnamento nel Magistero della Chiesa cattolica.** (Article)

For many centuries to speak of education and pedagogy meant to speak of Christian education and pedagogy. With the modern State and the cultural evolution of the last few centuries this has ceased to be the case. Z. clarifies the meanings of these terms in the present context, to facilitate a better understanding of the contribution of the Church's Magisterium in this regard.

**793-821**

**IE XXX (2018), 473-494: Stefan Mückl: Il collegamento tra il diritto canonico e il diritto ecclesiastico in materia di insegnamento.** (Article)

In the modern age, Church and State pursue independent educational aims. The State ensures access to schools and universities, with the aim of educating responsible citizens. For the Church, the establishment and operation of such institutions are at the service of her teaching function. In principle, the State is to guarantee the Church's freedom of action in the field of education. M. analyses the mechanisms by which this is to be achieved.

**794**

**Jesu Pudumai Doss (ed.): *Iustitiam perseguere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica.*** (Book)

See above, Historical Subjects (*1917 Code*) (article by Pitterová).

**796-806**

**IE XXX (2018), 419-442: Paolo Cavana: Il finanziamento degli istituti educativi negli Stati europei: studio comparativo.** (Article)

C. looks at some aspects of the funding of educational institutions in European countries. He notes the trend in several countries (though not in Italy) towards providing public support for private educational establishments – mainly Church schools – as a fundamental part of the educational system, as long as they maintain high standards, comply with national curricula and respect European values.

**796-806**

**LJ 181 (2018), 207-218: Paul Barber: Catholic Schools and the Admissions Cap.** (Article)

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

**807-821**

**CLSN 194/18, 4-25: Congregation for Catholic Education: Instruction: The Study of Canon Law in light of the Reform of the Matrimonial Process, 29 April 2018.** (Document)

The Congregation for Catholic Education sets out guidance for the study of canon law following the reformed procedures introduced by *Mitis Iudex* and *Mitis et Misericors Iesus*. It starts by looking at the current state of institutions teaching canon law in the universal Church, to highlight their resources and critical issues and to underline the importance of guaranteeing the academic quality of these institutions at the service of the Church; it identifies the new office-holders foreseen in the reform, along with the office-holders already foreseen by the norms of canon law; it proposes some possible courses of formation for the various levels of competence that are needed to carry out the different functions; and it establishes norms for chancellors and academic authorities of institutes of canon law, faculties of theology and Catholic universities.

**807-821**

**CLSN 194/18, 26-28: Modification to the Instruction “The Study of Canon Law in light of the Reform of the Matrimonial Process”, 5 June 2018.** (Document)

See preceding entry. Details are provided of an amendment to the Instruction, approved by Pope Francis, to the effect that even if the diocesan bishop lacks the doctorate or licentiate specified in canon 378 §1, 5°, the sacramental grace of episcopal ordination renders him capable of instructing every matrimonial process, including the briefer one. Nevertheless, prudence may counsel him to ask assistance from others who are more expert in canon law.

**807-821**

**RMDC 24/1 (2018), 150-186: Congregación para la Educación Católica: Instrucción *Los estudios de Derecho canónico a la luz de la reforma del proceso matrimonial*, del 29 de abril de 2018.** (Document)

The Spanish text is given of the Instruction referred to in the preceding entries.

**807-821**

**ETJ 22 (2018), 198-209: Varghese Palathingal: The New Perspectives and Implications of *Veritatis Gaudium*.** (Article)

P. examines the Apostolic Constitution *Veritatis Gaudium* (see *Canon Law Abstracts*, no. 121, p. 61), which aims to revise and renew the functioning of ecclesiastical universities and faculties. In it Pope Francis exhorts teachers and students to dedicate themselves passionately to deepening in their knowledge of the truth about God and man and to transmitting that knowledge for the good of all people in various cultures and religious traditions.

**807-821**

**IE XXX (2018), 495-518: Jorge Otaduy: El derecho de los fieles a la libertad de investigación en las ciencias eclesiásticas.** (Article)

The Apostolic Constitution *Veritatis Gaudium* promotes the renewal of ecclesiastical studies and the development of research in the sacred sciences. Within this general framework, O. analyses the fundamental aspects of the right of the faithful to freedom of research and teaching, recognized in canon 218. He concludes with a particular reference to the resolution of conflicts that may arise in this connection within institutes of higher education.

**807-821**

**IC 58/116 (2018), 813-856: Bruno Esposito: Presentación y comentario de la Constitución Apostólica *Veritatis gaudium* y de las *Ordinationes anejas*, sobre las Universidades y Facultades eclesiásticas.** (Comment)

E. examines Pope Francis's Apostolic Constitution *Veritatis Gaudium* of 8 December 2017 and the appendix with the *Ordinationes* of the Congregation

for Catholic Education for the correct implementation of *Veritatis Gaudium*. He looks at the structure of the documents, and the elements of continuity and innovation that they contain, before commenting on the individual provisions. He points out differences and variations with respect to the Apostolic Constitution *Sapientia Christiana* (1979) and the norms of application of that document.

### **807-821**

**RMDC 23/2 (2017), 406-470: Francisco: Const. Ap. *Veritatis Gaudium*, sobre las Universidades y Facultades eclesiásticas, 8 de diciembre de 2017; Congregación para la Educación Católica: Normas aplicativas en orden a la recta ejecución de la Constitución Apostólica *Veritatis Gaudium*, 27 de diciembre de 2017.** (Documents)

Spanish text of *Veritatis Gaudium* and the Norms issued by the Congregation for Catholic Education for the correct implementation of the Apostolic Constitution.

### **815-821**

**SC 52 (2018), 471-490: John M. Huels: *Veritatis Gaudium* and the Canon Law on Ecclesiastical Universities.** (Article)

H. briefly explains the notions of the ecclesiastical university and the ecclesiastical faculty and highlights the applicable universal laws governing them, before commenting on canons 815-821 of the CIC/83, with references to the counterpart provisions of the CCEO (canons 646-650) and to recent juridical documents binding in both the Latin and Eastern Catholic Churches. He gives particular attention to the substantial differences between the canonical mission required of permanent professors at ecclesiastical universities and the *mandatum* of canon 812 required of Catholic professors who teach the theological disciplines in any institute of higher studies.

## BOOK IV: THE SANCTIFYING OFFICE OF THE CHURCH

**838**

**IE XXX (2018), 633-646, 729-731: Massimo del Pozzo: Fedeltà e decentramento nelle traduzioni liturgiche. Commento al m. p. *Magnum principium*.** (Document and comment)

Del P. comments on the reasons behind the motu proprio *Magnum principium* (see *Canon Law Abstracts*, nos. 120, p. 70; 121, pp. 64-66), and examines the distinction between the *recognitio* of the Holy See (limited to liturgical adaptations, and not extending to versions in the vernacular languages) and *confirmatio* as the mechanism which gives efficacy to the work of translation. He looks at the implications of the revised legislation. (The Italian text of the motu proprio is given on pp. 729-731.)

**838**

**RMDC 23/1 (2017), 218-228: PP. Francisco: Carta Apostólica en forma de motu proprio *Magnum principium*, del 3 de septiembre de 2017.** (Document)

Italian text and unofficial Spanish translation of the motu proprio *Magnum principium* (see preceding entry).

## BOOK IV, PART I, TITLE I: BAPTISM

**843**

**SC 52 (2018), 375-405: Louise Charbonneau: Le suicide assisté (euthanasie) et l'accès aux sacrements: considérations canoniques et pastorales.** (Article)

See above, canon 213.

**849**

**Tomasz Jakubiak: Problem ważności przyjęcia sakramentu święceń w prawie Kościoła katolickiego (*The problem of validity of receiving the sacrament of Holy Orders in the law of the Catholic Church*).** (Book)

See below, canon 1024.

**856-860**

**RMDC 22/2 (2016), 291-326: Rogelio Ayala Partida: Dónde y cuándo bautizar: asuntos por resolver en los tiempos presentes.** (Article)

A.P. analyses the diocesan bishop's faculties concerning the regulation of the baptism of children, especially as regards the time and place of celebration. He compares the criteria of the CIC/17 with those of the CIC/83, highlighting the changes which came about following Vatican II and which are reflected in the 1969 *Rite of Baptism for Children* and in the Code itself. He also examines situations of the community which should be taken into account in establishing the time and place of celebration. He makes some suggestions regarding a diocesan consultation on the time and place of celebration, and the diocesan and parochial structures that could contribute to this consultation.

**868**

**SC 52 (2018), 491-508: Tomasz Jakubiak: The Founded Hope that an Infant will be Brought up In the Catholic Religion as a Condition for Baptism.** (Article)

In the everyday life of the Church community, the application of canon 868 §1, 2° not infrequently contributes to tensions between the faithful and their



pastors. J. aims to explain how this canon is to be interpreted in the light of a variety of human and family situations, including the adoption of children by homosexual couples and a growing number of couples living in irregular marriages. He asks whether the infants of such parents may be baptized in view of the condition of the canon that there must be a founded hope that the child will be raised in the Catholic religion.

**877**

**IC 58/116 (2018), 671-708: Jorge Salinas Mengual: Protección de datos: entre el derecho a la intimidad y la autonomía de las confesiones religiosas. El caso finlandés y el español (a propósito de la Sentencia Jehovan Todistajat del TJUE).** (Article)

See above, General Subjects (*Human rights*).

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

### 912

**SC 52 (2018), 375-405: Louise Charbonneau: Le suicide assisté (euthanasie) et l'accès aux sacrements: considérations canoniques et pastorales.** (Article)

See above, canon 213.

### 915-916

**KIP 7 (20) 2018, nr. 2, 125-139: Daniel Przygoda: Problematyka dopuszczenia do Komunii św. osób żyjących w tzw. sytuacjach nieregularnych (*Admission to Holy Communion of those living in so-called irregular situations*).** (Article)

P. offers a broad analysis of the topic of the possibility of granting the divorced and remarried access to the sacraments of penance and the Eucharist. Most bishops insist on maintaining the present discipline because of the constitutive relationship between participation in the Eucharist and communion with the Church as well as her teaching on the indissolubility of marriage.

### 915-916

**RMDC 22/1 (2016), 67-108; RMDC 22/2 (2016), 243-269: Mario Medina Balam: La comunión eucarística a los divorciados vueltos a casar civilmente a la luz de *Amoris laetitia* y los cánones 915-916.** (Article)

In a two-part article M.B. analyses how the question of Communion for divorced and civilly remarried Catholics has been dealt with in the Church's constant Magisterium, in canons 915 and 916 of the CIC/83, and in the post-synodal Apostolic Exhortation *Amoris Laetitia*.

### 915-916

**SC 52 (2018), 375-405: Louise Charbonneau: Le suicide assisté (euthanasie) et l'accès aux sacrements: considérations canoniques et pastorales.** (Article)

See above, canon 213.

**924**

**RMDC 23/2 (2017), 395-399: Congregación para el Culto Divino y la Disciplina de los Sacramentos: Carta circular a los Obispos sobre el pan y el vino para la Eucaristía, 15 de junio de 2017.** (Document)

Spanish text of the Circular Letter reminding diocesan bishops of the importance of ensuring that only valid matter is used for the Eucharist, and drawing attention to the requirement that low-gluten altar breads must contain sufficient gluten to cohere without the use of other substances, and that mustum should be conserved by processes that do not change its nature (see also *Canon Law Abstracts*, nos. 120, p. 74; 121, pp. 71-72.)

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

**960**

**SC 52 (2018), 375-405: Louise Charbonneau: Le suicide assisté (euthanasie) et l'accès aux sacrements: considérations canoniques et pastorales. (Article)**

See above, canon 213.

**987-988**

**SC 52 (2018), 375-405: Louise Charbonneau: Le suicide assisté (euthanasie) et l'accès aux sacrements: considérations canoniques et pastorales. (Article)**

See above, canon 213.

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

**1001**

**SC 52 (2018), 375-405: Louise Charbonneau: Le suicide assisté (euthanasie) et l'accès aux sacrements: considérations canoniques et pastorales. (Article)**

See above, canon 213.

**1004-1007**

**SC 52 (2018), 375-405: Louise Charbonneau: Le suicide assisté (euthanasie) et l'accès aux sacrements: considérations canoniques et pastorales. (Article)**

See above, canon 213.

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

**1009**

**ACR XCV 3/18, 319-329: John Collins – Sandra Carroll: Worker Deacons.** (Article)

The authors note that permanent deacons in Australia are 1. retired from their professional careers and engaged in pastoral ministries, normally in a parish; or 2. deacons in paid employment in Church agencies, or teaching in Catholic institutions, etc.; or 3. still engaged in their trade or profession and assisting outside work hours in parishes. They then examine the worker-priest movement in France in the 1950s, noting that the movement was received positively in France, but not at the Holy See where it was questioned whether factory work was compatible with priestly life. Dialogue between the French bishops and the Holy See continued until 1959 when the Holy Office decided the experiment was ended. They argue that, as there is much confusion about what practical needs the permanent deacon is meant to meet at present, the role of the worker-deacon could be relevant for men still engaged in trades or professions. Such deacons – well-formed and well-supervised – could be ambassadors between the bishop and the workplace, influencing workplace culture with Catholic social teaching, and carrying the concerns of the workplace to the heart of the diocese.

**1024**

**KIP 7 (20) 2018, nr. 2, 79-97: Marcin Bider: *Vir baptizatus* podmiotem święceń diakonatu w Kodeksie Prawa Kanonicznego w ujęciu historyczno-prawnym (*“Vir baptizatus” as the subject of ordination to the diaconate in the Code of Canon Law seen from a historical-juridical perspective*).** (Article)

B. sets out the requirements for valid reception of the diaconate. Canon 1024 states that only a baptized male can be promoted to the diaconate. The Church does not consider herself authorized to admit women to priestly ordination, and thus to the episcopate and presbyterate. B. studies whether women could in the future be ordained as deacons, since the diaconate does not constitute a degree of participation in the priesthood of Christ. He examines issues connected with the ordination of deaconesses, the evaluation of which depends on the results of historical and theological research.

## 1024

**Tomasz Jakubiak: Problem ważności przyjęcia sakramentu święceń w prawie Kościoła katolickiego (*The problem of validity of receiving the sacrament of Holy Orders in the law of the Catholic Church*). (Book)**

J. examines the criteria for the valid reception of orders. In separate chapters of the book he analyses the requirement of baptism as a condition for the validity of ordination (including the question of the validity of baptism received outside the Catholic Church, and the evolution of the Church's doctrine in this regard); the law and practice of the Church dating back to the earliest times whereby ordination is restricted to males (he also discusses the suitability of women for ordination to the diaconate, and the question of what determines whether a person is a man or a woman); the necessity of having attained the use of reason, and of having the intention to receive ordination; and the relevance for validity of receiving the sacrament by degrees (discussing the question of whether ordination received *per saltum* would be valid: it seems clear that it would be valid in the case of the presbyterate, but the issue of episcopal ordination *per saltum* is still to be settled). (For bibliographical details see below, Books Received.)

## 1024-1052

**IC 58/116 (2018), 461-478: Nicolás Álvarez de las Asturias: Discernir la idoneidad para el presbiterado: La contribución del derecho y de la tradición canónica latina al Sínodo de Obispos sobre los jóvenes. (Article)**

Canon law may offer some promising insights to the bishops assembled for the 2018 Synod on young people, faith and vocational discernment. Á provides a historical overview of the role that the criteria of suitability ought to play in the discernment of priestly vocations, as well as the importance of the distinction between the external and the internal forum on the path to priesthood.

## 1031

**ITS 55 (2018), 309-327: I. Amalraj: Juridical Elements of *Sufficienti Gaudeant Maturitate*. (Lecture)**

Canon 1031 §1 requires that candidates for the priesthood should “possess a sufficient maturity”. A. examines the meaning and juridical content of maturity as it appears in in this canon and elsewhere in the Code: e.g. canon

217 (the right to a Christian education aimed at the maturity of the human person); canon 244 (seminary formation to develop the requisite human maturity); canon 642 (the requirement of maturity for admission to the novitiate); canon 721 (the requirement of maturity for admission to a secular institute); canons 1055-1058 (marital maturity); canon 1095 1° (consensual incapacity).

## **1040-1049**

### **Canonist 9/2 (2018), 125-139: Brendan Daly: Changing Canon Law to include Sexual Abuse of a Minor as an Irregularity. (Article)**

D. considers whether establishing child sexual abuse as an irregularity for the reception or the exercise of orders would be a significant step forward for the Church. Irregularities represent minimum standards concerning the qualities of those to be ordained or exercising ministry. Since an irregularity prevents someone from being ordained, and prevents someone already ordained from functioning as a priest, making sexual abuse of a minor an irregularity would be a clear statement that anyone who sexually abuses a person under the age of 18 is not fit to be a priest. It would not require the use of an expert such as a psychologist or a psychiatrist, but would occur automatically upon the commission of one act of sexual abuse of a minor under 18; it would also include acquisition, possession or distribution of pornographic images of minors under 18 for the purpose of sexual gratification. Since the irregularity would happen automatically, it would mean that even if the offending priest's bishop or superior wanted to allow the priest to function, the irregularity could only be removed by an authority such as the Congregation for Divine Worship and the Discipline of the Sacraments.

## **1041**

### **Tomasz Jakubiak: Problem ważności przyjęcia sakramentu święceń w prawie Kościoła katolickiego (*The problem of validity of receiving the sacrament of Holy Orders in the law of the Catholic Church*). (Book)**

See above, canon 1024.



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

### 1055

**RMDC 22/1 (2016), 183-189: PP. Francisco: Alocución a la Rota Romana, 22 de enero de 2016.** (Address and comment)

The text is given of the Pope's address to the Rota in which he refers to two titles that can be attributed to the Rota: "Tribunal of the family" and "Tribunal of the truth of the sacred bond". It is accompanied by a comment from Luis de Jesús Hernández M. (See also *Canon Law Abstracts*, no. 117, p. 84.)

### 1055

**RMDC 24/1 (2018), 131-139: PP. Francisco: Alocución a la Rota Romana, 29 de enero de 2018 (con comentario de Luis de Jesús Hernández M.).** (Address and comment)

The Spanish text is given of the Pope's 2018 address to the Rota on the centrality of conscience, the connection between moral certainty and the conscience, the role of conscience in the choices which couples must face in order to welcome and build the conjugal union, the responsibility of pastors and of all the faithful to enlighten, defend and support the Christian conscience of the faithful in fidelity to the Magisterium, and the promotion of a "permanent catechumenate" so that the consciences of the baptized are open to the light of the Spirit. (See also *Canon Law Abstracts*, no. 121, pp. 75-76.)

### 1055-1057

**Pedro-Juan Viladrich: Il consenso matrimoniale.** (Book)

The first edition of this book appeared in 2001. This second revised and amplified edition reflects the work V. has done in the intervening period on what he defined at that time as the urgent need to rediscover the anthropological foundation of marriage. The fruit of that work forms the first part of the book, entitled "The union of conjugal love", in which V. provides the keys to a positive understanding of matrimonial consent, which is necessary for a proper understanding of "negative" consent, i.e. the various grounds of nullity. In the second part he brings up to date his commentary on the canons on consent and on the grounds of nullity, already

dealt with in the first edition. (For bibliographical details see below, Books Received.)

**1055-1058**

**ITS 55 (2018), 309-327: I. Amalraj: Juridical Elements of *Sufficienti Gaudeant Maturitate*.** (Lecture)

See above, canon 1031.

**1059**

**Ius Comm VI (2018), 333-350: José Luis López Zubillaga: La posición de la jurisdicción eclesiástica en el ordenamiento jurídico español.** (Article)

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

**1063**

**REDC 75 (2018), 713-718: Discurso del Santo Padre Francisco a los participantes en el curso diocesano de formación sobre matrimonio y familia promovido por el Tribunal de la Rota Romana, Basílica de San Juan de Letrán, 27.09.2018.** (Address)

Pope Francis stresses that marriage is a true sacrament that entails an appropriate preparation and an informed celebration. He also reaffirms the need for a permanent catechumenate for the sacrament of matrimony, which concerns its preparation, celebration and the initial times that follow. It is a journey to be shared with priests, pastoral workers and Christian spouses. In marriage preparation courses it is indispensable to re-read the catechesis of the Christian initiation of faith, whose content must not be taken for granted. Pastoral care is most effectively realized where the accompaniment does not end with the wedding, but continues at least during the first years of conjugal life. Spouses who experience serious problems in their relationship should be helped to revive their faith and rediscover the grace of the sacrament, and where appropriate be offered advice to undertake a marriage nullity process.

**1063**

**RMDC 23/1 (2017), 191-199: PP. Francisco: Alocución a la Rota Romana, 21 de enero de 2017.** (Address and comment)

Spanish text of the Pope's 2017 address to the Rota on the relationship between faith and marriage (see *Canon Law Abstracts*, nos. 119, pp. 79-80; 120, p. 81) with a comment by Luis de Jesús Hernández M.

**1063-1072**

**Jesu Pudumai Doss (ed.): Iustitiam perseguere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica.** (Book)

See above, Historical Subjects (*1917 Code*) (article by Mur Malagón).

**1065**

**BV 78 (2018), 401-413: Stanislav Slatínek: Vera zaročencev in poročna obljava (*Faith of the fiancés and the marriage promise*).** (Article)

Pope Francis distinguishes three types of intending spouse: those who believe, those who are indifferent, and those who do not live by faith. Expressions of faith are so multifaceted that, even in those who appear to be absolute unbelievers, tiny traces of faith can be observed. Many engaged couples have a genuine Catholic faith. Others show their faith in different ways. S. emphasizes that the faith of those entering into marriage is necessary in order to make a “mystery” (*mysterion*) of the marriage promise. Faith gives the parties the power to live “the good of the spouses” (*bonum coniugum*) throughout their lives. For the valid celebration of a sacramental marriage, faith is not explicitly required, but it is enough – for the parties to have the honest intention of doing what the Church does – *faciendi id quod facit Ecclesia Christi*. Only when they knowingly exclude the sacramental dignity of marriage, or are mistaken about the sacramental dignity of marriage, can we speak of a defect of faith which can generate simulation of consent or error determining the will. Pope Francis says that such circumstances of things and persons can allow a marriage nullity case to be dealt with by means of the briefer process before the bishop according to canons 1683-1687 (*Mitis Iudex*, art. 14 §1). Pastoral workers are expected to help young couples who want to contract marriage validly to discover their faith, strengthen it, and develop it, so that “the sacrament of marriage may be fruitfully received” (canon 1065 §2).

**1067**

**AnC 14 (2018), 203-214: Bolesław A. Dülleć: Małżeństwa wolne od zapowiedzi w prawie kanonicznym (z uwzględnieniem polskiego prawa partykularnego) (*Marriages exempt from banns in canon law, with reference to particular Polish law*).** (Article)

D. examines the categories of marriage which do not require banns in Poland.

**1083-1094**

**Jesu Pudumai Doss (ed.): *Iustitiam perseguere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica.*** (Book)

See above, Historical Subjects (*1917 Code*) (article by Degiorgi).

**1084**

**RMDC 24/1 (2018), 113-127: Decisio R.P.D. Mauritio Monier, Sentencia definitiva del 22 de mayo de 2009, en RRDec, 101 (2016), 119-126, 418-433.** (Sentence)

The Rota was asked to decide a case based on relative impotence on the part of the female respondent. Although from a physical point of view the respondent was normally constituted, she suffered from vaginismus which prevented her and the petitioner from consummating the marriage. From the start of the marriage there was growing aversion on the part of the respondent towards the petitioner. This made it impossible for her to overcome her condition, since any effective cure would depend on affective cooperation between the parties, which was lacking in this case. The Rota therefore gave an affirmative decision on the ground of relative impotence on the part of the respondent.

**1095**

**KIP 7 (20) 2018, nr. 2, 141-152: Kamil Rutecki: Wpływ schizofrenii na zdolność konsensualną do zawarcia małżeństwa (*Implications of schizophrenia on the consensual capacity to enter into marriage*).** (Article)

One of the most important causes of marriage nullity is consensual incapacity, i.e. a prospective spouse's inability to express valid marital consent in accordance with the requirements set out in the CIC/83. Within

the meaning of canon law, the sources of consensual incapability can take various forms, all of which, however, must be related to reason, that is, mental powers connected with understanding the nature of the sacrament of marriage and the resultant obligations and one's own actual ability to fulfil them. Therefore, one of the most important causes of consensual incapacity consists of a wide range of mental diseases and disorders.

### **1095 1°**

**ITS 55 (2018), 309-327: I. Amalraj: Juridical Elements of *Sufficienti Gaudeant Maturitate*.** (Lecture)

See above, canon 1031.

### **1095 2°-3°**

**RMDC 23/2 (2017), 285-302: Ciro Tammaro: Una breve nota sulle sindromi e anomalie psicofisiche rilevanti nella tradizione canonica che limitano o escludono la capacità di giudizio a norma dei can. 1095 nn. 2-3.** (Article)

T. looks at the psychophysical syndromes and anomalies that may limit or exclude the capacity to judge under canon 1095 2°-3°, analysing the canonical doctrine and Rotal jurisprudence on phobic anxiety, syphilitic pathologies and AIDS in relation to *impotentia coeundi*.

### **1095-1107**

**Pedro-Juan Viladrich: Il consenso matrimoniale.** (Book)

See above, canons 1055-1057.

### **1098**

**RMDC 23/2 (2017), 345-392: Decisio R.P.D. Jair Ferreira Pena, Sentencia definitiva del 1 de octubre de 2014, en RRTDec 96 (2013), 553-577.** (Sentence)

The male respondent in this case had presented himself as a good practising Catholic, but as soon as he and the plaintiff were married it became clear that not only was he non-practising, but in fact he was hostile to her religious practice. His attitude towards her became harsher and more

inhumane, and soon the parties separated and later divorced. The case is examined from the point of view of deceit perpetrated in order to obtain consent, and the Rota's decision makes clear that where, as in this case, there are conflicting testimonies from the parties, the credibility of each of them needs to be examined. In this case the credibility of the plaintiff was found to be greater. The Rota was satisfied that the quality concerning which the plaintiff was deceived – that of the religious practice of the respondent – had a profound influence on conjugal life and seriously disrupted it. This was supported by the manner in which the plaintiff reacted on learning of the deception.

**1099**

**Ap LXXXX (2017), 405-438: Danilo Marinelli: Fede e Sacramento del Matrimonio.** (Article)

See below, canon 1101.

**1099**

**BV 78 (2018), 401-413: Stanislav Slatinek: Vera zaročencev in poročna objuba (*Faith of the fiancés and the marriage promise*).** (Article)

See above, canon 1065.

**1099**

**QDE 31 (2018), 364-383: Massimo Mingardi: L'errore di diritto (can. 1099).** (Article)

M. offers an analysis of the decision to marry of those who desire marriage but at the same time accept the institution of divorce, to show how this error does not invalidate the marriage unless there is a positive will to redefine marriage for the particular case. He suggests that whatever the theoretical possibility of cases in which error determining the will is distinguishable from simulation, in practice cases of error will all be cases of simulation. He supports this position by reference to the few Rotal sentences on this subject in recent years.

### 1101

**Ap LXXXX (2017), 405-438: Danilo Marinelli: Fede e Sacramento del Matrimonio.** (Article)

The case of baptized non-believers, ever more frequent today, generates a serious and controversial theological, juridical and pastoral problem which strikes at the heart of the matrimonial system: namely, the question of whether the lack of any personal disposition to the faith on the part of the spouses compromises the sacrament of marriage. According to the most recent Magisterium and jurisprudence, lack of faith is only relevant if it is such as to invalidate the natural conjugal intentionality concerning the marriage union as intended by the Creator, which is the only practical measure by which to judge the validity of the marriage. Not every lack of religious sense, therefore, causes marital nullity, but one may consider this circumstance to be a situation in which, more than in others, invalid conjugal consent occurs – without, however, presuming that all marriages celebrated in such conditions are null. The judge needs to pay particular attention to assessing the influence that, in the specific case, the lack of faith had on the formation of the conjugal consent.

### 1101

**BV 78 (2018), 401-413: Stanislav Slatinek: Vera zaročencev in poročna obljava** (*Faith of the fiancés and the marriage promise*). (Article)

See above, canon 1065.

### 1103

**REDC 75 (2018), 633-644: Ciro Tammaro: Alcuni cenni giuridico-canonici sulla rilevanza del criterio soggettivo ai fini della valutazione del timore reverenziale nel processo di nullità del vincolo coniugale.** (Article)

T. sets out some juridical-canonical observations to determine the importance of subjective criteria in relation to *metus reverentialis* in marriage nullity processes. He looks into the question of the essence of *metus reverentialis* which invalidates marriage: the *defectus integritatis seu libertatis deminutio*; and goes on to describe other secondary criteria of a subjective nature for proving reverential fear.

### 1103

**RMDC 22/1 (2016), 161-179: Decisio R.P.D. Juan Verginelli, Sentencia definitiva del 9 de julio de 2004, en RRDec, 96 (2013), 627-638.** (Sentence)

The Rota was asked to decide whether a marriage entered into many decades previously was invalid because of force or grave fear imposed from outside (canon 1087 of the CIC/17, reproduced as canon 1103 of the CIC/83). Prior to the wedding the petitioner had received death threats from a military official close to the respondent's family, in the event of the petitioner's refusing to marry; furthermore, following the civil wedding, a compliant priest seems to have been persuaded to carry out the religious aspect of the ceremony while the petitioner was in a state of drunkenness. Despite the scarcity of proofs the Rota was satisfied that there was sufficient evidence to declare the marriage invalid on the grounds of force and grave fear.

### 1105

**KIP 7 (20) 2018, nr. 2, 153-171: Lucjan Świto – Małgorzata Tomkiewicz: *Matrimonium per procura* w Kodeksie Prawa Kanonicznego z 1917 i 1983 roku – zarys prawno porównawczy (*Marriage by proxy in the 1917 and 1983 Codes of Canon Law – a comparative outline*).** (Article)

Since it is an act of will through which a man and a woman offer themselves to each other and accept each other to make an irrevocable union, marriage consent in the Catholic Church has to be expressed in a canonical form and in a proper manner. Such consent is expressed by both parties at the same time and in the same place and – in principle – is expressed personally by the two people entering into the marriage. However, from time immemorial the possibility has existed of marriage by proxy, in cases where one or both of the prospective spouses cannot, for some reason, take part in the ceremony in person. Although marriage by proxy has a long tradition, its reception has varied from one society and from one religion to another, and has undergone various modifications over time. In the Catholic Church, *matrimonium per procuratorem* was codified by the CIC/17 and later by the CIC/83.



**1105**

**SPW 21 (2008), 323-343: Lucjan Świto – Małgorzata Tomkiewicz: Zaświadczenie o braku okoliczności wyłączających zawarcie małżeństwa w procedurze *matrimonium per procura* (Certificate of absence of impediments in the procedure for marriage by proxy).** (Article)

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

**1108**

**IusM XII/2018, 61-107: Sunil Kumar D’Souza: Historical Evolution of the Canonical Form.** (Article)

The form of marriage has undergone many alterations in the course of history. While the Catholic Church has striven to see that her faithful always married worthily, she did not set down a specific legal form for a valid matrimonial contract until 1563 when the Council of Trent passed its decree *Tametsi*. All baptized persons, whether Catholic or non-Catholic, came within the scope of *Tametsi*. In 1741 Pope Benedict XIV relaxed the Tridentine law by exempting heretics from canonical form when they married among themselves or with Catholics. The 1907 decree *Ne temere* was not only universally obligatory on Catholics, but also did away with exemptions for baptized non-Catholics. The CIC/17 and subsequent legislation continued to regulate marriages in which at least one party was Catholic. The CIC/83 and the changes introduced thereafter have been motivated by the pastoral needs of the faithful.

**1108**

**RMDC 22/2 (2016), 329-343: Decisio R.P.D. Joseph Sciacca, Sentencia definitiva del 24 de octubre de 2003, en RRDec, 95 (2012), 634-640.** (Sentence)

The request for a declaration of nullity in this case was based on the allegation that the priest who conducted the wedding lacked the necessary delegation. However, the Rota was satisfied that there was sufficient evidence that the priest in question had received an oral delegation to perform the ceremony, and there was no question of invalidity for lack of canonical form (nor would there have been any reason to invoke canon 144, as the question of common error did not arise).

**1108**

**RMDC 23/1 (2017), 167-187: Decisio R.P.D. Josepho Huber, Sentencia definitiva del 25 de enero de 2001, en RRDec, 93 (2009), 82-85.** (Sentence)

The parties were married by a priest who was a parish priest, but not of the parish in which they were married. The validity of the marriage depended on whether he was acting under a valid delegation at the time of the wedding. The Rotal decision contains an analysis of the conditions for valid delegation, and also of those required for common error under canon 144. The simple fact of a priest celebrating a wedding in a public church is not in itself sufficient to give rise to common error. In the particular case a specific delegation in respect of the priest conducting the wedding was found not to have been obtained, and since common error did not apply the marriage was invalid for lack of form.

**1108-1118**

**AnC 14 (2018), 183-202: Jan Dohnalik: Forma kanoniczna zawierania małżeństwa – spojrzenie historyczne i postulat reformy (*Canonical form of marriage – historical perspective and proposal for reform*).** (Article)

D. looks at the history of the requirement of canonical form. During the process of revision of the Code of Canon Law numerous changes were proposed, but in the end the promulgated text largely preserved the original rule of the territorial authority of the assisting priest. D. suggests that, while it is advisable to maintain the requirement of canonical form for the validity of marriage, the law should be modified to allow any ordained priest to conduct any marriage. This solution would be understood by the faithful and would guarantee the sacramental character of marriage, thus avoiding invalidity due to negligence or ignorance on the part of the clergy.

**1123**

**QDE 31 (2018), 465-469: Emanuele Albanese: La registrazione della sanazione *in radice* di un matrimonio civile.** (Article)

A. addresses the question of the registration of the retroactive validation of a civil marriage, and argues that this should be noted in the register of marriages of the parish in which the Catholic party is resident (which should also be the parish where the instruction before the validation is given) as well as in the diocesan marriage register.

## 1124-1129

**KIP 7 (20) 2018, nr. 2, 99-111: Angelo Dąbrowski: Zawieranie małżeństw mieszanych pomiędzy wiernymi Kościoła rzymskokatolickiego i Kościoła polskokatolickiego w Rzeczypospolitej Polskiej (*Mixed marriages between the faithful of the Roman Catholic Church and the Polish Catholic Church of the Republic of Poland*). (Article)**

The Polish Catholic Church, which is not in full communion with the Catholic Church, dates from the end of the 19th century and forms part of the Union of Utrecht of the Old Catholic Churches. Baptism administered in the Polish Catholic Church is considered valid, and therefore a marriage between one of its members and a person baptized or received into the Catholic Church comes within the scope of canons 1124-1129 on mixed marriages.

## 1124-1129

**KIP 7 (20) 2018, nr. 2, 113-124: Malwina Kędracka: Evolucja kodeksowych uregulowań dotyczących duszpasterskiej opieki nad małżeństwami mieszаныmi (*Evolution of the provisions of the Code concerning the pastoral care of mixed marriages*). (Article)**

Under the CIC/17, pastoral activity for mixed marriages was rather limited. For the Catholic Church, protection of the Catholic faith as well as the baptism and Catholic upbringing of the children were the most important. The future spouses had to give suitable guarantees to receive a dispensation from the impediment of disparity of cult. After Vatican II the Church recognized other needs of mixed marriages: shaping moral attitudes, nurturing faith and religious knowledge, organizing religious practices and celebrating holidays, and proper relations with the Church. Under the CIC/83, married couples should be assisted in maintaining the unity of marital and family life. The legislator also abandoned the guarantees, replacing these with a declaration and promise on the part of the Catholic spouse. The basis for pastoral care should be not only the pledges of the Catholic party but above all what unites the spouses: baptism and moral values. At present the Church sees potential ecumenical activity in mixed marriages; moreover, the Church requires pastors to establish cooperation with ministers of other faiths.

**1141-1150**

**Canonist 9/2 (2018), 220-228: Cormac Nagle: Church Tradition, Authority, and Pastoral Decisions. (Article)**

N. warns against what he calls a “status quo” approach to the teachings of Jesus, particularly in relation to the indissolubility of marriage, and calls for an interpretation that is appropriate to the context of the present needs of the people.

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

### 1232-1233

**RMDC 23/1 (2017), 200-211: PP. Francisco: Carta Apostólica en forma de motu proprio *Sanctuarium in Ecclesia*, del 11 de febrero de 2017. (Document)**

Italian text and unofficial Spanish translation of the motu proprio transferring competence over shrines from the Congregation for the Clergy to the Pontifical Council for Promoting the New Evangelization (see *Canon Law Abstracts*, no. 120, p. 91).

## BOOK V: THE TEMPORAL GOODS OF THE CHURCH

### 1254

**RMDC 23/2 (2017), 247-268: Jorge Antonio Di Nicco: Consideraciones sobre la organización del servicio de la caridad. (Article)**

Pope Benedict XVI's Apostolic Letter *Intima Ecclesiae natura* (11 November 2012) is an example of how the law has as its objective that of ordering, facilitating and promoting the exercise of charity. The organization of charity and its juridical dimension are the responsibility of Pastors of the Church at all hierarchical levels. Care must be taken to ensure that charitable activities are carried out in accordance with Church teaching and the intentions of the faithful, and that the relevant civil laws are observed.

### 1254-1310

**SC 52 (2018), 593-626: John Anthony Renken: The Management of Church Property in a Synodal Church: Towards Eliminating Financial Misconduct. (Article)**

Pope Francis has repeatedly reflected upon the synodal nature of the Church, identifying synodality as a “constitutive element” of the pilgrim People of God. Synodality is to be found at all levels of ecclesial life, beginning with the particular Churches. R. proposes that a synodal approach to the management of finances, especially in dioceses and parishes, will eliminate most instances of financial malfeasance.

### 1272

**Ius Comm VI (2018), 353-393: Supremum Signaturae Apostolicae Tribunal: Voto del Promotor iustitiae deputatus Rvdmo. P. Velasio De Paolis, 25 julio 1989. Derecho de patronato; Matthias Ambros: Comentario: El servicio del “Promotor iustitiae” en el hallazgo de la verdad y en la promoción de la justicia en la dinámica del proceso administrativo en la Signatura Apostólica. (Votum and comment)**

See below, canon 1445.

**1274**

**Jesu Pudumai Doss (ed.): *Iustitiam perseguere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica.* (Book)**

See above, Historical Subjects (*1917 Code*) (article by Domaszek).

**1284**

**Per 107 (2018), 493-512: Alberto Perlasca: *Trasparenza e riservatezza nella gestione dei beni ecclesiastici.* (Presentation)**

P. deals with the delicate question of transparency and confidentiality in the administration of ecclesiastical goods. After clarifying what is meant by transparency, he moves on to consider the vexed question of the right to have access to information and the need to make certain data available, e.g. through the publication of accounts to those responsible for supervision. He notes that the real problem is not so much the principle of communication but the question of how the information is to be communicated. He wonders what kind of transparency is possible within the Church, noting that this is an area where reflection is only beginning, but at least a start has been made.

**1287**

**Per 107 (2018), 493-512: Alberto Perlasca: *Trasparenza e riservatezza nella gestione dei beni ecclesiastici.* (Presentation)**

See above, canon 1284.

**1290-1298**

**RMDC 22/2 (2016), 271-289: Jorge Antonio Di Nicco: *Las normas que rigen la enajenación de los bienes eclesiásticos.* (Article)**

All the temporal goods which belong to the universal Church, the Apostolic See or other public juridical persons in the Church are ecclesiastical goods and are governed by the canons of Book V of the CIC/83, and by the corresponding statutes. Because of their special relationship to the supernatural aim of the Catholic Church, ecclesiastical goods are protected by canon law in a special way. For their alienation the Code requires the fulfilment of various requirements, and in some cases a request for permission from the competent authority. Di N. looks in detail at these requirements.

### **1291-1295**

**EIC 58 (2018), 307-331: Alessandro Aste: Il patrimonio stabile: profili canonistici.** (Article)

A. highlights the potentialities and critical aspects of stable patrimony, especially with regard to institutes of consecrated life and societies of apostolic life. The topic receives little attention in the Code, but is important in relation to the system of canonical controls, particularly with regard to evaluating whether to grant permissions for the alienation of goods. A. refers to some practical difficulties, first among which is the question of the quantification of stable patrimony.

### **1291-1295**

**EIC 58 (2018), 413-442: Giuseppe Comotti: La rilevanza civile dei controlli canonici sull'amministrazione dei beni della Chiesa destinati al servizio della carità. Considerazioni in margine alla riforma del Terzo settore.** (Article)

The reform of Italian law concerning the activities of the so-called “third sector” is bound to have a notable impact on various ecclesiastical entities, especially those involved in the service of charity in the Church. C. looks at the Church’s internal organization with regard to the delicate theme of controls on the administration of her goods, and offers a first reflection on the question in the light of the civil reforms.

### **1303-1304**

**IC 58/116 (2018), 581-610: Geraldina Boni – Manuel Ganarin: In merito al problema se i Superiori maggiori degli istituti religiosi di diritto pontificio clericali possano erigere pie fondazioni autonome.** (Article)

The authors examine various aspects of a *quaestio iuris* of current pressing concern among canonists, regarding whether the major superiors of clerical religious institutes of pontifical right may set up autonomous pious foundations with public or private canonical juridical personality. They suggest a solution based on the universal and particular laws in force, the general criteria for interpreting canon law, and the practice of canon law.



## BOOK VI: SANCTIONS IN THE CHURCH

**1331**

**Jesu Pudumai Doss (ed.): *Iustitiam perseguere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica.* (Book)**

See above, Historical Subjects (*1917 Code*) (article by Padinjarathala).

**1354**

**AnC 14 (2018), 215-235: Stanisław Iwańczak: *Kary zastrzeżone Stolicy Apostolskiej (Penalties reserved to the Apostolic See).* (Article)**

The *delicta graviora* which are at the same time *delicta reservata* are profanation of the consecrated species, physical force against the Roman Pontiff, absolution of an accomplice in a sin against the sixth commandment, consecration of a bishop without a pontifical mandate, direct violation of the sacramental seal, and an attempt to confer holy orders on a woman. Requests for remission of the penalties resulting from these offences are always to be referred to the Apostolic See.

**1389**

**RMDC 22/1 (2016), 204-211: PP. Francisco: *Carta Apostólica en forma de motu proprio Come una madre amorevole, del 4 de junio de 2016.* (Document)**

See above, canon 193.

**1395**

**RMDC 24/1 (2018), 187-214: PP. Francisco: 1. *Carta a los Señores Obispos de Chile tras el informe de S. E. Mons Charles J. Scicluna, del 8 de abril de 2018*; 2. *Carta a los Señores Obispos de Chile al final de los encuentros celebrados en el Vaticano, del 17 de mayo de 2018*; 3. *Carta al Pueblo de Dios que peregrina en Chile, del 31 de mayo de 2018*; 4. *Carta del Santo Padre al Pueblo de Dios, del 20 de agosto de 2018.* (Documents)**

The Spanish texts are given of four documents of the Pope: 1. a letter to the Chilean bishops dated 8 April 2018, following the handing to the Pope of a

report of two special envoys to Chile; the letter expresses the conviction that the present difficulties are also an occasion for restoring confidence in the Church and for healing wounds; 2. a further letter to the Chilean bishops dated 17 May 2018, thanking the bishops for accepting the Pope's invitation to carry out a joint discernment of the grave events which have harmed ecclesial communion and debilitated the work of the Church in Chile in recent years; 3. a letter of 31 May 2018 to the People of God in Chile, calling upon everyone to be protagonists in the ecclesial renewal and conversion; 4. a letter of 20 August 2018 to the People of God, in which the Pope encourages all the faithful to consider themselves responsible for ecclesial and social transformation.

## BOOK VII: PROCESSES

**1402**

**SC 52 (2018), 407-441: William L. Daniel: The Universality of the *Ordo Iudiciarius* of the Church.** (Article)

At the time of the celebration of the Second Vatican Ecumenical Council, some bishops began proposing aspects of decentralization of the administration of justice, especially in the form of particular procedural law and regional third instance tribunals. Such proposals continued to be made until 1983, when the revised CIC confirmed the canonical tradition of the universality of the judicial order (*ordo iudiciarius*). Thus, the procedural law of the Church is for the most part universal law, though some particular procedural laws are permitted by the supreme legislator. Also, the judge is to observe this procedural law and the common jurisprudence of the Church, even if in practice many particular matters in a trial are subject to the disposition of the judge as indicated in law. Moreover, vigilance over the correct administration of justice is carried out regularly for the whole Church by the Supreme Tribunal of the Apostolic Signatura, while the vigilance of the bishop moderator of the individual tribunal is essential.

**1403**

**RMDC 23/1 (2017), 212-217: PP. Francisco: Carta Apostólica en forma de motu proprio *Maiorem hac dilectionem*, del 11 de julio de 2017.** (Document)

Spanish text of the motu proprio establishing a new basis for canonization alongside the traditional ones of martyrdom or a life of heroic virtue, consisting in the free and willing offering of one's life in a heroic way out of charity (see *Canon Law Abstracts*, no. 121, pp. 105-106).

**1403**

**Per 107 (2018), 419-439: Emanuele Spedicato: *Le normae servandae per le cause dei santi nella gerarchia delle fonti del Diritto Canonico.*** (Article)

On 7 February 1983, the Congregation for the Causes of the Saints issued the Norms to be observed by bishops and eparchs in the instruction of causes for beatification and canonization at the diocesan/eparchial level. S.

considers the juridical nature of these Norms, seeking to locate them within the hierarchy of sources of canon law. Having examined the Norms in the light of the canons dealing with general legislative decrees (canons 29-30) and with general executory decrees (canons 31-33), he comes to the conclusion that the Norms are to be regarded as an administrative document whose purpose is the execution of the law which is found in the form of the Apostolic Constitution *Divinus perfectionis magister* of 25 January 1983.

#### **1404**

**L 59 (2018), 503-563: Salvatore Vacca: *Prima sedes a nemine iudicatur. Aspetti del primato del vescovo di Roma.* (Article)**

V. studies the biblical and theological bases for the principle in canon 1404 that the First See is judged by no one, showing how the understanding of the content of this principle has developed over the course of the centuries. He argues that it has been strongly influenced and conditioned by historical circumstances.

#### **1417-1445**

**IusM XII/2018, 171-194: G. Paolo Montini: *L'amministrazione della giustizia nelle Chiese locali, con particolare riguardo ai territori di missione.* (Article)**

M. illustrates ways of constituting, organizing and operating ecclesiastical tribunals, especially in mission territories, where means are often limited. He outlines the concrete possibilities of administering justice, and the responsibilities that fall upon the diocesan bishop, particularly after the recent reform of canonical marriage nullity processes. He concludes with a short description of the competences of the Apostolic Signatura and the Roman Rota.

## 1445

**Ius Comm VI (2018), 353-393: Supremum Signaturae Apostolicae Tribunal: Voto del *Promotor iustitiae deputatus* Rvdmo. P. Velasio De Paolis, 25 julio 1989. Derecho de patronato; Matthias Ambros: Comentario: *El servicio del “Promotor iustitiae” en el hallazgo de la verdad y en la promoción de la justicia en la dinámica del proceso administrativo en la Signatura Apostólica.* (Votum and comment)**

De P., appointed as promoter of justice in an administrative cause arising out of a dispute over a right of patronage, involving an ancient privilege of presentation for a parish and benefice, was asked to give his opinion on whether the privilege had been extinguished by the motu proprio *Ecclesiae Sanctae*, I, 18, para. 1, which abolished “non-onerous” privileges (those entailing no obligation). The right of patronage was formerly dealt with in CIC/17, canons 1448-1471. It is not mentioned in the CIC/83, although canon 1272 states that “where benefices properly so called still exist, it is for the episcopal conference to regulate such benefices by appropriate norms, agreed with and approved by the Apostolic See. The purpose of these norms is that the income and as far as possible the capital itself of the benefice should by degrees be transferred to the fund mentioned in canon 1274 §1” (the clergy support fund). In the particular case the diocesan bishop and curia had claimed that the privilege was not onerous; the claimant disputed this, and furthermore argued that a rescript is not revoked by a contrary law unless otherwise provided in the law itself (cf. CIC/17, canon 60 §2; CIC/83, canon 73); and similarly, since the privilege had been granted by a particular law, it could not be revoked by a later universal law unless expressly stated otherwise (cf. CIC/17, canon 22; CIC/83, canon 20). Also relevant were CIC/17, canon 4 and CIC/83, canon 4, which provide that privileges granted by the Apostolic See retain their force if not specifically revoked. De P. considered that a right of privilege is onerous by its very nature, as comprising rights and duties, and therefore the right in this case was not extinguished by *Ecclesiae Sanctae*; nor was there any other evidence to suggest that the right had ceased by virtue of the law itself. Hence the claimant’s recourse could not be said to lack a serious juridical foundation or *fumus boni iuris*, and should be admitted to be judged by the Apostolic Signatura. In his comment on De P.’s votum, A. describes the differences in the administrative procedure and the process before the Signatura, and highlights the special role of the promoter of justice in the administrative process. Finally he evaluates the importance of De P.’s votum in the process.

**1445**

**QDE 31 (2018), 329-335: G. Paolo Montini: Una cittadina tedesca, la strada che porta al Duomo medievale sulla collina, la vetrina di un negozio e... alcune vignette satiriche.** (Article)

M. outlines a disciplinary procedure that took place concerning a diocesan official who was also a State official. He reviews the facts and the procedure, and examines a number of features of the case: the designation of diocesan officials as State officials, the nature of the disciplinary tribunal, and the decision made by the Apostolic Signatura in the case.

**1446-1475**

**QDE 31 (2018), 279-319: Paolo Bianchi: Diritto disciplinare e amministrazione della giustizia canonica.** (Article)

B. considers the role of disciplinary law in relation to the work of advocates and procurators in Church tribunals. He begins by distinguishing disciplinary law from penal law, and from administrative procedure, arguing that disciplinary law applies to office holders in the Church and looks to their failures in fulfilling the duties of those offices. He considers the duties of office holders, of which the most fundamental is the search for the truth. He then examines a number of canons which suggest that there are already potential disciplinary offences contained in the current law. He considers possible sanctions to be imposed on tribunal officials, asks who has the authority to assess cases and impose sanctions, and looks at the procedure to be followed. He concludes with some concrete examples from cases which have arisen.

**1459**

**Ius Comm VI (2018), 395-412: Supremum Signaturae Apostolicae Tribunal: 1. Carta, 22 junio 2011: Pregunta; 2. Decreto, 18 septiembre 2015: Nulidad de matrimonio.** (Documents, with comment by Santiago Panizo Orallo)

The Latin and Spanish texts are given of two decisions of the Apostolic Signatura, one in the form of a letter, the other in the form of a decree. Both deal with substantially the same issue: when a declaration of nullity has been issued by a first instance tribunal and the case goes to appeal, and in the course of the appeal a plaint of nullity is proposed as an exception by the parties or is detected by the appeal tribunal itself, the investigation of the

alleged nullity is to be carried out by the appeal tribunal; therefore the case does not have to be returned – as before – to be dealt with by the first instance tribunal. In his comment on the two decisions P.O. praises the interpretation given by the Signatura, and offers considerations on the procedure to be followed in such eventualities (that applicable to incidental matters: canons 1587-1591), as well as on the deeper juridical-procedural principles underlying the Signatura's interpretation.

### **1481-1490**

**QDE 31 (2018), 279-319: Paolo Bianchi: Diritto disciplinare e amministrazione della giustizia canonica.** (Article)

See above, canons 1446-1475.

### **1547-1573**

**KIP 7 (20) 2018, nr. 2, 173-190: Natalia Grochowska: Pojęcie świadka w kanonicznym i polskim postępowaniu karnym (*The definition of witness in canonical criminal procedure and Polish criminal procedure*).** (Article)

G. studies similarities and differences concerning witnesses in the canonical norms on penal proceedings and in Polish criminal law.

### **1547-1573**

**AnC 14 (2018), 253-270: Łukasz Pisz: Zeznania świadków a pewność moralna sędziego w sprawach o nieważność małżeństwa (*The testimony of witnesses and the moral certainty of the judge in marriage nullity cases*).** (Article)

One of the elements that the judge uses in achieving moral certainty is the body of evidence collected in the process, including the testimony of witnesses. P. examines how such evidence is to be assessed by the judge, with the help, where appropriate, of modern psychology. Situations can arise where the judge has moral certainty but this is based on deliberate misinformation provided by the witness.

### 1587-1591

**Ap LXXXX (2017), 525-562: Andrea Zappulla: Le Cause incidentali nel Processo civile ordinario e nel Processo canonico: elementi comparatistici.** (Article)

“Incidental matters” in processes are the subject of debate both in the doctrinal and in the procedural field. In the canonical order, even though the Code provides for incidental matters in canons 1587-1591, they are often regarded with suspicion in ecclesiastical tribunals, as they may be proposed for merely dilatory purposes. Z. studies these canonical procedural norms through a comparative inquiry between the canonical order and the Italian and Anglo-American legal systems, in order to clarify the more complex and problematic aspects of incidental causes, and to show their relevance and usefulness to the internal procedural activity so as to safeguard procedural rights without sacrificing justice and truth.

### 1608

**AnC 14 (2018), 253-270: Łukasz Pisz: Zeznania świadków a pewność moralna sędziego w sprawach o nieważność małżeństwa (*The testimony of witnesses and the moral certainty of the judge in marriage nullity cases*).** (Article)

See above, canons 1547-1573.

### 1608

**SC 52 (2018), 283-317: Armand Paul Bosso: La certitude morale dans le *processus brevior*: nouvelle dynamique ou constance de la doctrine canonique?** (Article)

The new dynamics of the *processus brevior* in the canonical ordinance triggered many questions that, far from calling into question *Mitis Iudex*, have proven to be a necessary path to its understanding for a good reception of the law in judicial practice. The question of moral certitude as a central element of deliberative activity in the canonical forum is not a subsidiary one, especially when we consider that, today, many Christian couples going through step-parenting believe that the criteria of mercy should soften the capacity for an objective judgment. Yet, the stability of the doctrine remains the same: the obligation of moral certitude in the evaluation of canonical marriages in the *processus brevior* is the same as the one required in



ordinary contentious judgments. The merciful dimension of the Church for her children does not annihilate her capacity to remain in objective truth.

### 1611

**Ap LXXXX (2017), 441-462: Elena di Bernardo: Il valore formativo della motivazione della Sentenza.** (Article)

The reasons given in the declaratory decision in a marriage nullity case serve a pedagogical function, regardless of whether the decision is *pro vinculo* or *pro nullitate*. They make clear that in canon law the person is central. Di B. also points out the formative and pedagogical value of the pre-judicial phase. The reasons given in the sentence constantly reflect awareness of the *salus animarum*, and express in a judicial sense the pastoral dimension of solicitude for the integral well-being of the parties involved.

### 1611

**IusM XII/2018, 109-146: Armand Paul Bosso: La motivazione delle sentenze matrimoniali canoniche. Caratteri formali ed alcune tecniche esemplificative.** (Article)

The issues related to the drafting of a canonical marriage nullity sentence remain a major challenge faced by many judges in the face of the complexity of its technical aspects. B. proposes an exegetical study of the formal structure of the reasoning *in iure et in facto* of the marriage nullity sentence, and offers some examples of specific reasoning in respect of various grounds of nullity. Providing adequate reasons in the sentence integrates the pastoral task of judges into the service of the good of souls.

### 1636

**QDE 31 (2018), 492-508: G. Paolo Montini: Alcune questioni nuove circa l'appello dopo il MIDI. L'esecuzione della sentenza affermativa; il decreto esecutivo; il ruolo del giudice *a quo* in caso di appello controverso; la rinuncia all'appello.** (Article)

See below, canon 1679.

## 1651

**QDE 31 (2018), 492-508: G. Paolo Montini: Alcune questioni nuove circa l'appello dopo il MIDI. L'esecuzione della sentenza affermativa; il decreto esecutivo; il ruolo del giudice *a quo* in caso di appello controverso; la rinuncia all'appello.** (Article)

See below, canon 1679.

## 1671-1691

**AnC 14 (2018), 51-68: Tomasz Rozkruit: Terminy procesowe w kontekście reformy kanonów dotyczących spraw o orzeczenie nieważności małżeństwa dokonanej przez papieża Franciszka** (*Process dates in the context of canons reformed by Pope Francis in respect of marriage nullity cases*). (Article)

R. reflects on the motives for Pope Francis's reforms of the marriage nullity process, and on the importance of careful and accurate observance of time limits.

## 1671-1691

**Ap LXXXX (2017), 357-404: Arianna Catta: Definitività della decisione giudiziale e centralità della persona.** (Article)

C. highlights some critical issues related to recent changes concerning matrimonial nullity causes. The criteria of proximity and closeness underlying the *motu proprio Mitis Iudex* have emphasized even more the need to focus on the faithful and the attention due to them when they experience the sad experience of marital breakdown. Today there are various persons who are called to accompany them even in the pre-procedural phase, in which it is good for the other party also to be involved. However, some changes introduced by *Mitis Iudex*, in the light of the special faculties granted by the Pope to the Roman Rota in 2015, run the risk, if misinterpreted, of producing a discrepancy between procedural truth and the real truth. Regarding the *nova causae propositio*, in addition to the risk of undermining the proximity between the faithful and the tribunal through the new norms on competence, it seems appropriate to ask whether the phrase "unless the injustice of the decision is manifest" may in certain instances – where one or both of the parties have celebrated a new marriage, following the declaration of their marriage to each other – lead to situations where it is

preferred to adhere to the “truth” of the tribunal’s decision rather than open up the case for new examination in order to arrive at the “substantial” truth.

### **1671-1691**

**Ap LXXXX (2017), 501-523: Paolo Gherri: Bilancio canonistico della Dodicesima Giornata canonistica interdisciplinare.** (Article)

G. offers reflections on the Twelfth Interdisciplinary Canon Law Day on “Marriage and Anthropology: A Horizon for the Canonical Process” (7-8 March 2017). The essentially vocational dimension of marriage calls for profound reflection and a new awareness of the elements at stake, in order to offer true protection both to the faithful and to the choices they make.

### **1671-1691**

**BV 78 (2018), 173-184: Andrej Saje: Dileme kratkega postopka ugotavljanja ničnosti zakona in vloge škofa (*Dilemmas in the briefer process for determining nullity of marriage and the role of the bishop*).** (Article)

S. points out some dilemmas regarding the implementation and practical application of the *processus brevior* before the bishop as defined by *Mitis Iudex*, such as the assessment and evaluation of the circumstances that can allow the briefer procedure to be used, and the role of the local bishop as judge. The preliminary investigation is not intended to judge on the validity of the marriage; rather, it focuses on an analysis of the circumstances of the failure of the marriage. When these justify the use of the briefer procedure, after the evidence has been submitted further investigation is not necessary. The circumstances are not additional reasons for the nullity, but symptoms, which might support the nullity; during the procedure they are studied holistically, together with other evidence/material. The fundamental condition for implementation of the briefer procedure is the active participation of both parties and their consensus concerning easily provable facts. Because of difficulties in achieving the proper conditions, this procedure represents an exception to normal nullity processes. Execution of judicial power belongs to the essence of the episcopal ministry. The only change to the previous practice is that in the context of the briefer procedure the bishop assumes the active role of a judge.

**1671-1691**

**EE 93 (2018), 745-771: Manuel Jesús Arroba Conde: La interpretación de las normas de *Mitis Iudex* sobre la apelación y la ejecutividad de las sentencias.** (Article)

The *motu proprio Mitis Iudex* gives rise to some interpretative difficulties relating to the appeal procedure as well as to the executive nature of canonical sentences in marriage nullity cases. A.C. examines the various responses given to these issues, and proposes an interpretation that takes into account the synodal context that led to the reform.

**1671-1691**

**IC 58/116 (2018), 503-537: Massimo del Pozzo: Chiarimenti pontifici sul *processus brevior*. Riflessioni alla luce del Discorso del 25 novembre 2017.** (Article)

Starting from an overview of the context and overall message of the papal address of 25 November 2017 (see *Canon Law Abstracts*, no. 121, p. 112), del P. analyses the Pope's clarifications of the *processus brevior*. The reference to the personal and exclusive exercise of the judicial power of the bishop in the *brevior* process requires the implementation of one of the key principles of the reform: the central role of the bishop in the administration of matrimonial justice. Although given in the form of a *viva voce* interpretation of the text, the Pope's clarifications (expressed in nine points) are significant and, without altering or overturning the legal text itself or the principles of the system, represent a further contribution to the path of reform. Ultimately, the response to these interpretative papal clarifications will depend on the effective cooperation of the episcopacy, ongoing academic study, and coordination at the institutional level.

**1671-1691**

**FCan XII/2 (2017), 85-88: Papa Francisco: Esclarecimentos Acerca do Processo Mais Breve do Bispo Diocesano.** (Article)

Portuguese text of the Pope's address to participants in a course on the new matrimonial procedure (see preceding entry).

**1671-1691**

**RMDC 23/2 (2017), 400-405: Francisco: Discurso a los participantes en el curso organizado por el Tribunal de la Rota Romana, 25 de noviembre de 2017.** (Address)

Spanish text of the Pope's address to participants in a course on the new matrimonial procedure (see preceding entries).

**1671-1691**

**IusM XII/2018, 147-169: Eduardo Baura: Il processo di nullità del matrimonio: tra diritto, pastorale e misericordia.** (Article)

A marriage nullity process responds on the one hand to pastoral needs and the requirements of mercy, and on the other to legal requirements: elements that could be seen as contradictory. B. examines the concepts of law, mercy, pastoral considerations and equity, in order to demonstrate that, when understood correctly, the terms are not contradictory at all. He highlights the legal principles underlying the canonical marriage nullity process, to demonstrate how pastoral and legal aspects are intertwined.

**1671-1691**

**RMDC 22/1 (2016), 7-27: Luis de Jesús Hernández M.: Recepción negativa de la Reforma impulsada por el Papa Francisco mediante el motu proprio *Mitis Iudex*.** (Article)

H. analyses the reasons for certain negative attitudes in response to *Mitis Iudex*, especially in some parts of Mexico. These include incomplete information in some sectors of the media, unease with some of the pastoral challenges set by the Pope for the two Synods of 2014 and 2015, and inadequate knowledge of matrimonial canon law. H. also sets out what he sees as the positive aspects of *Mitis Iudex*.

**1671-1691**

**RMDC 22/1 (2016), 29-66: Marco Antonio Hernández Huijón: El papel del Obispo diocesano a tenor del nuevo proceso de nulidad matrimonial.** (Article)

H. looks at the role of the bishop in the new process of matrimonial nullity. He sets out some biblical and historical data regarding the judicial ministry

of the bishop, the current importance of the bishop's role as judge in matrimonial nullity cases, the centrality of the diocesan bishop in the matrimonial reform, and the bishop-judge's involvement in the *processus breviar*.

**1671-1691**

**RMDC 24/1 (2018), 79-109: Ana Isabel Romero U.: Investigación prejudicial y antropología del matrimonio.** (Article)

R. focuses on the pre-judicial or pastoral inquiry introduced by *Mitis Iudex*, before pointing out that in many particular Churches, at least in Mexico, the structures suggested by Pope Francis to show the maternal face of the Church and her vocation of service according to the Gospel demands of justice and charity have not yet been created. She considers a number of issues surrounding the objectives and implementation of these structures.

**1671-1691**

**SC 52 (2018), 443-469: Chad J. Glendinning: Pastoral Conversion and the Exercise of Authority in the Church: An Examination of Pope Francis' Criteria for the Reform of Ecclesiastical Structures.** (Article)

See above, canon 360.

**1671-1691**

**Jesu Pudumai Doss (ed.): *Iustitiam persequere. Contributi del Codice Pio-Benedettino alla disciplina ecclesiastica.*** (Book)

See above, Historical Subjects (*1917 Code*) (articles by Hernández Rodríguez and Inguscio).

**1676**

**Ap LXXXX (2017), 615-627: Francesco Giammarresi: *La formula nel Processo romano e in quello canonico. Tra veritas rei e moralis certitudo.*** (Article)

G. studies the concept of “formula” in the context of the Roman law process – called precisely the process *per formulas* – and in that of the canonical process, identifying their functions and the similarities between them. This

is now of interest because of the reintroduction in marriage cases at the Roman Rota (by means of the Rescript of 7 December 2015) of the norm allowing the non-indication of the ground of nullity, expressed in the formula: “*An constet de Matrimonii nullitate, in casu*”.

### 1679

**QDE 31 (2018), 492-508: G. Paolo Montini: Alcune questioni nuove circa l'appello dopo il MIDI. L'esecuzione della sentenza affermativa; il decreto esecutivo; il ruolo del giudice a quo in caso di appello controverso; la rinuncia all'appello.** (Article)

M. looks at a number of procedural points that arise in the context of appeals following a *processus brevior*. He considers in detail questions surrounding time limits, the decree which permits execution of the sentence, the role of a procurator, and the possibility of the defender of the bond of the appeal tribunal renouncing an appeal.

### 1680

**AnC 14 (2018), 271-290: Tomasz Rozkrut: Apelacja ze strony obrońcy węzła małżeńskiego we współczesnym zreformowanym procesie małżeńskim (*Appeal by the defender of the bond in the modern reformed matrimonial process*).** (Article)

R. examines the role and responsibilities of the defender of the bond in relation to appeals in the matrimonial process as amended by *Mitis Iudex*.

### 1683-1687

**FCan XII/2 (2017), 61-80: P. Manuel J. Rocha: O processo brevior diante do Bispo diocesano.** (Article)

The *processus brevior* is one of the great novelties of *Mitis Iudex*. In the words of Pope Francis, it aims to ensure speed and simplicity of processes while safeguarding the principle of indissolubility and the judicial nature of the process. However, the bishop's mission in the field of justice should not be limited to his participation in the process, but involves a commitment to the administration of justice carried out in his name within the diocese, so that it corresponds to the criteria of truth and celerity, justice and mercy, not only in the *processus brevior*, but in every process. This calls for clergy and

lay people to be prepared for this function, and for the necessary means to be provided to allow the exercise of justice.

**1683-1687**

**Ius Comm VI (2018), 285-331: Paolo Bianchi: La elección de la forma procesal *brevior*.** (Article)

*Mitis Iudex* established the new briefer form of the canonical process for the declaration of nullity of marriage. It involves preparing for the bishop the material on which he will need to base its decision. The difficulties and problems that have arisen should help in the task of applying the new provisions introduced by *Mitis Iudex* within the structure of a process designed to be declarative and oriented to the search for truth, while at the same time safeguarding the indissolubility of marriage. All of these are aspects that the Pope has clearly indicated he wants to safeguard.

**1683-1687**

**QDE 31 (2018), 470-491: Adolfo Zambon: Questioni relative al *processus brevior*: il libello e l'istruttoria.** (Article)

After setting out the essential elements of any *libellus*, Z. examines the things which are specific to the *libellus* in the new *processus brevior*. He then looks at the instruction phase of the cause, which is entirely new in the *processus brevior*, commenting in particular on preparation for the instruction, its date, who may be present, and the minutes that are taken.

**1683-1687**

**SC 52 (2018), 283-317: Armand Paul Bosso: La certitude morale dans le *processus brevior*: nouvelle dynamique ou constance de la doctrine canonique?** (Article)

See above, canon 1608.



**1686**

**IE XXX (2018), 625-632: Pablo Gefaell: L'Abrogazione della sufficienza dell'investigazione prematrimoniale per dichiarare lo stato libero dei cattolici orientali sposati civilmente, operata dal m. p. *Mitis et Misericors Jesus*. (Article)**

See above, CCEO canon 1374.

**1691**

**SC 52 (2018), 407-441: William L. Daniel: The Universality of the *Ordo Iudiciarius* of the Church. (Article)**

See above, canon 1402.

**1710**

**SC 52 (2018), 407-441: William L. Daniel: The Universality of the *Ordo Iudiciarius* of the Church. (Article)**

See above, canon 1402.

**1717**

**Per 107 (2018), 513-522: Davide Cito: Trasparenza e segreto nel diritto penale canonico. (Presentation)**

See above, canon 220.

**1717-1728**

**Per 107 (2018), 523-535: Damián G. Astigueta: Trasparenza e segreto. Aspetti della prassi penalistica. (Presentation)**

See above, canon 220.

**1728**

**SC 52 (2018), 407-441: William L. Daniel: The Universality of the *Ordo Iudiciarius* of the Church. (Article)**

See above, canon 1402.

**1752**

**Canonist 9/2 (2018), 140-167: Anthony Ekpo: The Canonical Principle of *Periculum Mortis*. (Article)**

The term *periculum mortis* is not defined in the CIC/83 or the CCEO. It is understood as referring to a situation in which there is a reasonable possibility of death in the short term. For several such instances the Church offers special provisions. Often these situations concern the celebration of some of the sacraments and the suspension or relaxation of the impact of penalties otherwise preventing their celebration both by the minister and the recipient; but they may also concern situations in which certain laws can be dispensed for a just and reasonable cause, always with a view to the salvation of souls.

## EXCHANGE PERIODICALS

- Analecta Cracoviensia
- Angelicum
- Annales Canonici
- Année Canonique
- Anuario Argentino de Derecho Canónico
- Anuario de Derecho Canónico
- Apollinaris
- Archiv für katholisches Kirchenrecht
- Boletín Eclesiástico de Filipinas
- Bogoslovni vestnik
- Claretianum
- Commentarium pro Religiosis et Missionariis
- De Processibus Matrimonialibus
- Eastern Legal Thought
- Ephemerides Iuris Canonici
- Ephrem's Theological Journal
- Estudio Agustiniانو
- 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 Communiois
- 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
- Quærens
- 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.
AnC	Annales Canonici, Krakow – 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.
EA	Estudio Agustiniano, Valladolid – Abstracts supplied by publisher.
EE	Estudios Eclesiásticos, Madrid – Abstracts supplied by publisher.
EIC	Ephemerides Iuris Canonici, new series, Venice – Abstracts supplied by publisher.
ELJ	Ecclesiastical Law Journal, London – Abstracts supplied by publisher.
ETJ	Ephrem’s Theological Journal, Satna, India – Abstracts supplied by publisher.
FCan	Forum Canonicum, Lisbon – Abstracts supplied by publisher.
IC	Ius Canonicum, Pamplona – Abstracts supplied by publisher.
ICST	Immaculate Conception School of Theology Journal, Vigan City, Philippines – Editor.
IE	Ius Ecclesiae, Pisa-Rome – Abstracts supplied by publisher.
ITS	Indian Theological Studies, Bangalore – Editor.
Ius Comm	Ius Communionis: Universidad San Dámaso, Madrid – Abstracts supplied by publisher.
IusM	Ius Missionale, Pontificia Università Urbaniana, Vatican City – Abstracts supplied by publisher.

KIP	Kościół i Prawo, Lublin – Abstracts supplied by publisher.
L	Laurentianum, Rome – Editor.
LJ	Law and Justice, Worcester – Abstracts supplied by publisher.
LW	The Living Word, Kerala – Editor.
NRT	Nouvelle revue théologique, Brussels – Abstracts supplied by publisher.
PCH	The Person and the Challenges, Krakow – Abstracts supplied by publisher.
Per	Periodica, Rome – Fr Aidan McGrath OFM, Dublin.
PS	Philippiniana Sacra, Manila – Abstracts supplied by publisher.
QDE	Quaderni di Diritto Ecclesiale, Milan – Fr Luke Beckett OSB, Ampleforth, York.
REDC	Revista Española de Derecho Canónico, Salamanca – Abstracts supplied by publisher.
RMDC	Revista Mexicana de Derecho Canónico, Pontifical University of Mexico – Editor.
S	Salesianum, Rome – Abstracts supplied by publisher.
SC	Studia Canonica, Ottawa – Abstracts supplied by publisher.
SPW	Studia z Prawa Wyznaniowego, Lublin – Abstracts supplied by publisher.
Verg	Vergentis: Revista de Investigación de la Cátedra Internacional conjunta Inocencio III: Universidad Católica San Antonio de Murcia – Abstracts supplied by publisher.
VR	Vida Religiosa, Madrid – Editor.

## ENGLISH-LANGUAGE BOOKS REVIEWED IN THE ABOVE PERIODICALS

- Kurian ARAKKAL: *Conferences and Synods in the Indian Church*, Kanonistische Reihe 29, EOS Verlag, Sankt Ottilien, 2018, xix + 355 pp. ISBN 978-3-8306-7901-1 (reviewed by Alexander M. Laschuk, SC 52 [2018], 631-632)
- Christian BRUGGER: *The Indissolubility of Marriage and the Council of Trent*, Catholic University of America Press, Washington, 2017, 295pp. ISBN 978-0-8132-2952-2 (reviewed by Edward Peters, SC 52 [2018], 636-638)
- William L. DANIEL: *The Art of Good Governance. A Guide to the Administrative Procedure for Just Decision-Making in the Catholic Church*, Wilson & Lafleur (Gratianus series), Montreal, 2015, xv + 275pp., ISBN 978-2-89689-302-7 (reviewed by Jorge Miras, IC 58/116 [2018], 868-869) (see *Canon Law Abstracts*, no. 116, p. 34)
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