

**Canon Law Abstracts**  
**No. 124 (2020/2)**

**Covering periodicals appearing**  
**July – December 2019**



**Under the patronage**  
**of Saint Pius X**

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

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

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ISSN 0008-5650

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## GENERAL SUBJECTS

### *Compilations*

**AC 58 (2017), 9-223: « Gasparri, La France et la codification ». Actes du colloque organisé à Paris par la S.I.D.C. les 7 et 8 novembre 2017 à l'occasion du centenaire du Code de 1917.** (Compilation)

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

**LJ 183 (2019), 113-194: Richard Conrad – J. Budziszewski – Ryan Meade: Special Issue on ‘Aquinas on the Development of Law’.** (Compilation)

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

### *Ecclesiology*

**Ap XCI (2018), 611-625: Paolo Ghetti: Diritto canonico e Teologia nella rinnovata sollecitazione di Severino Dianich per un vero servizio alla Chiesa oggi.** (Bibliographical note)

Severino Dianich is one of the few Italian theologians who, in the post-conciliar period, have devoted interest and sympathy to canon law, mainly from an ecclesiological point of view. This bibliographical note highlights, for the benefit of canonists, the issues of greatest interest presented in his recent publication *Diritto e Teologia. Ecclesologia e Canonistica per una riforma della Chiesa*, including the missionary nature of the Church, institutionalization, power, the episcopate, and ecclesial belonging. The book allows canonists to assimilate from the living ecclesiological doctrine what is only too often offered to them indirectly (and partially) within the narrow intradisciplinary spaces.

**BV 79 (2019), 1063-1073: Stanislav Slatinek: »Pastorala v spreobrnjenju« papeža Frančiška in izzivi za prenavo Cerkve v Sloveniji (*“Pastoral conversion” of Pope Francis and challenges for the renewal of the Church in Slovenia*). (Article)**

The Second Vatican Council presented ecclesial conversion as an openness to constant self-renewal born of fidelity to Jesus Christ. Pope Francis is calling the Church to continual reformation as she goes on her pilgrim way. He says that all pastoral work must be interiorly fashioned. Today we see the urgent need for a missionary conversion of the Church, Church structures, priests, deacons, men and women religious, catechists, and other pastoral workers. There are a number of legitimate ways to pastoral conversion, and each local Church will discern how best to achieve it. The Catholic Church in Slovenia is likewise called to missionary conversion. Spiritual conversion, the intensity of the love of God and neighbour, zeal for justice and peace, the Gospel meaning of the poor and of poverty, are required of all (from structures and from people).

**Comm 51 (2019), 368-381: Pope Francis: Epistula ad Germanorum Dei populum ingredientem, 29 Iunii 2019. (Document)**

Pope Francis seeks to accompany the Catholic Church in Germany as it explores its future direction prompted by reflections on the image of the early Church in the Acts of the Apostles. He considers the “synodal” approach proposed by the bishops and warns against subtle temptations such as passivity in the face of a changed situation or considering simply structural adaptation. A changed way of working should arise not simply from external pressures but from an awareness of the demands of faith and evangelization, a response to the love of God. The Pope speaks of the importance of the “sense of Church” and the centrality of evangelization to the understanding of synodality.

**Comm 51 (2019), 394-396: Pope Francis: Allocutio Summi Pontificis ad sodales Commissionis Theologicae Internationalis, 29 Novembris 2019. (Address)**

On the occasion of its 50th anniversary Pope Francis speaks to the members of the International Theological Commission on two areas of study in the previous five years: synodality and religious liberty.

**EE 94 (2019), 477-512: Klaus Berkholtz B.: Antecedentes eclesiológicos de G. B. Montini – San Pablo VI. A propósito de su reciente canonización.** (Article)

A perhaps little-known aspect of the recently canonized Pope Paul VI is that, even before being elected Supreme Pontiff, he was an expert scholar of the Church, to which he dedicated several of his writings. B. analyses the most important characteristics of his ecclesiological approach, focusing on the years of his episcopal ministry in Milan and examining his humanistic, philosophical and theological formation, as well as the most relevant authors who influenced his ecclesiological perspective. He also offers a synthetic view of the main texts in which G. B. Montini addressed the mystery of the Church.

**EE 94 (2019), 743-784: Araceli Martínez González: El matrimonio espiritual entre obispo e Iglesia. Origen y desarrollo durante la formación del «Corpus Iuris Canonici».** (Article)

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

**IC 59/118 (2019), 731-765: Carmen Peña: Sinodalidad y laicado. Corresponsabilidad y participación de los laicos en la vocación sinodal de la Iglesia.** (Article)

Under Pope Francis, synodality is a key concept for understanding the Church and the exercise of ecclesiastical government. P. reflects on the synodal vocation of the People of God, and of the laity in particular, by exploring in depth the consequences of the ecclesial recognition of the fundamental rights of the laity and their participation in the threefold *munus* of Christ. The current canonical regulation envisages broad areas of action for the laity. Such law and ecclesiastical praxis help move beyond doctrinal debates regarding the link between holy orders and the exercise of the power of government. In addition, P. analyses the regulation of lay ministries in canon 230, appraising their coherence with underlying ecclesiological principles.

**SC 53 (2019), 33-52: Henk Witte: The Impact of Digitalization on Ecclesial Processes of Synodality and Discernment.** (Article)

The rapid worldwide digitalization of our societies can be understood as a socio-cultural development based on a technical invention with almost unimaginable applications in all dimensions of life. It also affects the life of the Church, especially with respect to the exercise of authority, its organizational model, and catholicity. Here W. focuses on the impact of digitalization on synodality and discernment. Digitalization may be helpful in preparing synods or the consultation of experts, but it may also have some negative consequences on the local synodal experience.

**SC 53 (2019), 107-126: Joseph Farmerée: L'unité de l'Église dans la diversité. Le rôle de l'Esprit selon Yves Congar, o.p.** (Article)

The article is not intended to provide a detailed account of the evolution of Yves Congar, O.P., in the field of ecclesiological pneumatology, but it is more particularly attentive to the post-conciliar and final phase of his thinking concerning the role of the Spirit in relation to ecclesial unity and diversity, as found especially in his trilogy *I Believe in the Holy Spirit* (1979-1980) and in *The Word and Spirit* (1984). Congar went from a Christocentric ecclesiology at the beginning, which was already striving to make a more proper place for the Holy Spirit, and which more and more recognized the Spirit's proper role in the Church, to an ecclesiology that one could describe as Christo-pneumatological, wherein the power of ecclesial communion and diversification of the Spirit is more fully honoured.

**SC 53 (2019), 127-164: Peter De Mey: The Actors Involved in the Exercise of the Prophetic Office in the Church. The Common Message of *Lumen Gentium* 12, *Lumen Gentium* 25, and *Dei Verbum* 7-10.** (Article)

De M. reconstructs the evolution of the teaching of Vatican II on the actors involved in the prophetic office in the Church in *LG* 12, *LG* 25 and *DV* 7-10. The Council did not want to convey a completely different message when speaking about the infallibility of Pope and bishops in the third chapter of *Lumen Gentium* compared to its earlier treatment of the *infallibilitas in credendo* in chapter two. In both *LG* 12 and *LG* 25, the people of God and the hierarchy are considered active subjects. Ormond Rush and the International Theological Commission have transformed the bipolar circularity between bishops and pastors of *DV* 10 into a tripolar circularity.



For Rush, the faithful, the Magisterium, and the theologians constitute one teaching office in the Church. The International Theological Commission pays attention to the interplay between the *sensus fidelium*, episcopal collegiality, and papal primacy within a theology of synodality. From Vatican II until today, the most important message remains that a strict separation between the teaching Church and the learning Church should be avoided.

**SC 53 (2019), 183-208: Rafael Luciani: Medellín as Synodal Event. The Genesis and Development of a Collegial Ecclesiality.** (Article)

The creation of the Latin American Episcopal Council (CELAM) represented a unique reception of the Second Vatican Council, positioning the Latin American Church as a Source Church for today's process of reforms. This Council not only created a collegial way of interacting at a continental level but also inaugurated a way of being and working and a mode of interaction that gave birth to a way of proceeding that would characterize the Latin American Church's own identity. The Latin American General Conferences, hosted by CELAM, such as Medellín (1968), Puebla (1979), Santo Domingo (1992), and Aparecida (2007), cannot be reduced to mere texts. In the specific case of Medellín (1968), the way in which this Conference proceeded, more environmental than thematized, gave rise to a spirit of prophetic convergence among bishops, priests, religious, and lay people that took shape in the method of work, the relationships among the participants, the organization of the daily liturgy, the disposition for listening and having open discussions, and the way of redacting the final documents. All this inaugurated a unique ecclesiality inspired by a collegial practice and completed by a synodal spirit that advanced the ecclesial model of the People of God of the Second Vatican Council. This spirit of synodality, inaugurated by the Latin American Church and supported by Pope Paul VI, is renewed and advanced today by Pope Francis as a new way of being Church.

**SC 53 (2019), 209-232: Gabriel Hachem: Unité et diversité dans l'Église. Une réflexion théologique sur l'autorité d'enseignement en Orient.** (Article)

This study of the practice of teaching authority in the East is limited to the Antiochian model which dates back to apostolic times and which represents in some fashion the Eastern model in all its expressions. The authority of teaching expresses itself in the Eucharistic *synaxis* where the assembled

## *General Subjects (Ecclesiology / Human rights)*

People of God is presided over by his bishop surrounded by his ministers. This synodal form is also an effort to combine diversity with unity. Regional synodality is considered as an enlargement of the catholicity of the particular Church under the same conditions. It gave birth to the patriarchate, a privileged and characteristic structure of communion in the East. H. describes the current relevance of the exercise of authority in the Eastern Churches according to the different forms of synodality, especially within the framework of the ecumenical movement and the search for unity in diversity.

### **SC 53 (2019), 233-264: Astrid Kaptijn: Exercising Teaching Authority in the Eastern Catholic Patriarchal Churches. (Article)**

K. begins by studying the theological foundations of synodality in some of its biblical and historical forms before turning to more contemporary reflections with Pope Francis, a study of the International Theological Commission, and the documents of some ecumenical dialogues. This leads to a dynamic vision of the Church with the participation of all the faithful, each according to their status. The openness to the Word of God and to the action of the Holy Spirit must be highlighted. On this basis, the nature of particular assemblies, bringing together the faithful (bishops alone or with other faithful), could be re-evaluated for the service they render to the Church. The second part of the study examines the teaching authority of the synod of bishops of the patriarchal Churches to arrive at the conclusion that in some respects they have more autonomy with regard to the Pope and the Holy See than certain assemblies of the Latin Church. The reason for this greater freedom probably lies in their status of being Churches *sui iuris*. In the East and the West, progress could be made in the matter of appreciating diversity and a culture of debate.

## ***Human rights***

### **Comm 51 (2019), 391-393: Pope Francis: Allocutio ad sodales coetus Centro Studi Rosario Livatino, 29 Novembris 2019. (Address)**

Rosario Livatino was a magistrate killed by the Mafia in 1990 and whose cause for beatification is under way. Pope Francis holds him up as an example not only to magistrates but to all those working in the field of law. He mentions in particular the debate on euthanasia and the danger of

stepping outside proper limits in seeking to establish various new “rights” which lack an objective basis.

**Comm 51 (2019), 458-462: Paul Richard Gallagher: *Competenza e impegni concreti*, Interventus Exc.mi D. Paul Richard Gallagher, Secretarii pro Relationis cum Civitatibus, iuxta symposium de dignitate conditionis humanae.** (Intervention)

The Secretary for Relations with States addresses a symposium entitled “Pathways to Achieving Human Dignity. Partnering with Faith-Based Organizations”. He speaks briefly to three points: promoting religious liberty; combating human trafficking; providing humanitarian aid. This was published in *L’Osservatore Romano* on 3 October 2019.

**FCan XIII/2 (2018), 7-27: Lourdes Ruano Espina: *Las objeciones de conciencia en el derecho portugués*.** (Article)

Modern legal systems do not generally recognize the existence of a right to conscientious objection which would allow citizens to excuse themselves from complying with certain legal requirements because of their beliefs or conscience. The Portuguese legal system, however, is an exception in this regard, as it protects the right of conscientious objection within the limits established by the Constitution and laws.

**LJ 183 (2019), 227-252: Frank Cranmer – David Pocklington: *Casebook*.** (Compilation)

Notes are given for various cases decided in 2019 by United Kingdom courts on human rights issues involving blood transfusions and Jehovah’s Witnesses; the disinterment of cremated remains and their reinterment elsewhere; the dismissal of a doctor for refusing to refer to transgender clients by their preferred pronouns; the imposition of a Public Spaces Protection Order on protesters outside an abortion advice clinic; access to a family burial vault and adverse possession; whether a court order for maintenance could impede the granting of a *Get* (divorce) by a rabbinical court [see also below, General Subjects (*Religious freedom*)]; whether vegetarianism is a philosophical belief (protected characteristic) under the Equality Act 2010; dismissal from magistracy and a National Health Service Trust as a result of opposition to same-sex and single-parent adoption; exclusion by a university of a student from a social work course because of

his views on same-sex marriage [the case is discussed more fully by Andrew Hambler in the same issue of LJ at pp. 207-219]; whether a transgender man who gives birth is to be registered as the child's "mother" or "father"; whether the rejection of an application from a non-Jew by an Orthodox Jewish housing association constituted discrimination; whether abortion against the consent of a pregnant woman with an intellectual ability was in her "best interests"; and the enforceability of an arbitration award made by a *beth din* (rabbinical court).

### ***Legal theory***

**Ap XCI (2018), 405-426: Manuel Jesús Arroba Conde: Missione ecclesiale e Pastorale giudiziale.** (Article)

See below, canons 1671-1691.

**Ap XCI (2018), 505-541: Paolo Gherri: Identità ecclesiale e *norma missionis*.** (Article)

G. illustrates what the *norma missionis* is, i.e. a concept that the Pontifical Lateran University authors have been using for some years as a synthesis and perspective both of the science of canon law and of canon law itself, in all its most significant expressions. This consideration accompanies the conceptual and legal transition from the *missio* to the *norma missionis* through a substantially constitutional approach. The *norma missionis* is then compared to the *salus animarum* in order to arrive at a first formalization of the concept of *norma missionis* as the "meta-constitutional principle" of the canonical order. G. concludes with a brief mention of the birth and evolution of this concept and its first uses in the doctrinal field. (See also *Canon Law Abstracts*, no. 123, p. 10).

**Ap XCI (2018), 599-607: Paolo Gherri: Bilancio canonistico sulla *norma missionis*.** (Article)

G. describes the XIII Interdisciplinary Canonical Day as having brought to fruition an initial conceptualization of the *norma missionis* by resolving the main ambiguities of this textual formula. The *norma missionis* turns out to be an epistemological criterion, offering a new concrete and operational tool to the science of canon law in order to validate (past, present and future)

canonical norms, by appropriately matching them with what the Church “is” in its deepest and most fundamental identity.

**FCan XIII/2 (2018), 103-112: Miguel Falcão: A Justiça, segundo Josef Pieper.** (Article)

F. comments on the German Catholic philosopher Josef Pieper’s work *Justice (Über die Gerechtigkeit)*, originally published in 1953. Pieper presents the concept of justice based on Saint Thomas Aquinas and viewed from a contemporary perspective, so that we always respect what is due to each one. He stresses that justice, in addition to supposing something due, presupposes a duty to others (otherness). He recalls the three basic forms of justice: commutative, distributive, and general; and explains the extent to which justice is achieved in each of them. He comments on the problems that arise between justice and power, and ends by referring to the limits of justice.

**IC 59/118 (2019), 517-563: Ilaria Zuanazzi: La responsabilità giuridica dell’ufficio di governo nell’ordinamento canonico.** (Article)

Z. explores the scope and consequences of the responsibility pertaining to ecclesiastical offices in the exercise of governing functions. Based on an analysis of the meaning of responsibility as such, and the application of different kinds of responsibility to civil servants in State systems, she outlines a structured system of responsibility for governance roles in the canonical order, in both objective-functional and subjective-ethical terms.

**IC 59/118 (2019), 665-696: María-José Ciáurriz: El pensamiento científico de Pedro Lombardía (a través de su análisis por Javier Hervada).** (Article)

Javier Hervada († 11 March 2020) studied the doctrine of Pedro Lombardía in depth, and in a 2017 article he summarized his studies on the matter, pointing out in a precise way each main point in his master’s thinking. All of Lombardía’s thought is condensed in the text. C. traces a complete and detailed perspective of Lombardía’s views, including the scholarly grounds on which they are based. Hervada uses the latter principles to encapsulate Lombardía’s work; they are used here to identify the root of Lombardía’s conception of the nature of canon law, the influences to which he responded,

as well as the impact of each, and the ultimate conclusion of his line of thought.

**IC 59/118 (2019), 697-730: Petar Popović: *Bonum commune Ecclesiae* and the Juridical Domain of Goods “Made Common” in the Church.** (Article)

P. re-evaluates the concept of *bonum commune Ecclesiae* in the light of recent research on the original Thomistic meaning of the common good in the context of social ontology and the current rereading of classical juridical realism. After distinguishing, as well as establishing the inherent connections between, the concept of the common good of the Church and other things or goods that are “made common” in the Church, P. addresses the question of the juridical domain of *bonum commune Ecclesiae*.

**IE XXXI (2019), 567-587: Petar Popović: A Hervadian Realistic Argument for the Juridical Status of Natural Law.** (Article)

P. addresses the question of the juridical status of natural law from the point of view of Javier Hervada’s rereading of classical juridical realism, referencing the contributions of some of Hervada’s intellectual followers, such as Carlos José Errázuriz and Eduardo Baura. He argues that a Hervadian account of the juridical status of natural law is contextualized within Hervada’s doctrine on the twofold aspect – moral and juridical – of the legal norm and on his argument concerning the natural title of right. He shows that the juridicity of natural law is founded upon a clear distinction – without separation – between the moral and juridical status of natural law. He presents the essential properties of the juridical status of natural law and explores the reconstitution of natural human goods as natural juridical goods. He makes reference to the structure of the precepts of juridical natural law precisely as “natural” norms.

**IE XXXI (2019), 589-610: Massimo del Pozzo: Lo statuto del fedele, cardine del sistema ecclesiale.** (Article)

Del P. identifies the canonical condition of the faithful as the cornerstone of the ecclesial system and the (constitutional) root of its different academic branches. The rights of the faithful serve as a clear and demonstrable directive for the entire juridical system. The focus of this analysis is primarily epistemological and conceptual in nature, centring around the

three modes of influence of these fundamental rights within the ecclesial order: direct (the intrinsic “dueness” of the salvific goods); derived (the structure of ecclesiastical organization, of canonical conditions, and of the Latin and Eastern disciplines); and that which is connected to human acquisitions in reference to so-called instrumental goods (the normative structure, administrative activity, and the judicial and penal sectors). Del P. proposes the thesis of the affirmation of a system of law based on values and principles of a constitutional nature.

**Ius Comm VII (2019), 229-247: Antonio M<sup>a</sup> Rouco Varela: ¿Un nuevo retorno del derecho natural? A propósito del Discurso de Benedicto XVI en el *Bundestag*.** (Article)

Given the difficult situation that the world is going through, Benedict XVI’s speech in Berlin on 22 September 2011 before the Bundestag was intended to be an invitation to think about the political value of natural law, as a legal ethical value in the thinking and in the life of the political community, after the renewed legal positivism of the last three decades of the 20th century.

**KIP 8 (21) 2019, nr 2, 171-188: Maciej Kołodziejcki: Posoborowe implikacje dotyczące eklezjologii prawa kościelnego w doktrynie polskich kanonistów (*Post-conciliar implications regarding ecclesiology of Church law in the doctrine of Polish canonists*).** (Article)

Polish canonists argue that canon law should be considered from its own point of view, and should not be determined by its relationships with other sciences, but rather should seek its own methodology leading to the goal of the salvation of souls. They regard the CIC/83’s framing of the rights of the faithful as being rather defensive in character. They stress the distinction between the immediate purpose of law, that of regulating social life, and its ultimate goal, that of salvation. The law makes it possible to achieve the latter through the former.

**LJ 183 (2019), 113-194: Richard Conrad – J. Budziszewski – Ryan Meade: Special Issue on ‘Aquinas on the Development of Law’.** (Compilation)

Given here are the papers from the 2019 Colloquium of the Aquinas Institute of Blackfriars Hall, Oxford, on the theme of “Aquinas on the Development of Law”. The order of papers follows the 13th century picture

of how law “unfolds”. In the first paper **Richard Conrad** sets the scene by explaining Aquinas’ view of the nature of law, and how he saw the kinds of law relating to each other. Natural law is a “participation” in the eternal law – God’s governing Wisdom – and unfolds in a hierarchy of precepts. The Torah reveals to us both the primary precepts all should know, and the “secondary” ones we are liable to miss. Human legislators’ role is to apply natural Law *better*, as well as to apply its unchanging principles to changing social realities. C. raises the possibility that at the interface between natural law and human law ongoing work is needed developing humanity’s understanding of the natural law itself. **J. Budziszewski** then asks how divine positive law (which includes the Torah) and natural law might change. Aquinas sees human laws as “changing” both in the obvious way, and by procedures such as “interpretation” and “dispensation”. B. applies these categories in an analysis of how natural law can “change” by addition, exception, interpretation, and dispensation, and how both divine and natural law are subject to “constitutional change” as a result of the Fall and the Redemption. He asks to what extent these changes can count as cumulative *development*. In the third paper **Conrad** focuses on Aquinas’ account of the Torah’s “judicial precepts”, which served the Jewish people in place of other peoples’ human law. Human legislators must continue to make and revise law, and, arguably, the judicial precepts challenge them to fulfil their vocation well. Aquinas saw the Torah as given *en bloc* through Moses; modern Scripture scholars explore how it was built up over several centuries. C. suggests this makes it a better exemplar of Aquinas’ principles concerning the development of human law than he could have realised. C. returns to the question whether human legislators have an ongoing role in developing humanity’s grasp of the *natural* law, and proposes that the laws on slavery show the Torah’s human authors performing this task in a way that called for further development. **Ryan Meade** focuses on human law, especially as it takes the form of code, and raises the issue of regulations made by agencies at levels of society Aquinas did not discuss. Instrumentalist and positivist accounts of law miss the force of Aquinas’ criteria for just laws; but these criteria are valuable for assessing how human laws and regulations should be changed in their formulation or substance, and to what end.

Besides expecting human law to develop, Aquinas would have acknowledged that his was not the last word on the nature of law, or on the contents of the natural law. His ideas have contributed to subsequent reflection on law’s sources, nature, scope, authority and proper development; returning to them provokes us to re-examine our ideas and



presuppositions. **Conrad**, in conclusion, mentions some possible areas for further research in a subject highly relevant to contemporary society.

**REDC 76 (2019), 585-612: Julio García Martín: Aplicación y significado jurídico canónico de las expresiones *ipso facto* e *ipso iure* en el Código de derecho canónico.** (Article)

The expressions *ipso facto* and *ipso iure* are used with a certain frequency by canonical legislation to indicate the relationship between certain facts regulated by laws and the juridical effect they produce as established by invalidating and incapacitating laws. According to common opinion, the expression *ipso facto* applies in respect of penal matters, but both the former and the current legislation apply it to other matters as well. The expression *ipso iure* is also applied to various matters, among which are juridical personality, the condition of persons, and sanctions.

### ***Relations between Church and State***

**BV 79 (2019), 825-836: Sonia Vaupot: The Relationship between the State and the Church in Vietnam through the History of the Society of Foreign Missions of Paris.** (Article)

Religion and the Catholic Church have played an important role in Vietnamese history. V. examines the development of the Catholic Church in Vietnam from the 17th to the 20th century, on the basis of reports published by the *Société des Missions Étrangères de Paris* (MEP) which contributed to the evangelization of many Asian countries. The survey of the activities of Catholics in Vietnam suggests that French missionaries were well organized and proactive throughout those centuries, and that the adoption of Christianity in Vietnam was achieved through cooperation between the MEP and the Vietnamese population.

**Comm 51 (2019), 401-411: Conventio inter Sanctam Sedem et Rem Publicam Congensem de mutuis relationibus inter Ecclesiam et Statum, 2 Iulii 2019.** (Document)

This is the text in Italian and French of a convention between the Holy See and the Republic of Congo setting out the relationship between the two and the legal status of the Church in Congolese law.

**Comm 51 (2019), 420-422: Secretaria Status: Propensiones pastorales Sanctae Sedis quoad Clericorum in China transcriptionem civilem, 28 Junii 2019. (Comment)**

The Secretariat of State offers some pastoral reflections on the situation of clergy in China who are required to register with the civil authorities, given that despite assurances of respect for Catholic doctrine, registration requires acceptance of the principle of independence and autonomy for the Church in China. The Holy See does not seek to force anyone's conscience. At the same time clandestinity is not normal. There is ongoing dialogue, and in principle the Constitution of the People's Republic respects religious liberty. The Holy See continues to work for an arrangement that respects both Chinese law and Catholic doctrine. In the current situation a bishop or priest who decides to register civilly ought to clarify, at least orally and if possible in the presence of a witness, that he does so without withdrawing due fidelity to the principles of Catholic doctrine, and to make this known to his local Ordinary. However, the Holy See understands the position of those who choose not to sign. It urges the faithful to understand the complexity of the situation and the sufferings of their pastors.

**Comm 51 (2019), 436-439: Andrea Tornielli: *La salvaguardia della dottrina cattolica e della coscienza di fronte alla richiesta delle autorità governative di registrarsi civilmente*, *Articulus explanans Gli Orientamenti pastorali della S. Sede circa la registrazione civile del clero in Cina*, a direttore Andrea Tornielli conscriptus. (Article)**

See previous entry. In an article published in *L'Osservatore Romano* on 29 June 2019 T. explains the pastoral reflections of the Secretariat of State on the civil registration of clergy in China. The provisional accord between the Holy See and China on the appointment of bishops in 2018 resulted in all the Chinese bishops being in full communion with the Pope. This is a very different situation from that of the 1950s. The intention of the document is to help those wanting to register but with moral qualms to resolve their doubts and refers back to the Letter of Pope Benedict XVI. The unity of the Church in China is important for the salvation of souls.

**Comm 51 (2019), 499-508: Michele Di Bari: *Le ragioni della scelta concordataria. Novant'anni di rapporti tra Stato italiano e confessioni religiose*, *Articulus ab ill.mo D. Michael Di Bari conscriptus*. (Article)**

Di B. sets out the context and implications of the changes made to the 1929 Concordat between the Holy See and the Italian State when it was revised in 1984. The Italian Constitution had changed over that period of time but so also had the approach of the Church in the light of Vatican II, even though the desire to cooperate remained the same. Di B. examines briefly the following aspects of this relationship: religious liberty; the role of the Ministry of the Interior; appointments of prelates and Italian citizenship; the financial support of the Church from taxation through the “*otto per mille*” system; questions concerning the regulation of church maintenance; areas for future consideration. (This article appeared in *L'Osservatore Romano* on 20 December 2019.)

**EIC 59 (2019), 421-444: Carlo Cardia: *Novanta anni dai Patti Lateranensi*. (Article)**

A historical and juridical reconstruction of the Lateran Treaty on the occasion of the 90th anniversary of its ratification.

**EIC 59 (2019), 445-467: Giuseppe Dalla Torre: *Le res mixtae “tradizionali” negli Accordi del Terzo Millennio*. (Article)**

Analysing the agreements between the Holy See and the States entered into since 2000, D.T. highlights, with regard to traditional *res mixtae* (mixed matters), some significant differences with regard to canonical marriage, schools and universities, social and health assistance, and religious holidays. The agreements have tended to follow the path opened up by John Paul II, characterized by two great inspiring principles: religious freedom as an individual, collective and institutional right; and healthy collaboration for the good of the person and of society.

**EIC 59 (2019), 469-520: Pasquale Lillo: *Dimensione costituzionale europea del sistema pattizio italiano e tedesco*. (Article)**

L. compares the Italian system of concordats with that of the German *Länder* within the larger horizon of the European concordat systems.

**EIC 59 (2019), 521-557: Andrea Zanotti: Una bilateralità in espansione: l'universo frammentato delle intese sub-concordatarie.** (Article)

Z. examines the secondary agreements between the Church and the Italian political community after the signing of the 1984. Some of these give specific implementation to that Agreement; others are agreements between the relevant State ministries and the Italian Episcopal Conference on new matters. What was not foreseen in 1984 was the development of ecclesiastical law at regional level through sub-agreements of a local nature: a phenomenon which has also occurred in other European countries. This gives rise to many problems of interpretation and implies a new situation of Church-State relations, characterized by a much more articulated and fragmented system than previously.

**EIC 59 (2019), 559-591: Paolo Valvo: Tradizione e rinnovamento nei concordati latino-americani degli ultimi pontificati.** (Article)

V. reviews the contents of agreements between the Holy See and Latin American countries from the Second Vatican Council up to the present day.

**EIC 59 (2019), 593-608: Venerando Marano: Protezione dei dati e autonomia delle Chiese dopo il Regolamento UE 2016/679. Note per una lettura di sistema.** (Article)

M. analyses the EU rules on privacy and protection of personal data, offering a panoramic consideration of the consequences of such norms on religious confessions in Italy, particularly the Catholic Church. He pays special attention to the norms adopted by the Italian Episcopal Conference on this matter.

**IC 59/118 (2019), 583-626: José-Ignacio Rubio-López: Jurisprudencia norteamericana sobre autonomía de las Iglesias y relaciones laborales: Doctrina de la “excepción ministerial”. Parte II: Después de *Hosanna-Tabor* (2012).** (Article)

In 2012, the United States Supreme Court recognized the constitutional validity of the doctrine of the ministerial exception in *Hosanna-Tabor* (see *Canon Law Abstracts*, no. 123, p. 19). The Court limited the scope of its judgment to employment discrimination, leaving open the question of applying the doctrine in other areas; it also avoided a fixed test for defining

a “minister”, instead applying a simple test which took into account “all the circumstances” of the case. The courts have been applying that doctrine and have extended it to other sectors such as contractual claims with doctrinal or disciplinary implications (e.g. where a pastor was dismissed for failing to show sufficient leadership); cases indirectly related with situations of clergy sexual abuse and harassment, with ecclesiastical implications (e.g. where a priest after being accused of sexual abuse was dismissed from ministry and after subsequently being found innocent sued the diocese for back payments; the courts declined to deal with the case because of the ministerial exception); hostile work environments involving some doctrinal element (e.g. where a church director of music was invited to resign and was ultimately dismissed after entering into a same-sex partnership); and civil liability for damages (e.g. where a church worker was dismissed for insubordination – one of the possible reasons for dismissal stipulated in her contract – based on religious reasons). The courts cannot enter into ecclesiastical disputes over religious doctrines or internal ecclesiastical governance and disciplinary issues. Since it is not possible to resolve such cases by applying neutral principles of law, the First Amendment requires the courts to abstain.

**IE XXXI (2019), 647-659, 751-765: Vincenzo Buonomo: Annotazioni sulla nuova Legge sul governo dello Stato della Città del Vaticano.**  
(Document and comment)

B. explains the background to and content of Law CCLXXIV, effective from 7 June 2019, by which Pope Francis restructures the governance of the Vatican City State (see *Canon Law Abstracts*, no. 123, pp. 14-15). (The Italian text of the Law is given on pp. 751-765.)

**IE XXXI (2019), 697-704, 767-772: Jesús Miñambres: Alcuni rilievi sul nuovo Statuto dell’ufficio del Revisore Generale della Santa Sede.**  
(Document and comment)

M. comments on the statutes setting out the office of an auditor general in reviewing the accounts of the various entities of the Holy See (see *Canon Law Abstracts*, no. 123, p. 17). (The Italian text of the statutes is given on pp. 767-772.)

**Ius IX 1/18, 11-50: Paul Pallath: Relationship between Church and State, Canon Law and Civil Law: Problems and Prospects. (Article)**

P. examines the Lateran Pacts between the Holy See and the Italian State which constitute the foundation for the relationship between the Catholic Church and the State even in modern times. He then looks at the teaching of Vatican II on the autonomy and independence of the Church and civil society in their respective fields, indicating the possibility and manner of observing canon law in democratic, theocratic, confessional, secular, atheistic or totalitarian States. After presenting a compendium of the canons on the theme – both Codes set out in tabular form – he highlights the principles and directives provided by the CIC/83 and CCEO regarding the relationship between canon law and civil law, especially in relation to three particular themes: marriage, the temporal goods of the Church, and penal law.

**KIP 8 (21) 2019, nr 2, 155-169: Oleksandr Bilash – Liliia Dorofeieva: Organizational and Legal Regulation and Practice of the Ukrainian Customs Activity on Returning Church Property. (Article)**

The authors analyse the current state of legal regulation of issues related to the protection of cultural heritage and the transfer of cultural property across borders. They also seek to determine the role and place of customs authorities in Ukraine in the implementation of measures to restore Church property.

**REDC 76 (2019), 571-583: Jesús Domínguez Rojas: Iglesia y sociedad. Estadísticas para interpretar la realidad. (Article)**

This article summarizes D.R.'s intervention on 27 September 2018 at a symposium entitled “Legislative Reforms in the Church”, held at the Pontifical University of Salamanca (26-28 September 2018).

**REDC 76 (2019), 649-684: Florencio Hubeňak: La tetrarquía y su teología política. Sus implicaciones en las relaciones Iglesia-Imperio. (Article)**

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

**REDC 76 (2019), 685-709: José María Martí Sánchez: La preservación de la riqueza cultural de los claustros.** (Article)

See below, canon 578.

***Religious freedom***

**EE 94 (2019), 883-923: María Elena Olmos Ortega: Libertad religiosa y matrimonio.** (Paper)

Today's society is globalized, plural and diverse. This is reflected in models for the celebration of marriage recognized by legal systems which allow the spouses to choose between either civil marriage (either in civil form or in religious form in cases where the religious confession in question has reached an agreement with the State) or canonical marriage. Analysing the situation in Spain, O. looks at the social and legal challenges posed by issues such as intercultural or interreligious marriages, polygamous marriages, forced and/or child marriages, sham marriages, etc. She states the need for education in common and inalienable values and for formation in freedom and equality among all people, as an instrument for preventing problems and for helping people live together peaceably.

**IC 59/118 (2019), 627-662: Santiago Cañamares Arribas: Religión y relaciones laborales en las entidades públicas y privadas en España.** (Article)

C.-A. focuses on the protection of religious freedom in the workplace, looking at the exceptions in current legislation governing the prohibition of discrimination on religious grounds, in line with European Directive 2000/78. Although it has not been transposed into Spanish law, he also addresses the right of religious denominations and ethos-based organizations to discriminate against workers on religious grounds and to require allegiance to their doctrine or ethos.

**IC 59/118 (2019), 767-809: Rafael Palomino Lozano: Sigilo de confesión y abuso de menores.** (Article)

See below, canon 983.

**LJ 183 (2019), 219-226: Frank Cranmer: When Secular and Religious Courts Collide: a Comment on *Ulman, Moher and Ai*. (Comment)**

A recent judgment by the Court of Appeal of New South Wales held that religious sanctions threatened by a *beth din* (rabbinical court) against a party to a commercial dispute before the secular courts had amounted to a criminal contempt of court. C. looks at three fairly recent cases which involved complex interactions between Jewish religious law and the secular courts and suggests that, in the final analysis, the secular courts will prevail.

***Social issues***

**Comm 51 (2019), 444-457: Pietro Parolin: *Un destino comune impone soluzioni multilaterali*, Allocutio Em.mi D. Petri Parolin, Secretarii Status, iuxta Foederatarum Nationum Consilii Coetum generali. (Address)**

In his address to the General Assembly of the United Nations, published in *L'Osservatore Romano* on 2 October 2019, the Secretary of State speaks of Pope Francis's vision of a common destiny for humanity and how this calls for a multilateral approach, particularly in the areas of a search for peace and security, the eradication of poverty, the provision of good education, climate change action, and social inclusion.



## HISTORICAL SUBJECTS

### *1st millennium*

**BV 79 (2019), 989-1000: Andrej Saje: Sklepanje krščanskega zakona na Zahodu in Vzhodu od pozne antike do zgodnjega srednjega veka (*Celebration of Christian marriage in the West and East from the late Roman to the early medieval period*). (Article)**

S. focuses on the development of Christian wedding practices from the third century up to the beginning of the second millennium, when the West and East settled on different practices. Christians in the early centuries celebrated marriage according to their local customs. At the end of the Roman period the Eastern Church, influenced by Semitic cultures, began to stress more strongly the sacred character of marriage. As a result, the liturgical rite for the celebration of marriage in the Church, including the blessing of the spouses by a priest, gained importance; this eventually became standard practice, confirmed by imperial decrees. In contrast with the Byzantine tradition, the Western Church, influenced by Roman law, stressed that the matrimonial consent of the spouses was the essential constitutive element of the marriage contract, whereas the blessing of the spouses by a priest was recommended only for pastoral reasons, and remained optional. Because of the great importance of the family, the Church has encouraged those celebrating marriage to do so by a public rite before the ecclesial assembly. Both traditions share the teaching that marriage is contracted through the matrimonial consent of the spouses; they differ in their evaluation of the priestly blessing and on whether the role of the priest in the celebration of marriage is essential. In the Eastern Church the ecclesial rite of celebration of marriage has been mandatory from the 11th century onward, while the Western Church adopted a unified ecclesial form of celebration of marriage only in the 16th century.

**EE 94 (2019), 743-784: Araceli Martínez González: El matrimonio espiritual entre obispo e Iglesia. Origen y desarrollo durante la formación del «Corpus Iuris Canonici». (Article)**

M.G. investigates the origins of the metaphor of the spiritual marriage between bishop and Church in the fourth century, and its subsequent development during the formation of the *Corpus Iuris Canonici* (11th-15th centuries), mainly in Western Christianity. She notes the irregular evolution

and implementation of the metaphor in various areas of the emerging canonical science and theology. She sets out the *iter* of the metaphor in the theology of the episcopal ministry, and its development in accordance with the evolution of ecclesiology: from the bishop being primarily the husband of his Church, to his being the representative of Christ, the only Spouse, united by a double bond with the universal Church and with the particular Church.

**IusM XIII/2019, 71-114: Mario L. Grignani: La *Maximum illud* di Benedetto XV e il clero cinese del Hunan Meridionale nella corrispondenza tra il Vicario apostolico e il Prefetto della Congregazione de Propaganda Fide negli anni 1918-1920.** (Article)

G.'s article is based on the correspondence between the Apostolic Vicar of Southern Hunan, Monsignor Giovanni (Gian) Pellegrino Luigi Mondaini O.F.M., and the Cardinal Prefect of the Congregation of Propaganda Fide, Willem Marinus Van Rossum, in the years 1918-1920, in the light of Benedict XV's 1919 Apostolic Letter *Maximum illud*, and with particular reference to the Chinese clergy and the different ways in which this was viewed. The unpublished documentation is kept in the Historical Archive of the Congregation for the Evangelization of Peoples (de Propaganda Fide).

**IusM XIII/2019, 115-133: Szabolcs Anzelm Szuromi: Institutes of Presbyteral “Synodality” in the Constantinian and Barbaric Epoch of Church History.** (Article)

S. examines those relationships among the clergy – in particular among bishops, or between the bishop and his presbyteral college – in the early Middle Ages which can nowadays be described as coming within the modern category of synodality. As the Roman Empire declined, the stable “backbone” of European society was the Catholic Church herself, which through her hierarchy aimed to accomplish the mission received from our Lord Jesus Christ: in the service of salvation, to proclaim the Gospel and administer the sacraments under the leadership of the successors of the apostles. This mission was carried out by the bishop in close cooperation with the unified presbyteral college and other clerics. Later the presbyteral college was replaced by the parish system. Nevertheless, unity among bishops and unity between the bishop and his clergy have been preserved, and are represented by the different levels of councils and by the cathedral chapters.

**IusM XIII/2019, 147-153: Danilo Ceccarelli Morolli: Le missioni evangelizzanti l'Antica Nubia. Un caso di geopolitica delle religioni dell'età giustiniana. (Article)**

C.M. comments on the impact of geopolitical aspects on the history of the missions, with special reference to the case of the Ancient Nubia, and offers some considerations concerning the history of “geopolitics of religion”.

**IusM XIII/2019, 165-179: Péter Erdő: Lo spirito del presbiterio. Precedenti disciplinari e dottrinali di una idea di sinodalità. (Article)**

Synodality is a new and not totally clear term in theology and canon law. It is not simply a sociological or political principle; nor is it identical with the college of bishops. E. examines a theological precedent of synodality. The community or collegial character of the office of presbyter, which is present from the very beginning especially in Judaeo-Christian communities, arises – according to the perception of the early Church – from the idea of the presbyters receiving the gift of the same Spirit when being ordained. Prior to that there existed the body of elders in the synagogues. The Christian *presbyterium* acts as a community alongside the bishop in celebrating the Eucharist, ordaining presbyters, administering justice and the goods of the Church, and explaining Holy Scripture. In early times it was compared to the college of the Apostles.

**REDC 76 (2019), 649-684: Florencio Hubeñak: La tetrarquía y su teología política. Sus implicaciones en las relaciones Iglesia-Imperio. (Article)**

H., analysing from a historical, theological and political perspective (“political theology”) the political-religious conception of the power of the members of the tetrarchy in Rome prior to the Edict of Milan, provides a different approach to the roots of the relationship between Church and Empire.

**SC 53 (2019), 481-560: Dominique Le Tourneau: Étude thématique des dispositions canoniques prises par les conciles réunis sous l'influence de saint Césaire d'Arles, de 506 à 541, et de leurs prolongements. (Article)**

Saint Caesarius was Bishop of Arles, in Provence. His activity in the elaboration of canon law goes far beyond the limits of the five councils that

he summoned. If he himself is partially dependent on the norms of previous councils, he develops a body of norms that will continue to be applied until the enactment of the CIC/17. Some of these norms are truly innovative. They contribute, among other things, to a standardizing of the practice of the liturgy and to the organization of the law on ecclesiastical goods. Le T. carries out an in-depth study of the influence of Caesarius's legislation, but limiting himself to an examination of the councils in which his influence is detectable. In the context of the possible attribution of the title "Doctor of the Church" to Saint Caesarius, Le T. conducts an investigation which reviews various sectors: the liturgy, the clergy, protective measures for certain categories of people, religious life, ecclesiastical property, disciplinary measures, and measures relating to the holding of councils. Le T. draws on historical sources to explain the context in which the different canonical dispositions are given, thus contributing to making them better known and understood.

### *Classical period*

**EE 94 (2019), 743-784: Araceli Martínez González: El matrimonio espiritual entre obispo e Iglesia. Origen y desarrollo durante la formación del «Corpus Iuris Canonici».** (Article)

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

**QDE 32 (2019), 390-397: Giuliano Brugnotto: «Lex instituitur cum promulgatur»: storia di una formula.** (Article)

See below, canon 7.

**RDC 68/2 (2018), 319-349: Frédérique Cahu: Les rituels du sacrement du mariage illustrés dans les collections de droit canonique au Moyen Âge.** (Article)

Based on a corpus of illustrated manuscripts of the Decretals of Gregory IX produced in the 13th century, C. highlights the codifications of the sacrament of marriage, relying mainly on conciliar legislation, customaries, and liturgical books. If for canonists the rite itself does not constitute the essence of marriage, its setting in images reveals very specific regional

traditions which convey the intimate convictions of bishops, disseminated throughout a diocese by means of efficient written and oral preaching.

**REDC 76 (2019), 557-569: Francisco Cantelar Rodríguez – Jaime Justo Fernández: Cinco nuevos Sínodos medievales de Tarragona hasta ahora desconocidos.** (Article)

Given here is an account of the discovery of five hitherto unknown medieval synods of the diocese of Tarragona. The discovery was made during research work in connection with the preparation of vol. XV of the *Synodicon hispanum*, which aims to publish the synods of the Iberian Peninsula held between the Fourth Lateran Council and the Council of Trent (1215-1563). The article explains the process that led to the discovery, as well as its impact and significance. With this find the number of known synods of the diocese of Tarragona now increases from 11 to 16.

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

**FCan XIII/2 (2018), 77-96: Nicolás Álvarez de las Asturias: «Única esperanza de salvación para los indios»: el Sacramento de la Penitencia en la evangelización de América.** (Article)

The first missionaries in America understood that one of their main tasks was the administration of the sacrament of Penance to the indigenous people who had been baptized. A. focuses on the reception in America of the Tridentine doctrine concerning this sacrament, the pastoral methods employed, and the canonical regulations that granted legitimacy to the specific practices followed in America. His study is based mainly on canonical and pastoral sources published for “Spanish” America.

**IE XXXI (2019), 681-695: Luis Martínez Ferrer: Notas sobre los Concilios Limenses del siglo XVI.** (Article)

After providing an ecclesiological prologue on synodality, M.F. analyses the institute of provincial councils in the 16th century, with particular reference to the territory of the Spanish monarchy. He examines the triple jurisdiction – pontifical, regal, and archiepiscopal – over the councils, and comments on some elements of the Third Council of Lima (1582-1583).

**IusM XIII/2019, 135-146: Pier Virginio Aimone Braida: Voltaire e Benedetto XIV: Una corrispondenza (non solo) epistolare controversa. Ovvero anche i canonisti ne sanno di letteratura e altro. (Article)**

The short note reports the exchange of correspondence between Prospero Lambertini (Pope Benedict XIV) and François Marie Arouet (known as Voltaire), and highlights the difference between the Pope as a private person (with responsibilities at this level and the ability to act in a certain way) and as an institutional person, with precise limits imposed by his office. The note dwells on a number of particular aspects of this correspondence.

**RDC 68/2 (2018), 281-295: Luc-André Biarnais: Une histoire des registres de catholicité. Le cas du diocèse de Gap jusqu'en 2015. (Article)**

The recording of the sacramental life of people is part of a history which arose at the end of the Middle Ages, essentially to avoid the celebration of invalid marriages. This process concerns canonical and civil laws, sociology and archival science (collection, classification, preservation of registers, and communication of information). B. describes the canonical and civil measures taken from the time of the Council of Trent which have led to the current situation, based on the archival history of the diocese of Gap in southern France.

**REDC 76 (2019), 755-815: Eutimio Sastre Santos: El *Ius tridentinum* (1563-1917) y sus tres variaciones: derecho canónico común, derecho canónico indiano y derecho canónico misionero. (Article)**

The *ius tridentinum* protected the theological-juridical life of the Church from 1563 to 1917. It had three variant forms: common canon law within the European Catholic territory (its exemplar), canon law in the territory of the West and East Indies, and missionary canon law. S. studies these three variants and their ecclesiology, their legislators, their missionaries, their geographical scope, and their juridical development.

**Celia Alejandra Ramírez Santos – José Luis Egío: Conceptos, autores, instituciones. Revisión crítica de la investigación reciente sobre la Escuela de Salamanca (2008-19) y bibliografía multidisciplinar.** (Book)

This book surveys the research on the School of Salamanca carried out in the last decade. This period has seen a renewal and a broadening of previous research perspectives, which until recently were focused primarily on the study of natural law, the law of nations, and certain theological and metaphysical topics. The book seeks to present an exhaustive list of thematic descriptors which facilitate the work of locating publications on a particular author, concept, research topic or institution (mendicant orders, universities, etc.). Most of the concepts used as descriptors are of a philosophical-political and historical-legal character, although the bibliography also offers conceptually and institutionally ordered references related to disciplines such as the history of the book, the history of universities, and natural philosophy or epistemology, reflecting the current multidisciplinary interest in the scholasticism of Salamanca. (For bibliographical details see below, Books Received.)

***1917 Code***

**AC 58 (2017), 9-223: « Gasparri, La France et la codification ». Actes du colloque organisé à Paris par la S.I.D.C. les 7 et 8 novembre 2017 à l’occasion du centenaire du Code de 1917.** (Compilation)

Given here are the papers from the conference held by the Société internationale de Droit canonique at the Institut Catholique de Paris, on the theme of “Gasparri, France and the codification” (7-8 November 2017). **Dominique Mamberti** explains how Gasparri saw codification as a way of affirming the law of the Church vis-à-vis the claims of civil States and providing easier access to canon law. **Chiara Minelli** points out that the pressure to recast a *novum corpus iuris* began at the first Vatican Council, arising out of a desire for simplification, clarity and rational ordering, which would provide juridical certainty for the pastoral good of the Church. Those engaged in the work of codification sought to collect the laws currently in force, resolve controversies and arrange materials systematically. The *ordo decretalium* in five volumes gave way to a new order, which would present the law as an *ordinatio rationis ad bonum commune*. French canonists saw codification as a suitable instrument for ecclesial legislation.

**Olivier Echappé** reflects on Gasparri's years in Paris (1980-1898). The *Code civile* (1804) was widely respected for its simplification of the law and unification of sources. It was based on Gaius's *Institutiones: persona* and *res*; while a code of civil procedures (1806) dealt with *actiones*. Whereas the Exegetical School focused on the text of the law, the search for the *mens legislatoris* gave a role to jurisprudence. Church-State issues, such as the secularization of the State and universities (1884) impacted on Gasparri. A civil code based on the French model was introduced in Italy in 1865. The CIC/17 avoided theological definitions, following the *regula iuris: omnis definitio in iure periculosa est*, as well as reference to natural law. Gasparri favoured the exegetical method of teaching canon law. **Philippe Toxé** explains that Gasparri began with a *commentarius* on the *Decretales*. In 1891 he produced a *tractatus* on marriage. Distancing himself from the *corpus iuris canonici*, he came to see codification as the way of the future. **Joseph-Thomas Pini** speaks of Bourdinhon and Many, of the Faculty of Canon Law in Paris, who worked closely with Gasparri in the process of codification and in the Commission for interpretation of the Code; P. analyses their contribution to a number of issues, such as Anglican orders. **Thierry Sol** explains how for French canonists the Code was consistent with the ecclesiology of the period: a visible, perfect society with power of jurisdiction, which enabled further legislative activity. Laws in the Code were pithy, precise, clear, in one place, and distinguished from jurisprudence, which was left to experts. The Code was seen as being in continuity with prior laws. However, the exegetical approach to teaching canon law prevented a deeper study of the nature of canon law; and the phrase attributed to Gasparri, *quod non est in Codice non est in mundo*, reflected a positivistic mindset and led to a stagnation of the discipline – hence the surprise of many when in 1959 John XXIII announced the setting up of a commission for the reform of canon law.

**Emmanuel Petit** addresses the question of Gasparri and the convalidation of marriage where there is an impediment of divine law. On 25 April 1890 the Apostolic Penitentiary granted a *sanatio in radice* in a case involving the impediment of *ligamen*. In a case of 2 March 1904, the Holy Office permitted the convalidation of a marriage involving the impotence of one of the parties. These cases influenced the wording of canon 1139 §2 of the CIC/17. Gasparri's position is reflected in canon 1163 §2 of the CIC/83. P. holds that *sanatio in radice* is a doctrinal construction, and that doctrine should investigate the matter more fully. **Bruno Gonçalves** describes how at the end of the 19th century French bishops said, *obruimur legibus* – we are being destroyed by laws. At Vatican I the bishops of the area of Naples said that several camels would be needed to carry all the necessary books!



Gasparri produced an edition of the Code with footnotes referring to the decretals to ensure a sense of continuity. Of 2414 canons only 275 were without footnotes, thus indicating that they were new. Of the 220 canons on penal law, 22 were new. *Apostolicae sedis* (1869), *Romanus Pontifex* (1873), an 1872 decree of the Holy Office, and three other decrees of the Sacred Congregation of the Council (1874, 1893 and 1894) had reduced the number of censures. G. also points out that in 1970 the Commission for the revision of the CIC/17 stated that penalties should only be imposed as an extraordinary measure, for exceptional reasons, after all other means had been exhausted. The number of penal canons was reduced from 219 (CIC/17) to 88; the number of penalties from 58 to 16. Despite the change of terminology, he concludes that the CIC/83 has retained the mechanisms and *modus operandi* of the CIC/17, and claims that recent law on *graviora delicta* shows that the Church's penal system has broken down.

**Cédric Burgun** deals with the codification of the law concerning physical persons: in the CIC/83, *Christifideles* include all the faithful: lay, cleric, consecrated (canon 207 §2). Canon 96 uses the older category of “person” referring to baptism as the source of rights and obligations. “Person” is equal to *Christifidelis*. Canon law accepts the “natural juridical capacity” of the unbaptized, but not as “persons”. “Full communion” in canon 205, which has no equivalent in the CIC/17, seeks to express the ecclesiology of *Lumen gentium*. **Éric Besson** looks at codification of the law concerning juridical and hierarchical persons. The CIC/17 identified the mission of the Church with that of the hierarchy. The *Corrientensis* decision of 13 November 1920 held that lay people could set up associations, which would be recognized by the Church, distinguishing between ecclesiastical and lay associations. The teaching of *Lumen gentium* expressed in canons 204-208 of the CIC/83 led to canons 113-123 and 298-329 (associations of the faithful). The faithful can now set up private foundations; later recognition is necessary for canonical approval. There are two categories: public associations set up with ecclesiastical approval enjoying full juridical personality, and private associations which have a different juridical status. Associations with common life, obedience to a superior, etc., are since 2010 subject to Congregation for Institutes of Consecrated Life and Societies of Apostolic Life. Other groups have been subject to the vigilance of diocesan bishops, which has led to abuses. The *Annuario Pontificio* lists 44 territorial prelatures. It also lists two *missiones sui iuris* (Cayman Islands and Afghanistan) and eight ordinariates for Eastern-rite faithful in Latin areas, the most recent in Spain in 2016 (B. gives fuller details of these). He notes three forms of ordinariate: military, oriental and Anglican. The number of exceptions to the law suggests that concepts in this area are not well

considered. **Patrick Valdri** points out that codification in 1917, representing a move away from compilations of laws, had the cachet of modernity. The older style valued flexibility; the new certitude. The CIC/83 had to reflect the ecclesiology of Vatican II. A key text is *Lumen gentium*, 8.

## **20th century**

**IusM XIII/2019, 35-54: Maurizio Martinelli: Le premesse ecclesiolgiche della Lettera apostolica *Maximum illud*. Profili ricostruttivi.** (Article)

The special prerogatives and competences of Propaganda Fide were revised and updated in the period comprising the second half of the 19th century and the beginning of the 20th. Despite the administrative centralization of the Roman Curia, missionary action was encouraged by Leo XIII and Benedict XV, whose teaching concerning the missions formed part of a more general and pervasive ecclesiological process which highlighted the relationship between the evangelizing Church and the secular political realities. It is no coincidence that the dynamics underlying the overcoming of the model of “religious colonialism” played a fundamental role in the revitalizing of the missions under Benedict XV.

**IusM XIII/2019, 55-70: Bruno Fabio Pighin: L’attuazione della *Maximum illud* operata da Celso Costantini nell’evangelizzazione in Cina.** (Article)

A century after its publication, the importance of Benedict XV’s Apostolic Letter *Maximum illud* (30 November 1919) becomes clear as it is rightly understood as the Magna Carta of Catholic missions. The Letter is closely connected with evangelization in China, as it was not only a response to the critical situation of missions in that country, but also and above all it set out a missionary implementation programme, whose strategist was the first Apostolic Delegate in Beijing, the future Cardinal Celso Costantini. It led to the first Chinese Council, convoked in 1924 in Shanghai and chaired by Costantini himself, the acts of which are based above all on *Maximum illud*. (See also *Canon Law Abstracts*, no. 123, p. 18.)

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

**AC 58 (2017), 9-223: « Gasparri, La France et la codification ». Actes du colloque organisé à Paris par la S.I.D.C. les 7 et 8 novembre 2017 à l’occasion du centenaire du Code de 1917. (Compilation)**

See above, Historical Subjects (*1917 Code*) (contributions of Gonçalves, Burgun, Besson and Valdrini).

**Comm 51 (2019), 509-554: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus “De ordinatione systematica Codicis”: Vota et modi ab Em.mis Patribus Plenaria in Sessione diei 28 mensis Maii anno 1968 prolata. (Report)**

This report sets out responses, question by question, in answer to Cardinal Felici’s letter of 20 April 1968 seeking the views of the members of the Code Commission on the proposed structure for the new Code of Canon Law. The *vota* are set out as follows (mostly in Latin but some in the vernacular): Cardinal Shehan 509-511; Cardinal Antoniutti 512-514; Cardinal König 515-516; Cardinal Câmara 517-519; Cardinal Silva Henríquez 520-521; Cardinal Bengsch 522-528; Cardinal Cooray 529-537; Cardinal De Roy 538-539; Cardinal Tatsuo Doi 540-541; Cardinals Jaeger and Dopfner 542-554.

**Comm 51 (2019), 555-652: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Orientali Recognoscendo: Coetus “De Magisterio Ecclesiastico” (Sessio VII, diebus 26 mensis Novembris – 7 mensis Decembris 1979 habita). (Report)**

In this session the Commission for the Revision of the Eastern Code considered the proposals for canons covering Catholic schools, universities and ecclesiastical universities. It then turned its attention to evangelization and catechesis. However, instead of moving on to the next topic (ecumenism), they decided to vote on those areas already discussed. Further detailed discussion of the aforementioned sections continued, after which they returned to the sections on ecumenism and reception into full communion. They then looked again at the question of deaconesses, and briefly at the Profession of Faith and the use of the communications media.

*Historical Subjects (Second Vatican Council and revision of the CIC and CCEO)*

**SC 53 (2019), 449-465: Akram Khoury: L'Église grecque-melkite-catholique et le Concile Vatican II (1959-1965). (Article)**

See below, Code of Canons of the Eastern Churches (*Historical*).

## CODE OF CANONS OF THE EASTERN CHURCHES

### *General*

**Comm 51 (2019), 382-383: Pope Francis: Allocutio ad participes Conventus proveci a Iuris Ecclesiarum Orientalium Societate, 19 Septembris 2019.** (Address)

Pope Francis addresses an ecumenical group comprising students of canon law from the Eastern Catholic Churches, Orthodox and Oriental Orthodox Churches emphasizing the common heritage of the first millennium, particularly in the context of primacy and synodality.

**IusM XIII/2019, 17-33: Lorenzo Lorusso: Amministrazione Apostolica per i fedeli orientali.** (Article)

The Byzantine or Greek Catholic faithful of Kazakhstan and Central Asia were spiritually assisted by, above all, Ukrainian priests under the guidance of a delegate appointed by the Congregation for the Oriental Churches. The erection of an apostolic administration, although not foreseen in the CCEO, is a provision that addresses the pastoral needs of the faithful. However, some doubts remain. To whom does the administration pertain, to the Ukrainian Greek Catholic Church or to another *sui iuris* Church? To which Church do the children-to-be-baptized of Greek Catholic parents belong? What about those who enter into full communion from the Orthodox Churches?

**SC 53 (2019), 233-264: Astrid Kaptijn: Exercising Teaching Authority in the Eastern Catholic Patriarchal Churches.** (Article)

See above, General Subjects (*Ecclesiology*).

## **Historical**

**BV 79 (2019), 989-1000: Andrej Saje: Sklepanje krščanskega zakona na Zahodu in Vzhodu od pozne antike do zgodnjega srednjega veka (*Celebration of Christian marriage in the West and East from the late Roman to the early medieval period*). (Article)**

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

**SC 53 (2019), 449-465: Akram Khoury: L'Église grecque-melkite-catholique et le Concile Vatican II (1959-1965). (Article)**

K. focuses on the intervention of the Melkites at the Second Vatican Council. He shows how they played a key role in the preparation of some of the texts of the Council. He sets out the work and reflection carried out by the Melkite Church on ecclesiology before the Second Vatican Council, which was instrumental in the preparation of the interventions of the Melkite participants at the Council. He then presents the fruit of the reflection of the Melkite Church and its influence on *Lumen gentium*, *Unitatis redintegratio*, *Orientalium Ecclesiarum*, and *Christus Dominus*.

## **CCEO 7-26**

**EIC 59 (2019), 697-723: Massimo del Pozzo: L'antecedenza dei diritti o dei doveri fondamentali nel sistema canonico. (Article)**

See below, CIC canons 208-231.

## **CCEO 27**

**Ius IX 1/18, 3-10: Cherian Thunduparampil: Patriarch with the Synod of Bishops: Supreme Authority of a Church *Sui Iuris*. (Editorial)**

Autonomy helps an institute to grow. T. reflects on the four elements required in CCEO canon 27 for a Church to have *sui iuris* status, and the four types envisaged according to the degree of autonomy. The context is the 25th anniversary of the elevation of the Syro-Malabar Church to the status of a major archiepiscopal Church on 16 December 1992. T. focuses on the authority of the Synod, particularly outside the proper territory of the Church, given ongoing conflict over liturgical norms. He then outlines the articles contained in the present issue of *Iustitia*.

## **CCEO 27**

**Ius IX 2/18, 157-162, 377-380: Cherian Thunduparampil: Elevation of SMC to Major Archiepiscopal Church (SMMAC) – 25 Years: Impact, Implications and Challenges.** (Editorial)

At the time of the promulgation of the CCEO in 1990 the Syro-Malabar Church was in an anomalous position with regard to the four categories of *sui iuris* Churches envisaged, in that it consisted of two separate metropolitan hierarchies. This was remedied in 1992 by the Apostolic Constitution *Quae maiori* which constituted the see of Ernakulam-Angamaly as a major archiepiscopal see. This whole issue of *Iustitia* celebrates the 25th anniversary with a series of articles on the implications and effects of this Constitution on the life of the Syro-Malabar Church. (On pp. 377-380 the texts are given of *Quae maiori* of 16 December 1992 and of the Apostolic Constitution of the same date appointing Cardinal Mar Antony Padiyara as the major archbishop. These are followed by photographic images of the original documents.)

## **CCEO 27-28**

**Ius IX 2/18, 163-176: Sebastian Vaniyapurackal: The Concept of Church *Sui Iuris* in CCEO.** (Article)

V. provides some fundamental details about the concept of a Church *sui iuris* as defined by canon 27 of the CCEO. He presents the etymology of the term, the nature of the autonomy enjoyed by these Churches, the differences in the perspectives of the Catholic and Orthodox Churches regarding the autonomous nature of the individual Churches, and the different elements of the canonical definitions of a Church *sui iuris*. He then outlines the four constitutive elements of a Church *sui iuris*: community of Christian faithful, hierarchy, norm of law, and recognition from the supreme authority. Before a Church *sui iuris* is recognized as such, it is first and foremost a Church: a community of faithful with a defined hierarchy and the other qualities prescribed by CCEO canon 28.

## **CCEO 27-28**

**Ius IX 2/18, 177-200: Varghese Koluthara: The Historical Evolution of the Syro-Malabar Church as a Major Archiepiscopal Church.** (Article)

As the Syro-Malabar archiepiscopal Church marches forward in the footsteps of St Thomas the Apostle, she cannot forget the two-millennia

history of her search for identity and her struggle for autonomy as a Church *sui iuris* of Catholic communion and Oriental tradition. The autonomous indigenous Church established by the Apostle Thomas was able to grow organically by receiving and sharing the patrimony and liturgy from the Eastern Churches, without losing her own identity. K. sketches the evolution of the St Thomas Christians of India to a major archiepiscopal Church.

## **CCEO 27-28**

**Ius IX 2/18, 259-286: Benny Tharakunnel: The Impact of CCEO on the Legislative, Executive and Judicial Growth of the Syro-Malabar Church.** (Article)

The elevation of the Syro-Malabar Church to major archiepiscopal rank with a common hierarchical head necessitated by the provisions of the CCEO has enabled this apostolic Church to govern herself with rightful autonomy. The establishment and effective functioning of the canonical structures corresponding to the new hierarchical and canonical status has helped this Church *sui iuris* to achieve significant growth in the exercise of legislative, executive and judicial power of governance. T. states that these remarkable achievements within a quarter of a century demonstrate that she has the potential and vibrancy to be promoted to patriarchal status, which is the traditional form of governance in the Eastern Catholic Churches.

## **CCEO 146**

**Ius IX 2/18, 201-258: Varghese Poothavelithara: The Modification of the Territory of a Patriarchal Church – Canonical Provisions: Attempts of a Major Archiepiscopal Church and the Responses of the Apostolic See.** (Article)

P. examines CCEO canon 146 §2, which indicates the procedure for modifying the territorial boundaries of a patriarchal Church, and its application in the life of the Syro-Malabar archiepiscopal Church in India. In order to submit the petition for modifying the territory of a patriarchal Church to the Roman Pontiff, the synod of bishops of the respective patriarchal Church should investigate the matter, consult with the superior administrative authority of the Churches *sui iuris* concerned, discuss the matter in the synod, and present the petition supported with proper documents. P. explores the various aspects of these requirements. Following this canonical analysis, he presents both the Syro-Malabar Church's attempts to extend its proper territory and the Apostolic See's responses. He



argues that although there are many reasons to justify the Syro-Malabar Church's request it has not yet been fully granted.

### **CCEO 151-154**

**Ius IX 2/18, 157-162: Cherian Thunduparampil: Elevation of SMC to Major Archiepiscopal Church (SMMAC) – 25 Years: Impact, Implications and Challenges.** (Editorial)

See above, CCEO canon 27.

### **CCEO 295**

**Ius IX 2/18, 341-362: Varghese Palathinkal: *Palliyogam*: A Laudable Heritage of the Syro-Malabar Major Archiepiscopal Church in the Light of CCEO c. 295.** (Article)

*Palliyogam* – an early form of synod – is a unique heritage and contribution of the St Thomas Christians to the universal Church. P. appraises the ancient *palliyogam* of the Syro-Malabar major archiepiscopal Church *sui iuris*, looking at the concept of *palliyogam* as it originated in the Hindu cultural and social context, its salient features, and how it assists in the governance of the parish.

### **CCEO 399-409**

**EIC 59 (2019), 697-723: Massimo del Pozzo: L'antecedenza dei diritti o dei doveri fondamentali nel sistema canonico.** (Article)

See below, CIC canons 208-231.

### **CCEO 410-572**

**Ius IX 1/18, 95-108: Varghese Koluthara: Religious and the Administration of Temporal Goods.** (Article)

By law religious institutes are public juridical persons that can acquire, possess, administer and alienate temporal goods that are considered ecclesiastical. At the same time religious institutes are radically committed to the Gospel idea of the vow of poverty, which may vary from a monastic institute to an order and to a religious congregation. Hence the CIC/83 and the CCEO require religious institutes to draft norms that prescribe a method

of administering temporal goods consistent with the vow of poverty appropriate to the institute. The *typikons*, constitutions or statutes of a religious institute must take great care to integrate the universal norms on temporal goods and harmonize them with the institute's particular charism and spirit. The Church recognizes that religious institutes will differ among themselves in interpreting the vow of poverty. Nevertheless, it obliges all religious institutes to a corporate witness of poverty. This witness is to be derived from and consistent with tradition, faithfully observing the mind and designs of the founder and the entire charism of each institute. Religious should collectively think and act as ambassadors to provide a powerful witness in the Church.

## **CCEO 410-572**

### **Ius IX 1/18, 109-124: Rosmin Cheruvilparambil: The Hierarchical Authorities of the Church and the Religious Institutes: Part II – The Patriarch as the Hierarchical Authority of the Institutes of Consecrated Life. (Article)**

CCEO can. 410 describes the religious state as a stable mode of common life in an institute approved by the Church. Approval by the competent ecclesiastical authorities and the consequent relationship of the religious institutes to the ecclesial authorities, while keeping their rightful autonomy, are among the essential elements of the ecclesial nature of the religious state. In this respect there are differences between the CCEO and the CIC/83. The existence of patriarchal/major archiepiscopal institutes and the role of the patriarch/major archbishop in the life of the religious members and institutes are foreign to the Latin Code. Having dealt in the first part of this article with the relationship of religious institutes to the Apostolic See (see *Canon Law Abstracts*, no. 121, pp. 34-35), in this second part C. looks at various aspects of the relationship of religious institutes and their members with the patriarch/major archbishop, the eparchial bishop, and other local hierarchs, as envisaged in the canons of the CCEO, comparing these with the norms of the CIC/83.

**CCEO 410-572**

**Ius IX 1/18, 125-148: Thomas Kulandaisamy: Religious Poverty of Persons in Religious Institutes according to CIC 1983 and CCEO: a Comparative Approach.** (Article)

K. offers a general view of religious life as dealt with in the CIC/83 and the CCEO, before examining the practice of religious poverty by individual religious. As religious life generally begins with temporary profession followed by perpetual profession, K. first analyses poverty among the temporarily professed, and then among the perpetually professed, comparing the two Codes. He also looks at the topics of poverty of a religious raised to the episcopate, poverty of a religious under excommunication, and dress as an external sign of poverty.

**CCEO 410-572**

**Ius IX 2/18, 301-340: Rosmin Cheruvilparambil: A Review on the Life and Apostolates of Institutes of Consecrated Life and Societies of Apostolic Life in the Syro-Malabar Major Archiepiscopal Church.** (Article)

The Syro-Malabar major archiepiscopal Church *sui iuris* is blessed abundantly with the gift of vocations to consecrated life and is thus very active with the presence of 56 indigenous institutes of consecrated life as well as members in hundreds of such institutes in the universal Church. C. presents an outline of the origin and development of the indigenous institutes of consecrated life in the Syro-Malabar Church. She also analyses the canonical impact on these institutes of the elevation of this Church to major archiepiscopal status in 1992. She then deals with the struggles and the challenges faced by these institutes in the present scenario of the life and mission of this Church *sui iuris*, and points out the contributions and assistance offered by the institutes to this Church *sui iuris* and to the universal Church.

**CCEO 584-593**

**Ius IX 2/18, 287-300: Sebastian Payyappilly: Canonical Facet of the Missionary Thrust of the Syro-Malabar Church.** (Article)

The evangelical mission of the Church, theologically and canonically, is a complex reality comprising various forms of the apostolate. Each Church *sui iuris* must fulfil the missionary task that obliges the universal Church.

Today, the Syro-Malabar Church is a major archiepiscopal Church with a global presence. However, as a whole, the Syro-Malabar Church does not possess a missionary thrust as such towards the new evangelization which must become part of the mission of the major archiepiscopal Commission for Evangelization.

### **CCEO 584-666**

**Comm 51 (2019), 555-652: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Orientali Recognoscendo: Coetus “De Magisterio Ecclesiastico” (Sessio VII, diebus 26 mensis Novembris – 7 mensis Decembris 1979 habita).** (Report)

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

### **CCEO 821**

**Ius IX 1/18, 51-94: Sijeesh Pullankunnel: The Use of Different Means of Proofs in Marriage Nullity Cases on the Ground of *Dolus* (CCEO c. 821 and CIC c. 1098).** (Article)

Marriage nullity trials do not concern a right of one party and the corresponding obligation of another, but rather the confirmation of a juridical act which must have both substantial and formal elements for it to be valid. Matrimonial trials serve to ascertain whether certain factors invalidated a marriage according to natural, divine or ecclesiastical law. To establish the alleged non-existence of a marriage bond, proofs are essential. P. tries to analyse various means of proofs and the constitutive elements of *dolus* as a ground of marriage nullity.

### **CCEO 828**

**BV 79 (2019), 989-1000: Andrej Saje: Sklepanje krščanskega zakona na Zahodu in Vzhodu od pozne antike do zgodnjega srednjega veka (*Celebration of Christian marriage in the West and East from the late Roman to the early medieval period*).** (Article)

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

### **CCEO 1057**

**Ius IX 2/18, 363-376: Cherian Thunduparampil: Canonically Recognized Fruits of Holiness in the Jubilant Syro-Malabar Major Archiepiscopal Church.** (Article)

T. briefly explains the canonization process, and on the occasion of the silver jubilee of the Syro-Malabar major archiepiscopal Church *sui iuris*, presents the fruits of sanctity in that Church, by reference to the number of her saints, blessed, venerables and servants of God. He draws attention to some of the canons which indicate indirectly the goal of laws, the salvation of souls.

### **CCEO 1229**

**Comm 51 (2019), 418-419: Pontificium Consilium de Legum Textibus: Responiones particulares: Quaestio quoad obligationem secretum de foro interno servandi.** (Reply)

See below, CIC canon 1548.

### **CCEO 1357-1377**

**Per 108 (2019), 133-159: Hanna Alwan: La funzionalita del m.p. *Mitis et Misericors Jesus* nei paesi del sistema di Statuti Personali.** (Presentation)

A. is the Moderator of the Maronite inter-Eparchial Tribunal in Lebanon. This is the presentation he gave in the course of the Pontifical Oriental Institute's study day dedicated to the application of the *motu proprio Mitis et Misericors Jesus* held in Rome on 13 December 2017. His focus is on how the *motu proprio* can be implemented within those countries that do not have a civil code for the regulation of matters of personal status and where some Eastern Catholic Churches are present. Specifically, he is referring to Lebanon, Syria, Jordan, Palestine, and Israel. He highlights a series of difficulties which complicate the applicability of *Mitis et Misericors Jesus* and the proper functioning of ecclesiastical tribunals, especially when a variety of rights belonging to the parties are involved. He concludes by calling for a remedy to these problematic situations.

### **CCEO 1357-1377**

**Per 108 (2019), 161-179: Vitaliy Tokar: I tribunali della Chiesa greco-cattolica ucraina dopo la riforma dei processi di nullità 2015: aspetti pratici e sfide per il futuro.** (Presentation)

This is the text of the presentation made in the course of the Pontifical Oriental Institute's study day dedicated to the application of the *motu proprio Mitis et Misericors Iesus* held in Rome on 13 December 2017, by T., the adjunct judicial vicar of the archeparchy of Ivano-Frankivsk of the Greek Catholic Ukrainian Church. He begins his reflection by offering an overview of the Church's judicial system both within and outside the territory of the major archiepiscopal Church. He goes on to consider how some of the principal elements of the *motu proprio* have impacted on the working of these tribunals. T. concludes by highlighting some challenges and offering some thoughts for the future.

### **CCEO 1369-1373**

**Per 108 (2019), 105-131: Jose Chiramel: The apostolic letter *Mitis et Misericors Iesus* and its impact on the Tribunals of the Syro-Malabar Church.** (Presentation)

This is the presentation made by C., the President of the Syro-Malabar Major Archiepiscopal Ordinary Tribunal, on 13 December 2017, during the Pontifical Oriental Institute's study day dedicated to the application of the *motu proprio Mitis et Misericors Iesus*. C. reflects on the effect that the *motu proprio* has had on the activity of the tribunals of the Syro-Malabar Church. He looks in particular at its impact on the numbers of cases handled and completed, the abrogation of the mandatory appeal, and the abbreviated process, along with the cautious approach of the Church's bishops. Finally he offers his own personal critique of *Mitis et Misericors Iesus* in relation to the Syro-Malabar Church.

### **CCEO 1369-1376**

**Per 108 (2019), 79-103: Dimitrios Salachas: L'applicazione del processo *brevior* e del processo documentale secondo il m.p. *Mitis et Misericors Iesus* nei matrimoni di mista religione e di disparità di culto.** (Presentation)

On 13 December 2017, the Pontifical Oriental Institute in Rome hosted a study day dedicated to the application of the *motu proprio Mitis et*

*Misericors Iesus.* This is the contribution made by S. concerning the use of the abbreviated process for cases of marriage nullity within the law and jurisprudence of the tribunals of the Eastern Catholic Churches. He considers particularly how this shorter process and the documentary process might be applied in those cases where one of the parties is Catholic while the other party is either a non-Catholic Christian or even a non-Christian. According to S., the abbreviated process puts the faithful at the very heart of the process and brings them into a direct relationship with the bishop; it will be the bishop's decision whether or not to proceed with the abbreviated process or to remit the whole matter to the ordinary process.

**CCEO 1453**

**SC 53 (2019), 467-479: Alexander M. Laschuk: Reflections on Clerical Concubinage.** (Article)

See below, CIC canon 1395.

## CODE OF CANON LAW BOOK I: GENERAL NORMS

7

**QDE 32 (2019), 390-397: Giuliano Brugnotta: «Lex instituitur cum promulgatur»: storia di una formula.** (Article)

B. surveys the history of the phrase “a law comes into being when it is promulgated”, looking at its first use in Gratian’s *Decretum*, and the more precise use in the *Liber Extra* where there is the distinction between publication and promulgation. He surveys the medieval canonists’ analysis of this distinction and looks briefly at various methods of promulgation in the Middle Ages.

7-8

**QDE 32 (2019), 398-411: Enrico Massignani: La promulgazione delle leggi.** (Article)

M. offers clarifications about the notion of a law coming into being, showing how promulgation can be seen as the concluding action of the process of legislation or as the act which brings an existing norm to the full status of law. He then looks at how the law envisages the promulgation of universal and particular laws, and the notion of the *vacatio legis*. He concludes with a survey of some of the problematic aspects of contemporary practice in this area, signalling in particular the reservation of texts, the lack of due order in the dates of publication and promulgation, and errors that are evident in the printed texts of laws leading to uncertainty about the law.

7-8

**QDE 32 (2019), 412-427: Alessandro Girauda: La promulgazione delle leggi mediante pubblicazione *online*.** (Article)

G. begins by examining the possibilities that exist in the area of online publication, and the risks and dangers that go with it. In the area of promulgation he sees possible advantages in the areas of promptness, easy diffusion, and certainty of content of a stable text, provided that steps are taken to ensure that the identity of the author is certified and that the text is complete and cannot be modified. The Italian civil system has a means of online publication which guarantees these. In the light of this example, G.



considers that promulgation through online publication is possible. However, he criticizes the current practice of the Belgian, American and Italian Bishops' Conferences, all of which fall short in one or more of his desired criteria. He concludes by suggesting some criteria and conditions for online promulgation, linking it to traditional printed forms.

## **12-13**

### **QDE 32 (2019), 171-180: Giuliano Brugnotta: Mobilità umana e diritto missionario. (Article)**

B. examines the issues raised by the problem of human migration, especially from traditional mission territories. He sets this within the tension between the personal and the territorial, arguing that although there are certain duties imposed on bishops and parish priests with regard to migrants, the law privileges the territorial element over the personal. B. suggests that sometimes territorial laws will need careful interpretation or even suspension in particular cases by the application of canonical equity, in order not to cause damage to migrant faithful with different customs from those of the receiving territory. He then comments on various pastoral strategies which might respond to the needs of immigrants from mission territories.

## **22**

### **RDC 68/2 (2018), 297-317: Cécile Thépot-Olagne: La canonisation de la loi civile en matière de prescription extinctive. (Article)**

See below, canon 197.

## **114**

### **PCH 9 (2019), Number 2, 149-167: Pawel Kaleta: Perspectives on the Development of Sponsorship of Catholic Ministerial Organizations with Particular Reference to Health Care. (Article)**

K. looks at sponsorship as the formal relationship between an authorized Catholic organization and a recognized apostolic undertaking in order to promote and sustain Christ's ministry to people in need. Sponsorship is not a static reality. Radical changes which have occurred in charitable works, largely as a result of the decline in religious vocations and the ageing of members of institutes, have led sponsoring leaders to seek new approaches

to sponsorship whereby the ministry of those works could continue without compromising their identity. K. draws attention to certain perspectives of the evolving understanding of sponsorship, which is regularly in the process of being transformed and reshaped. It faces many challenges regarding the continuing Catholic identity of the sponsored works and the recognition of numerous new opportunities for future forms of sponsorship. K. explores a number of canonical and practical perspectives for the development of the sponsorship of various forms of Catholic ministerial organizations, with particular reference to health care.

## **128**

**RDC 68/2 (2018), 203-221: Anne Bamberg: La révocation, sanction de la négligence de l'autorité. Réflexions autour du motu proprio *Comme une mère aimante*.** (Article)

See below, canon 1389.

## **149**

**IC 59/118 (2019), 485-516: Juan Ignacio Arrieta: El sistema canónico de selección y de provisión de cargos. Análisis de conjunto.** (Article)

A. offers a general overview, from a public ecclesiastical organization perspective, of the main criteria governing the selection of individuals to hold ecclesiastical office in four areas of particular significance for canon law: the hierarchical organization (the selection of “internal personnel” within the three levels of holy orders); associations (of consecrated life or of the faithful); academic institutions; and charitable foundations and services.

## **186**

**IC 59/118 (2019), 565-582: Jesús Miñambres: La cesación en el oficio por transcurso del tiempo y cumplimiento de la edad prevista.** (Article)

Pope Francis’s motu proprio *Learn to take your leave* (12 February 2018) has prompted renewed interest in time-limited ecclesiastical posts. In addition to presenting what is new in the motu proprio, M. addresses three hermeneutical problems: the difference between loss of office on account of age, and the expiry of a fixed term; the difference between retirement and resignation at a given age; and the nature of the competent authority’s intervention in cases of resignation and retirement.

**197**

**RDC 68/2 (2018), 297-317: Cécile Thépot-Olagne: La canonisation de la loi civile en matière de prescription extinctive. (Article)**

T.-O. focuses on the rules regarding extinctive prescription according to canon law. These rules arise from the so-called “canonization” of civil law. In matters of litigation, the civil norms regarding extinctive prescription apply to canon law as long as they do not contradict divine law and provided there are no canonical dispositions stipulating otherwise. T.-O. looks at the effect on canon law of a 2018 law in France amending civil extinctive prescription.

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

### 204

**EE 94 (2019), 847-881: Myriam Cortés Diéguez: Anotaciones canónicas sobre la mujer en la Iglesia.** (Paper)

The particular characteristics of ecclesial society mean that the position of women in Church has some specific features of its own. C.D. offers certain keys to understanding the place of women in the work of salvation, especially in their lay condition, making historical reference to the main doctrinal and canonical sources, from the origins of Christianity to the present day. She sets out some of the reasons why the influence of women in Church affairs is not as powerful as it should be.

### 204-207

**AC 58 (2017), 9-223: « Gasparri, La France et la codification ». Actes du colloque organisé à Paris par la S.I.D.C. les 7 et 8 novembre 2017 à l'occasion du centenaire du Code de 1917.** (Compilation)

See above, Historical Subjects (*1917 Code*) (contribution of Burgun).

### 204-208

**AC 58 (2017), 9-223: « Gasparri, La France et la codification ». Actes du colloque organisé à Paris par la S.I.D.C. les 7 et 8 novembre 2017 à l'occasion du centenaire du Code de 1917.** (Compilation)

See above, Historical Subjects (*1917 Code*) (contribution of Besson).

### 208-231

**EIC 59 (2019), 697-723: Massimo del Pozzo: L'antecedenza dei diritti o dei doveri fondamentali nel sistema canonico.** (Article)

Taking the differing approaches of the CIC/83 and the CCEO as his starting point, del P. examines the question of the priority of fundamental rights and obligations within the canonical system. The issue is not just a matter of form or classification, but is substantial and directive in nature. Various authors (Corecco, Castillo-Lara, Incitti, Valdrini, etc.) have emphasized and justified the decision in Latin legislation, and doctrine in general follows the

classification in the CIC/83. Other authors, however, more or less consciously diverge from the obligations–rights approach. The risk underlying the emphasis on obligations, apart from simply the possibility of an authoritarian and positivistic approach, lies in the prevalence of institutional power and the consequent reduction of the personal contribution of the faithful. The emphasis should rather be on rights. What is called for is a substantial analysis of the personal status of the faithful so as to reach a shared paradigm that overcomes both theological, power-based deviations and the pitfalls of civil constitutionalism and its positivistic demands.

## **208-231**

**IE XXXI (2019), 589-610: Massimo del Pozzo: Lo statuto del fedele, cardine del sistema ecclesiale.** (Article)

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

## **210**

**FCan XIII/2 (2018), 51-75: Dominique Le Tourneau: Le canon 210 et le devoir fondamental de sainteté.** (Article)

Le T. deals with the twin duty of every baptized person: to pursue one's own sanctity, and to work for the sanctity of the entire ecclesial body. He presents the foundation of canon 210 and analyses its content, before looking at the numerous juridical consequences which the canon generates in both aspects. Several provisions of canon law are precisely aimed at helping the faithful to fulfil this twin duty. Le T. suggests that more specific studies could be undertaken, beginning with the provisions contained in the diplomatic agreements signed between the Holy See and various States.

## **219**

**Canonist 10/2 (2019), 208-218: Sentence *coram* Monier, 20 July 2012 (Lazio-Roma). Grave Fear (can. 1103).** (Sentence)

See below, canon 1103.

**220**

**Canonist 10/2 (2019), 164-174: Paul Shogren: The Privacy Act 1988 and the Canons: Issues and Solutions for Marriage Cases brought before Ecclesiastical Tribunals in Australia. Part One: Civil Law, Canon Law and the Privacy Act.** (Article)

S. considers the marriage nullity process in the light of the legal framework established by the Privacy Act 1988 (Commonwealth), which provides the superstructure for the privacy regime in Australia. In this first part of a two-part article he gives an overview of privacy as presented in canon law, common law, and the international instruments to which Australia is a signatory, before considering how the principles found in the Privacy Act 1988 broadly affect an ecclesiastical tribunal.

**220**

**IE XXXI (2019), 403-425: Jean-Pierre Schoupe: Les droits à la bonne réputation, à l'intimité et au respect des données à caractère personnel en droit canonique: avant et après l'entrée en vigueur du règlement UE 2016/679.** (Article)

Since the entry into force of the General Data Protection Regulation (GDPR) in 2018, several canonical norms have been promulgated in this area, in particular the general decrees issued by the Italian, Spanish and Polish Bishops' Conferences. S. examines certain aspects of the GDPR and provides a critical study of the relevant canonical norms from a formal and substantial point of view, before offering some constructive proposals for the future. He also traces the formalization of fundamental rights in the CIC/83 and CCEO, as well as the more recent formalization of the Church's inherent right to autonomy in this matter.

**220**

**IE XXXI (2019), 427-448: Manuel Ganarin: La tutela dei dati personali nei recenti sviluppi del diritto particolare per la Chiesa cattolica in Italia.** (Article)

On 24 May 2018 the Italian Bishops' Conference issued a general decree providing guidelines for the safeguarding of the good reputation and privacy of physical persons, in compliance with the requirements of the General Data Protection Regulation. G. sets out the most important aspects of the general decree.

**220**

**IE XXXI (2019), 449-469: Sabine Konrad: La protezione dei dati personali nella Chiesa tedesca. (Article)**

In accordance with the requirements of the GDPR, the German bishops have issued a complete set of regulations for the protection of data in the Church. The establishment of a separate data protection jurisdiction means that for the first time a multi-level Church administrative jurisdiction, based on the diocesan level, is created.

**220**

**IE XXXI (2019), 471-497: Jorge Otaduy: El Decreto general de la Conferencia Episcopal Española en materia de protección de datos personales. Primeras consideraciones. (Article)**

O. analyses a general decree of the Spanish episcopal conference on the question of data protection, studying its scope of application, highlighting its lack of adequate canonical definition of the “controller” and “processor” (who according to Recital 146 of the GDPR “should compensate any damage which a person may suffer as a result of processing that infringes this Regulation”), and questioning the general decree’s interpretation of the GDPR’s provisions relating to the “data protection officer” in Articles 37-39.

**220**

**IE XXXI (2019), 499-513: Tomasz Rozkrut: Decreto generale della conferenza episcopale polacca relativo alla questione della protezione delle persone fisiche con riguardo al trattamento dei dati personali nella Chiesa cattolica. (Article)**

R. analyses the Polish Bishops’ general decree of 30 April 2018 on the protection of natural persons in relation to the processing of personal data in the Catholic Church.

**226**

**EIC 59 (2019), 629-664: Chiara Minelli: La formazione religiosa dei giovani nel venir meno dell'alleanza educativa tra scuola e famiglia. Prospettive giuridiche.** (Article)

See below, canons 793-806.

**226**

**KIP 8 (21) 2019, nr 2, 31-48: Martyna Pereta: Prawo dziecka do wychowania w prawodawstwie Kościoła łacińskiego z elementami prawa polskiego (*Right of a child to be brought up, in the legislation of the Latin Church, with elements of Polish Law*).** (Article)

See below, canons 793-806.

**230**

**IC 59/118 (2019), 731-765: Carmen Peña: Sinodalidad y laicado. Corresponsabilidad y participación de los laicos en la vocación sinodal de la Iglesia.** (Article)

See above, General Subjects (*Ecclesiology*).

**232-264**

**ITS 56 (2019), 239-252: Lawrence Pius: The Significance of Theological and Human Formation of Priests in *Ratio Fundamentalis*.** (Article)

Studying the formative values found in the 2016 *Ratio Fundamentalis Institutionis Sacerdotalis* on the seminary formation of candidates for the priesthood, P. examines the foundation of theological formation, the importance of theological formation in the *Ratio*, and the significance of human formation. Emphasis on the teaching of theology, combined with insistence on human formation at seminaries, brings clarity to minds and sensitivity to hearts. A well-balanced theology and a well-founded human formation bring clarity, critical awareness, maturity in thinking, and confidence in facing the challenges with a positive and constructive approach.



## 232-264

**REDC 76 (2019), 739-753: José San José Prisco: Los cánones sobre la formación sacerdotal a la luz de la nueva *Ratio Fundamentalis Institutionis Sacerdotalis*: El Don de la Vocación Presbiterial.** (Article)

The promulgation of the new *Ratio Fundamentalis Institutionis Sacerdotalis*, “The Gift of the Priestly Vocation”, necessitates a revision and update of the meaning of the canons that refer to priestly formation. S.J.P. looks at the elements in the *Ratio* that clarify or complement the existing canons, while at the same time highlighting some of the questions posed by a reading of the document, pointing out solutions for some of these and leaving others for further reflection.

## 241-245

**KIP 8 (21) 2019, nr 2, 87-103: Piotr Fialek: Zdarność do święceń i przygotowanie do kapłaństwa według Kodeksu Prawa Kanonicznego z 1983 roku i *Ratio fundamentalis institutionis sacerdotalis* z 2016 roku (*Suitability for sacred ordination and preparation process for the priesthood according to the 1983 Code of Canon Law and the “Ratio fundamentalis institutionis sacerdotalis” of 2016*).** (Article)

See below, canons 1024-1054.

## 279

**RDC 68/2 (2018), 223-253: Christine de Saint Chamas: La formation permanente des prêtres après *Pastores dabo vobis*. Approfondissements et prolongements du canon 279 du Code de droit canonique.** (Article)

The ongoing formation of priests is particularly concerned with the call to conversion on the part of people and structures, and the call to mission. The Apostolic Exhortation *Pastores dabo vobis* gives new vigour to these aims and brings in a global process of formation aimed at helping priests achieve consistency of life. A comparison with ongoing professional formation in France highlights certain principles that could be implemented in the Church sphere. Integral ongoing formation throughout life is a key element for every priest's relationship with God and with the faithful, and facilitates objectivity in pastoral practices.

**281**

**REDC 76 (2019), 613-648: Luis Gregorio Holguín Galarón: Pensiones sacerdotales. Rentas de complemento como instrumento de previsión social en la Iglesia española del siglo XXI.** (Article)

H.G. looks at the question of provisions for retirement in the Church in Spain, offering possible solutions to the problems encountered by dioceses in complementing the retirement pension paid to priests: increased life expectancy, an increased number of recipients, etc.

**281**

**QDE 32 (2019), 159-170: G. Paolo Montini: Dal diritto missionario al diritto universale. Un'ispirazione.** (Article)

See below, canon 502.

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

**331**

**KIP 8 (21) 2019, nr 2, 9-29: Štefan Brinda: Prymat papieża według kan. 331 Kodeksu Prawa Kanonicznego z 1983 roku (*The primacy of the Pope according to can. 331 of the 1983 Code of Canon Law*). (Article)**

The Catholic Church is an organic community of the Christian faithful who believe in Jesus Christ. Each has his or her place and functions in the Church. The functions of the faithful appear as individual and collegial, and are closely related. The Pope's office is an individual function in the Church. As the Apostle Peter was chosen by Christ himself as the first of the Apostles, so too the Pope today is head of the college of bishops. The Pope, the Roman Pontiff, is the successor of the Apostle Peter, the Vicar of Christ, and the pastor of the universal Church on earth. By virtue of his office he possesses supreme, full, immediate, and universal ordinary power in the Church, which he is always able to exercise freely. His authority is supreme and consists of legislative, executive and judicial power.

**349-359**

**RDC 68/2 (2018), 255-279: Jean-Philippe Goudot: Le cardinalat sous le pape François. (Article)**

As at October 2019, Pope Francis had created 88 cardinals. G. asks whether, beyond the diversity of those chosen, it may be possible to perceive some common element in these appointments that might allow a new understanding of the role of cardinals in the Church. He explains the various types of cardinals: those who work in the Curia, those who hold a see attached to a cardinalship, Eastern Church leaders, representatives of peripheral Churches, etc. He then examines the relevance of institutions such as the three orders of cardinals or the consistory.

**352**

**Comm 51 (2019), 362-363: Pope Francis: Litterae Apostolicae, Motu Proprio datae, de Cardinalium Collegii Decanus officio, 21 Decembris 2019.** (Document)

In view of the increasing burden placed on the Dean of the College of Cardinals, Pope Francis sets a renewable five-year term to the office, and at the end of the Dean's term of office allows the use of the title "Dean Emeritus".

**360**

**Comm 51 (2019), 345-347: Pope Francis: Chirographum quoad Institutum Operum Religionis novum Statutum, 8 Augusti 2019.** (Document)

In this document Pope Francis sets out briefly the history of the Institute for the Works of Religion and approves for two years' trial the structure based on the one set out in Pope John Paul II's chirograph of 1 March 1990.

**360**

**Comm 51 (2019), 348-357: Pope Francis: Statutum Institutum Operum Religionis, 10 Augusti 2019.** (Document)

This is text of the revised Statute for the Institute of the Works of Religion given two years' approval on 8 August 2019, setting out its scope and structure in 32 articles.

**360**

**IC 59/118 (2019), 911-938: Sumo Pontífice Francisco: Chirografo del Santo Padre per il nuovo Statuto dell'Istituto per le Opere di Religione (8 agosto 2019); Diego Zalbidea González: Comentario de los Estatutos del IOR promulgados el 8 de agosto de 2019.** (Document and comment)

See preceding entries. The Italian text of the revised Statute for the Institute of the Works of Religion (IOR) is accompanied by a comment from Z.G., who describes the origins and characteristics of the IOR, the changes brought about by the new Statute, the organisms of the IOR, its manner of operating, and its employees.

### 360

**Comm 51 (2019), 358-361: Pope Francis: Litterae Apostolicae, Motu Proprio datae, de appellationis ab *Archivio Segreto Vaticano* in *Archivio Apostolico Vaticano* mutatione, 28 Octobris 2019.** (Document)

The motu proprio sets out briefly the history of the Vatican's "Secret Archive". In its origin the name simply meant the archives that were personal to the Pontiff, but in modern times with a diminution of the understanding of Latin it came to be seen in a negative light as implying concealment. For this reason it is renamed as the Vatican Apostolic Archive better to reflect its real purpose.

### 362

**Comm 51 (2019), 475-487: Pietro Parolin: *Una diplomazia al lavoro per la pace*, Interventus Em.mi D. Petri Parolin occurrente celebratione Universitatis Catholicae Sacri Cordis Jesu inaugurationis anni academici.** (Intervention)

The Secretary of State opens the academic year for the Catholic University of the Sacred Heart by emphasizing the importance of integrating the various branches of knowledge with the Christian vision (cf. *Gaudium et Spes*, no. 62). He fleshes out the Church's work for peace in the area of papal diplomacy, taking as his starting point John XXIII's *Pacem in terris*. For papal diplomats the generic is made concrete in work to reconcile parties who are in conflict. The Church can bring a different way of seeing things to the table. He rejects objections that such situations need practical solutions, by asking how long peace would last if imposed by force. Popes have made contributions through Encyclicals and international visits. This is supported by the network of diplomatic relationships with 180 very different States. Diplomacy is a vehicle of dialogue, cooperation and reconciliation. (The article first appeared in *L'Osservatore Romano* on 1 December 2019.)

### 360

**Ius Comm VII (2019), 249-273: Velasio De Paolis: Los nuevos organismos económicos de la Santa Sede.** (Article)

De P. († 2017; President Emeritus of the Prefecture for the Economic Affairs of the Holy See) points out that the administration is always in danger if proper controls are not in place. Cases of corruption, with the corresponding scandals, come about as a result of that lack of due control.

At present the central problem is that of correct and wise administration, which must observe laws and be continuously checked by the appropriate control bodies. This is the principle behind the reform of the economy in the life of the Church. Correct administration and proper control are not a single or a predominantly technical matter; rather, they are a largely ethical issue relating to the meaning of temporal goods, the proper nature of the Church, and the understanding of its juridical system.

### **360**

**SC 53 (2019), 347-367: Pierre-Marie Berthe: La fin de la commission pontificale *Ecclesia Dei* : une décision au service de l'unité catholique.** (Article)

Having been instituted after the unlawful consecrations – without a pontifical mandate – carried out by Archbishop Marcel Lefebvre (1988), the Commission *Ecclesia Dei* was abolished on 17 January 2019, while its competences were transferred to a section of the Congregation for the Doctrine of the Faith (see *Canon Law Abstracts*, no. 123, pp. 58-59). According to the Pope, four reasons justify this decision: the change of circumstances; the stability of institutes attached to the old missal; the essentially doctrinal character of the questions treated by the Commission; and the need to consider more fully the doctrinal issues of the dialogue. These points deserve to be developed because they highlight the dual identity of the traditionalist movement and the road travelled over three decades to promote its ecclesial integration. While the process of reconciliation remains unfinished, the Pope sketches out a new way to promote unity.

### **377-378**

**IC 59/118 (2019), 485-516: Juan Ignacio Arrieta: El sistema canónico de selección y de provisión de cargos. Análisis de conjunto.** (Article)

See above, canon 149.

**431-434**

**SC 53 (2019), 265-296: Péter Szabó: Episcopal Conferences, Particular Councils, and the Renewal of Inter-Diocesan “Deliberative Synodality”.** (Article)

Following a preliminary outline of some basic principles, S. makes concrete proposals for a reform of the norms in the CIC/83 governing conferences of bishops and particular councils. He takes a comparative approach, drawing on comparable norms of the CCEO. The goal is to achieve wider synodal activity in the Latin Church with greater openness to the participation of lay persons.

**439-446**

**SC 53 (2019), 265-296: Péter Szabó: Episcopal Conferences, Particular Councils, and the Renewal of Inter-Diocesan “Deliberative Synodality”.** (Article)

See above, canons 431-434.

**447-459**

**SC 53 (2019), 15-32: Ignace Ndongala Maduku: Clés futures d’une Église mondiale aujourd’hui: défis pour la mission et l’enseignement de l’Église.** (Article)

The first part of this article gives some generalities on globalization. It emphasizes one of the ecclesiological issues of the transition from a European Church to a world Church: the consolidation of catholicity. M. illustrates this by developing some features of the articulation of unity with diversity. The question of the catholicity of the Church does not arise in the abstract but requires matching structures. This is the subject of the last part of the text. With the challenge being to renew the question of the teaching office of episcopal conferences, M. evokes the reform of the configuration of the Latin Catholic Church and opts for the rediscovery of the model of the *communio ecclesiarum* and the articulation from episcopal collegiality to the synodality of the churches.

**447-459**

**SC 53 (2019), 53-74: Eugene Duffy: Diversity in Teaching by Episcopal Conferences: Some Positive Considerations.** (Article)

D. first examines the reform agenda of Pope Francis with respect to episcopal conferences and his implied invitation to revisit John Paul II's *motu proprio Apostolos suos*. He then looks briefly at the positive attitude and stance that Francis has adopted towards the teaching office of the numerous episcopal conferences. His emphatically pastoral approach to his own ministry provides a stimulus for reflection on the exercise of his magisterium, which has a particularly pastoral tone. This provides a perspective from which to view the *munus docendi* of the conferences and a validation for a certain diversity that may occur in their approaches. This exercise of the teaching role of a conference is explored with specific reference to the episcopal conference of the United States, which provides an example of how the magisterium of a conference can make a significant contribution to the Church's teaching on contemporary moral issues.

**447-459**

**SC 53 (2019), 75-106: Myriam Wijlens: Representation and Witnessing in Synodal Structures. Rethinking the *Munus Docendi* of Episcopal Conferences in Light of *Communio Fidelium*, *Communio Ecclesiarum* and *Communio Episcoporum*.** (Article)

Who speaks and decides on behalf of whom on what subject, with what kind of authority, and to what extent is that teaching or decision binding on others in the Church? These questions are of particular relevance to the teaching authority of episcopal conferences. Ever since Vatican II, the theological status of an episcopal conference has been the subject of discussions without arriving at theologically satisfactory answers. W. investigates the issues at stake, taking a major 2018 discussion in the German episcopal conference as a point of entry. She then presents the different theological arguments on the authority of the episcopal conference that have been presented since Vatican II, which are mainly related to the doctrine on episcopal collegiality. Encouraged by Pope Francis to rethink the theological foundation of the conference, she presents his "hitting of a reset button" with regard to the interpretation of the teaching of Vatican II. On the basis of the second chapter of *Lumen gentium*, Pope Francis presents new lenses for understanding the connection between the *communio fidelium*, the *communio ecclesiarum*, and the *communio episcoporum*. The



notion of synodality gives expression to this new understanding and could lead to a new pattern of discernment processes in supradioesan structures, such as the episcopal conference.

#### **447-459**

**SC 53 (2019), 165-182: Gilles Routhier: Penser l'autorité des conférences épiscopales à la lumière de la catholicité de l'Église et de l'inculturation de l'Évangile.** (Article)

Reflection on the conferences of bishops has often centred on the notion of collegiality, a concept not found, however, in the texts of Vatican II. This reflection, starting from a deficient base, has led to impasses. In particular, since 1985, affective collegiality has been seen as opposed to effective collegiality, episcopal conferences being credited only with the former. Yet this opposition has no foundation in the conciliar texts themselves. To overcome this impasse, episcopal conferences need to be seen in their true theological context. The texts of Vatican II show that this foundation relates to the note of catholicity of the Church, as R. seeks to demonstrate.

#### **447-459**

**SC 53 (2019), 265-296: Péter Szabó: Episcopal Conferences, Particular Councils, and the Renewal of Inter-Dioesan "Deliberative Synodality".** (Article)

See above, canons 431-434.

#### **460-468**

**PCH 9 (2019), Number 2, 231-244: Robert Kantor: The Importance of the Diocesan Synod to the Particular Church.** (Article)

In December 2016, the Bishop of Tarnów (Poland) convened a diocesan synod in order, as he said, to demonstrate the spiritual, pastoral and material heritage of the Christ's Church in the diocese; to revive faith, hope and love in the personal and community relationship with Christ in the Church; and to indicate new pastoral ways in the changeability of the world towards the unchangeability of Christ. Taking this into consideration K. analyses the following issues: the definition of a synod; the purpose of a synod; the convocation of and presiding over a diocesan synod; the preparation of a

synod; Pope Francis on synodality; and the synod as an expression of love for the Church.

**469**

**QDE 32 (2019), 428-444: Carlo Redaelli: Progettare il rinnovamento delle curie diocesane.** (Article)

R. locates the working of the diocesan curia in the wider context of Book II of the Code, and *Apostolorum Successores*, and offers analysis of the definitions of some of the key words and ideas employed to relate the curia to the rest of the diocese. He explores what it might mean in practice to describe the work of the curia as pastoral, and how legal definitions of office can be linked to pastoral ones. He concludes by arguing that statutes to regulate the work of the curia can play a useful part in guiding those working in the curia, and can offer a good starting place for collaboration between dioceses.

**471**

**Comm 51 (2019), 366-367: Pope Francis: Rescriptum Ex Audientia SS.mi, quo De secreto causarum Instructio promulgatur, 6 Decembris 2019.** (Document)

This short Instruction clarifies the question of confidentiality in cases of *graviora delicta*, namely that, modifying the text of article 6 of the norms in *Sacramentorum Sanctitatis Tutela*, the pontifical secret does not apply to denunciations and processes concerning these cases or those in article 1 of *Vos estis lux mundi*, or when such allegations arise in connection with other delicts. The intention is to preserve the good names of those concerned and does not preclude the fulfilment of obligations established by State law.

471

**Comm 51 (2019), 488-492: Juan Ignacio Arrieta: *Riservatezza e dovere di denuncia*, Articulus explanans rescriptum Ex Audientia SS.mi Summi Pontificis Francisci, quibus nonnullae normae de gravioribus delictis mutantur, et rescriptum Ex Audientia SS.mi Summi Pontificis Francisci, quo promulgatur Instructio *De secreto causarum*, ab Exc.mo D. Ioanne Ignatio Arrieta conscriptus.** (Article)

A. comments on the Instruction *De secreto causarum* on the question of confidentiality and the duty of reporting an offence, which clarifies the applicability of the pontifical secret in cases concerning the protection of children and vulnerable adults. In fact the pontifical secret is a form of that confidentiality which arises from an office, e.g. as bishop or curial official, reinforced by an oath. The Instruction does not affect the inviolability of the seal of confession. However, the non-applicability of the pontifical secret does not mean that there should not be normal respect for confidentiality or reputation. A. also refers briefly to the two other changes suggested by experience: allowing qualified lay people to act as advocates or procurators in such cases, and raising the age limit concerning pornography from 14 to 18. (This article was published in *L'Osservatore Romano* on 18 December 2019.)

471

**Comm 51 (2019), 493-495: Giuseppe Dalla Torre: *Un atto che facilita la collaborazione con l'autorità civile*, Articulus ab Clar.mo Professore Iosepho Dalla Torre conscriptus.** (Article)

The author points out that the abolition of the pontifical secret in sex abuse cases has two aspects. The first is an internal change to canon law. Greater transparency contributes to the pursuit of justice and enhances the rights of those involved. There is also an external aspect. It facilitates greater cooperation with the State authorities while avoiding illegitimate interference in the canonical sphere. Clearly the effectiveness of the latter will depend to some extent on the provisions of State law which in some places allows the authorities to investigate only following a direct complaint by an affected individual. (This article was first published in *L'Osservatore Romano* on 18 December 2019.)

**471**

**Canonist 10/2 (2019), 139-143: Rescript of the Holy Father Francis to promulgate the Instruction on the confidentiality of legal proceedings 17 December 2019; Justin Glyn: Commentary on Instruction on the Confidentiality of Legal Proceedings.** (Document and comment)

See preceding entries. The English text of the Instruction is given, together with a comment from G., who considers that although it addresses important issues the Instruction has in reality changed very little in relation to the conduct of new and ongoing trials. (See also *Canon Law Abstracts*, no. 123, p. 58.)

**502**

**QDE 32 (2019), 159-170: G. Paolo Montini: Dal diritto missionario al diritto universale. Un'ispirazione.** (Article)

M. examines ways in which missionary law has become the law for the whole Church in the CIC/83. He looks at specific examples of the way in which North American synods influenced the modern law in the areas of the college of consultors, the financial support of the diocesan clergy, and the administrative penal process. He also examines how the abandonment of the law on the stability of parish priests was prefigured in dispositions for the USA. He concludes by suggesting that in the future particular law may play this role in the development of the law.

**535**

**KIP 8 (21) 2019, nr 2, 49-71: Bartosz Trojanowski: Zmiany i adnotacje w księgach metrykalnych z uwzględnieniem kwestii problematycznych w tej materii w obowiązujących przepisach o ochronie danych osobowych w Polsce (*Changes and notations in parochial registers including problematic issues in this matter according to applicable laws about privacy in Poland*).** (Article)

Each parish is to have parochial registers. The parish priest is to see to it that these registers are accurately inscribed and carefully preserved. They provide proof of the reception of the sacraments on the part of the Christian faithful. For this reason, the parochial register should always be kept carefully according to the norm of law. The Catholic Church, with respect to personal data protection, is to observe the rights of the Christian faithful. Although parochial registers differ from civil documents it is necessary to

update all changes with the approval of the competent ecclesiastical authority. There may occur problematic issues, which require the knowledge of the procedures established in canon law. These can include apostasy, adoption of a child, transsexualism and hermaphroditism, among other issues. There is also the question of compliance with civil requirements. Solicitude for keeping parochial registers and the obligation to make changes at the request of the person concerned and in accordance with the law involves a concern for the proper processing of personal data stored in the registers. The infringement of rights regarding the protection of personal data brings with it the possibility of ecclesiastical sanctions under the provisions of both universal and particular law.

### **536**

**EIC 59 (2019), 665-696: Francesco Coccopalmerio: Il consiglio pastorale parrocchiale, “soggetto comunionale deliberante”: attuazione efficace di sinodalità nella parrocchia. (Article)**

C. examines the pastoral council, a fundamental consultative organ, from the perspective of the synodal vision of the Church.

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

573

**Comm 51 (2019), 463-474: José Rodríguez Carballo: *L'arte della ricerca del volto di Dio, Articulus explanans documentum Linee orientative per la formazione delle contemplative*, ab Exc.mo Iosepho Rodríguez Carballo conscriptus.** (Article)

R.C. explains the origin and significance of a document setting out guidelines for the formation of contemplatives entitled “The Art of Seeking the Face of God”, produced by a working party of female contemplatives in the light of the Apostolic Constitution *Vultum Dei quaerere* and the Instruction *Cor orans*. Formation should be seen as a project – something that needs constant monitoring – founded on its roots in the past, but alive and constructing the present with passion and creativity. It is a creative art but within certain parameters. The author goes on to consider different elements of this process in more detail. The article first appeared in *L'Osservatore Romano* 21 November 2019.

573-709

**IE XXXI (2019), 661-680: Filippo Iannone: *Recenti documenti della Congregazione per gli Istituti di Vita Consacrata e Società di Vita Apostolica: conferme e novità giuridiche*.** (Article)

I. reviews the documents, especially those of a normative nature, issued by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life during the first five years of Pope Francis's pontificate. He pays particular attention to the regulations governing female cloistered monasteries.

573-746

**Ius IX 1/18, 109-124: Rosmin Cheruvilparambil: *The Hierarchical Authorities of the Church and the Religious Institutes: Part II – The Patriarch as the Hierarchical Authority of the Institutes of Consecrated Life*.** (Article)

See above, CCEO canons 410-572.

**573-746**

**Ius IX 1/18, 125-148: Thomas Kulandaisamy: Religious Poverty of Persons in Religious Institutes according to CIC 1983 and CCEO: a Comparative Approach.** (Article)

See above, CCEO canons 410-572.

**578**

**REDC 76 (2019), 685-709: José María Martí Sánchez: La preservación de la riqueza cultural de los claustros.** (Article)

M.S. studies measures taken by the civil authorities in Spain to preserve the national cultural heritage, focusing on the problems caused by the decline of monastic and conventual life and the repercussions which this has had on religious patrimonial culture.

**586**

**QDE 32 (2019), 263-279: Gianfranco Ghirlanda: Il fondamento ecclesiologicalo della potestà dei superiori degli istituti religiosi, in particolare di quelli clericali di diritto pontificio ed esenti.** (Article)

G. begins with a study of the complementarity of hierarchical and charismatic gifts in the Church, as presented in the Congregation for the Doctrine of the Faith's document *Iuvenescit Ecclesia*, which identifies both types of gift as essential to the Church. These ecclesiological foundations are the basis for the exploration of the autonomy of an institute of consecrated life and the power of its superior, which is a public ecclesiastical power which has to be understood both as coming from the hierarchy and not the members of the institute, and as a necessary element of the being of the institute. G. relates this to the privilege of exemption and goes on to explore how autonomy is distinguished from independence.

**591**

**QDE 32 (2019), 263-279: Gianfranco Ghirlanda: Il fondamento ecclesiologicalo della potestà dei superiori degli istituti religiosi, in particolare di quelli clericali di diritto pontificio ed esenti.** (Article)

See above, canon 586.

**596**

**QDE 32 (2019), 263-279: Gianfranco Ghirlanda: Il fondamento ecclesiologicalo della potestà dei superiori degli istituti religiosi, in particolare di quelli clericali di diritto pontificio ed esenti.** (Article)

See above, canon 586.

**596**

**QDE 32 (2019), 280-299: Alfredo Rava: La potestà di governo nel rapporto tra il capitolo e il superiore maggiore in un istituto religioso clericale di diritto pontificio diviso in province.** (Article)

R. begins by analysing the legal nature and function of chapters and superiors in religious institutes, seeing the former as extraordinary and collegial and the latter as ordinary and personal, and the nature of a province in a clerical religious institute. He then offers a detailed account of the characteristics, nature and powers of the major superior and the chapter. He considers the relationships between the general chapter and the supreme moderator and the provincial chapter and the provincial, considering how these might be laid out in the proper law of the institute. He concludes with reflections on the balance between personal and collegial government.

**596**

**QDE 32 (2019), 300-311: Alberto Perlasca: Il governo centrale di un istituto religioso clericale di diritto pontificio in rapporto alle proprie circoscrizioni. Un rapporto in divenire.** (Article)

P. examines the criteria which should influence a religious order when restructuring its internal divisions, and then considers the examples given by a number of orders which have restructured their provinces in Italy.

**604**

**EE 94 (2019), 825-846: Georgina Ortega Gavara: La Instrucción «Ecclesiae Sponsae Imago» sobre el «Ordo Virginum». El estado de virginidad en el siglo XXI.** (Article)

The 2018 Instruction *Ecclesiae Sponsae Imago* (ESI) is so far the longest and most detailed document that the Church has issued on the *Ordo virginum* since the Second Vatican Council. An Instruction is a type of



magisterial document which provides clarity to existing laws, especially laws that are open to vague or disputed interpretations. ESI clarifies the tenor of a consecrated virgin's way of life, establishes clearer criteria for the discernment of vocations, considers the importance of formation and gives an outline of what this should look like, and describes the relationship between a consecrated virgin and her diocese. ESI communicates the idea that a call to consecrated virginity is a true vocation and deserves to be taken seriously.

### **617-622**

**QDE 32 (2019), 280-299: Alfredo Rava: La potestà di governo nel rapporto tra il capitolo e il superiore maggiore in un istituto religioso clericale di diritto pontificio diviso in province.** (Article)

See above, canon 596.

### **631-632**

**QDE 32 (2019), 280-299: Alfredo Rava: La potestà di governo nel rapporto tra il capitolo e il superiore maggiore in un istituto religioso clericale di diritto pontificio diviso in province.** (Article)

See above, canon 596.

### **634-640**

**Ius IX 1/18, 95-108: Varghese Koluthara: Religious and the Administration of Temporal Goods.** (Article)

See above, CCEO canons 410-572.

### **639**

**IC 59/118 (2019), 517-563: Ilaria Zuanazzi: La responsabilità giuridica dell'ufficio di governo nell'ordinamento canonico.** (Article)

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

**642**

**S 81 (2019), 522-552: Jesu Pudumai Doss: «Cercate dunque fratelli...» (Atti 6,3). Alcune considerazioni canoniche sulla consulenza psicologica e formazione alla vita consacrata.** (Article)

P.D. presents the canonical aspects of psychological counselling vis-à-vis initial formation in the consecrated life. To help achieve a better grasp of the meaning of the ecclesiastical norms on the relationship between psychological counselling and formation in the consecrated life he first discusses some preliminary issues, while describing the remote and the immediate contexts of the ecclesiastical legislation. After setting out various canonical aspects of psychological counselling within formation, he concludes with some juridical considerations on vocational discernment; the rights of the Church and the faithful; and possible future legislation on psychological counselling in consecrated life.

**642-643**

**IC 59/118 (2019), 485-516: Juan Ignacio Arrieta: El sistema canónico de selección y de provisión de cargos. Análisis de conjunto.** (Article)

See above, canon 149.

**659-661**

**KIP 8 (21) 2019, nr 2, 73-85: Łukasz Borzęcki: Kształcenie członków instytutów zakonnych w Polsce (*Education of members of religious institutes in Poland*).** (Article)

The right of education of members of religious institutes is guaranteed both by Polish civil law and by canon law. It is inherent in the dignity of the person and leads to the integration of each person's identity. The CIC/83, drawing on the documents of the Second Vatican Council, mandates the extension of spiritual, apostolic, doctrinal and pastoral formation – hitherto reserved to clerics and religious of the so-called “first choir” – to all consecrated persons. The *Ratio fundamentalis institutionis sacerdotalis* of 2016, entitled “The Gift of the Priestly Vocation”, is of great importance as regards the formation of clergy. For this reason episcopal conferences and clerical religious institutes are to develop their own detailed provisions on priestly formation. The significant features of formation are the spiritual, human and fraternal dimensions. It is also important to discover the charism

that holds together all these characteristics of the formation of candidates for the priesthood.

## **667**

**IE XXXI (2019), 661-680: Filippo Iannone: Recenti documenti della Congregazione per gli Istituti di Vita Consacrata e Società di Vita Apostolica: conferme e novità giuridiche.** (Article)

See above, canons 573-709.

## **667**

**Ius Comm VII (2019), 327-357: Juan Manuel Cabezas Cañavete: La Instrucción *Cor Orans* para la renovación de la vida contemplativa femenina: posibilidades y límites.** (Article)

C. summarizes the contents of the Instruction *Cor orans*, focusing attention on the canonical novelties it introduces concerning the life of nuns. He highlights the four main areas it deals with: the autonomy of monasteries; federations; enclosure; and formation. He offers an evaluation of successes and flaws of the document.

## **689**

**S 81 (2019), 522-552: Jesu Pudumai Doss: «Cercate dunque fratelli...» (Atti 6,3). Alcune considerazioni canoniche sulla consulenza psicologica e formazione alla vita consacrata.** (Article)

See above, canon 642.

## **694**

**Comm 51 (2019), 423-426: Congregatio pro Institutis vitae consecratae et Societatibus vitae apostolicae: Litterae circulares de Litteris Apostolicis Motu Proprio datis *Communis vita*, 8 Septembris 2019.** (Document)

This Circular Letter explains the changes to canon 694 made by the motu proprio *Communis vita* of 19 March 2019 (see *Canon Law Abstracts*, no. 123, pp. 70-73) whereby the unlawful absence of religious from their community for twelve months constitutes grounds for dismissal. The Letter

addresses various situations in which this might or might not be applicable, and the criteria by which one might establish that their position is not recoverable, e.g. a social network profile, and the kind of search that might be called for. Where no information can be obtained the competent superior must show what steps have been taken to contact the person concerned, and provide formal clarification of the date from which the time runs in the form of a declaration by the superior in consultation with his or her council. These norms in *Communis vita* are not retroactive and so do not apply to a situation prior to 10 April 2019.

## **702**

**REDC 76 (2019), 711-737: Delfina Moral Carvajal: Il dovere dell'Istituto verso il religioso che se ne separa. Prassi e prospettive.** (Article)

The duty of an institute towards a religious who is separated from it is set out in canon 702 §2: “The institute ... is to show equity and evangelical charity towards the member who is separated from it”. The application of this principle in practice requires the superiors to take into account, bearing in mind *aequitas canonica*, all that charity demands. The rigour of the law is thus mitigated according to the needs of each one. It is a true moral and canonical duty, notwithstanding that the motivation is that of charity and equity. Hence on the part of the institute there is a duty, and on the part of the ex-religious a right to equitable and charitable treatment. Despite the current legislation, religious institutes continue to have problems in offering sufficient support to their separated members. This is clear from the various responses issued by the Holy See to major superiors of various religious institutes. Canon 702 §2 contains one of the wisest and most humane provisions of the entire Code. It obliges institutes to treat separated members with dignity and Christian compassion. Equity in the canonical system is clearly based on mercy and charity. Evangelical charity is the charity of Christ. The law, in requiring both equity and charity, suggests that they go side by side.

## **BOOK III: THE TEACHING OFFICE OF THE CHURCH**

**747-833**

**SC 53 (2019), 297-316: Catherine E. Clifford: Diverse Structures and Procedures for the Exercise of the Teaching Office. Anglican-Catholic Ecumenical Learning.** (Article)

This paper distills salient insights for the renewal of Catholic ecclesial life from the 2018 agreed statement of the Anglican-Roman Catholic International Commission (ARCIC III), “Walking Together on the Way: Learning to be Church – Local, Regional, Universal”. First, C. notes the unique character of the document and its effort to apply a methodology of “receptive ecumenism”. Pursuing this line of ecumenical learning, she explores those areas in which Catholics might learn from Anglican practice in order to strengthen structures and practices of discernment and decision-making at all levels of ecclesial life in the exercise of the pastoral teaching office. Building on ARCIC’s observations, she contends that a renewed practice of synodality within the Catholic Church must include greater participation of the laity, increased collaboration between diverse ecclesial ministries, the deployment of differentiated forms of primacy, and the strengthening of synodal bodies at the local, regional, and universal levels.

**747-833**

**SC 53 (2019), 317-332: Vimal Tirimanna: Towards the Development of Criteria on Diversity in Unity for Official Catholic Teachings on Moral Issues.** (Article)

In the Catholic tradition, the Bishop of Rome, in communion with the college of bishops, has the competence to teach on faith and morals. According to T. the teachings on morals of the Popes, councils, and synods at the universal level always need local nuancing if they are to be directly relevant to local Church communities, and this implies a certain development of the teachings. But what are the criteria for such developments? T. investigates how some local episcopal conferences and diocesan bishops have taken diverse stands on the same universal moral teaching without losing the essence of such teachings, thus maintaining unity in diversity, as in the various ancient Christian communities. In considering three concrete illustrations on contemporary moral teachings, he highlights the fact that there are no clear-cut criteria when it comes to the development of such local teachings.

**749-752**

**FCan XIII/2 (2018), 113-149: Daniel Miguel: Os graus do Magistério e o assentimento do Fiel.** (Article)

M. studies the role of the Magisterium, looking at who exercises Magisterium in the Church and in what way, in the light of the teaching of the Second Vatican Council, the CIC/83, and Pope St John Paul's amendment to canon 750 in the *motu proprio Ad tuendam fidem* (18 May 1998). The CIC/83 now presents three degrees of certainty regarding the doctrines taught, requiring different degrees of assent on the part of the faithful. These relate to doctrines that the Church claims to be part of Revelation; doctrines that the Church claims to be definitive, without claiming them to be revealed by God but affirming that they are connected with Revelation; and doctrines that the Church claims to be authentic without claiming them to be definitive. M. analyses some specific doctrines in order to study the manner in which the Magisterium concerning these teachings has been expressed.

**762-772**

**ACR XCVI 3/19, 322-332: Michael Kelly: The Modern Catholic Homily.** (Article)

Despite the previous dominant thinking that the primary duty of priests was the celebration of the sacraments and pastoral care, the Second Vatican Council in *Presbyterorum Ordinis*, *Sacrosanctum Concilium*, and *Dei Verbum* reintroduced the term *homily* and insisted on its place in the liturgy. K. gives a comprehensive summary of relevant legislation and teaching about preaching and catechesis from the Council of Trent until the Second Vatican Council, from Popes (Pius XII, Paul VI, John Paul II, Benedict XVI, and Francis), from documentation from the Roman Curia and episcopal conferences, and from the introductions to liturgical texts. He argues that with all this information we are motivated to prepare and deliver effective homilies.

**786**

**QDE 32 (2019), 136-158: Marino Mosconi: Quale diritto missionario all'inizio del terzo millennio?** (Article)

M. looks at the history of Curial regulation of missionary law, and the context for missionary work provided by conciliar and post-conciliar

theological reflection. Missionary work's ongoing relevance is related to its presentation in the Code. M. examines the concept of mission territories in detail, asking whether it remains relevant today, and how it serves as a basis for contemporary missionary law. He concludes with reflections on the wider relevance of missionary law for the rest of the Church.

## **790**

**QDE 32 (2019), 136-158: Marino Mosconi: Quale diritto missionario all'inizio del terzo millennio? (Article)**

See above, canon 786.

## **793-795**

**AC 58 (2017), 245-263: Emmanuel Mengolo: Normes d'évaluation des personnels et exigence de qualité, au service de la sauvegarde du caractère propre de l'enseignement privé catholique au Cameroun: une approche en droit canonique et en droit camerounais. (Article)**

This article is based on M.'s doctoral thesis. All personnel, Catholic or not, in the Catholic education sector are bound by a set of standards, as well as by the civil *Code du travail*.

## **793-806**

**EIC 59 (2019), 629-664: Chiara Minelli: La formazione religiosa dei giovani nel venir meno dell'alleanza educativa tra scuola e famiglia. Prospettive giuridiche. (Article)**

M. reflects on the juridical aspects of the challenges of education in the light of the recent teachings of Pope Francis on education.

## **793-806**

**KIP 8 (21) 2019, nr 2, 31-48: Martyna Pereta: Prawo dziecka do wychowania w prawodawstwie Kościoła łacińskiego z elementami prawa polskiego (*Right of a child to be brought up, in the legislation of the Latin Church, with elements of Polish Law*). (Article)**

The child's right to education is a particular concern of the Church, as is indicated by the number of canons relating to children. The child, on

account of his or her inherent dignity, has an inalienable right to education. Parents, since they have given life to their children, have a most grave obligation and right to educate them. In mixed marriages, those about to enter into marriage should be made aware of their obligations in relation to Catholic upbringing. Parents should introduce children to the sacramental life. Parental religiosity translates into the later development of the child and the way the child functions in society. The child's right to education is protected by institutions whose task is to support parents and strengthen legal protection in this respect. Parents should not shift their religious responsibilities to institutions and other communities. As the right of the child is considered so natural, the legislator has refrained from regulating this issue in the form of a provision.

## **800**

**AC 58 (2017), 245-263: Emmanuel Mengolo: Normes d'évaluation des personnels et exigence de qualité, au service de la sauvegarde du caractère propre de l'enseignement privé catholique au Cameroun: une approche en droit canonique et en droit camerounais.** (Article)

See above, canons 793-795.

## **822-832**

**AC 58 (2017), 231-244: Philippe Greiner: Communication ecclésiale et repères canoniques.** (Article)

A decree of 30 March 1992 on the use of social media, issued by the Congregation for the Doctrine of the Faith, called for the observance of the relevant canons. The duty to take care that in social media there is "no ill effect on the faith and morals of Christ's faithful" (canon 823 §1) falls on diocesan bishops and bishops' conferences. On 22 February 2002, the Pontifical Council for Social Communication dealt with internet websites that presented themselves as Catholic. In his message for World Communications Sunday in 2010, Pope Benedict XVI asked priests to engage as faithful witnesses of the Gospel on the internet. G. suggests that dioceses appoint a person with responsibility for communication.



**822-832**

**BV 79 (2019), 1075-1086: Sebastijan Valentan: I tre Papi e la necessità degli strumenti di comunicazione sociale nella Chiesa. (Article)**

The use of modern communication media positively affects the worldwide presence of the Catholic Church, and the Church itself has no hesitation in making use of such means. Mass media must serve the people and cultures, opening up dialogue in the world, between human civilization and social progress. The media should be of benefit to the Church community and to the new evangelization. Pope Benedict created a Twitter account at the end of 2012; by 2019 the number of Pope Francis's followers on Twitter had reached almost 50 million. Social means of communication offer the Church a great opportunity for spreading the Gospel and doctrine.

## BOOK IV: THE SANCTIFYING OFFICE OF THE CHURCH

**838**

**REDC 76 (2019), 851-862: Francisco: Carta apostólica en forma de Motu proprio *Aperuit illis* con la que se instituye el Domingo de la Palabra de Dios, 30.09.2019. Texto y comentario.** (Document and comment)

The Spanish text of *Aperuit illis*, instituting the Sunday of the Word of God on the Third Sunday of Ordinary Time, is accompanied by a comment by José M<sup>a</sup> Rodríguez-Veleiro Rodríguez.

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

### 874

**SC 53 (2019), 431-447: Tomasz Jakubiak: Is Canon 874 a Disqualifying Law?** (Article)

A grammatical analysis of canon 874 (concerning the requirements of sponsors for baptism) reveals that neither the canon itself nor any of its individual requirements have an invalidating or disqualifying clause. In view of the absence of any such clause, by studying the structure of canon 874 §1 (analysed as a whole), without examining any of its individual components (i.e. the individual criteria), J. seeks to determine whether the canon may be considered an invalidating or disqualifying law. To this end, he studies scholarly opinions as well as analogous norms in canons 765 and 766 of the CIC/17 and canon 685 of the CCEO. He also considers pertinent laws in force before the CIC/17, and the reports of the consultors for the revision of the Code.

### 877-878

**RDC 68/2 (2018), 281-295: Luc-André Biarnais: Une histoire des registres de catholicité. Le cas du diocèse de Gap jusqu'en 2015.** (Article)

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

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

**983**

**IC 59/118 (2019), 767-809: Rafael Palomino Lozano: Sigilo de confesión y abuso de menores.** (Article)

The sexual abuse of minors, committed and/or covered up by priests or members of the Catholic hierarchy, has led to a number of countries introducing legislation to prosecute failure to report abuse of which priests become aware, including even via sacramental confession. P.L. examines whether State regulations obliging Catholic priests to break the seal of confession infringe on the right to religious freedom. To this end he explores the seal of confession, and its legal nature and grounding. He analyses the legal norms adopted in countries that have codified the mandatory reporting of abuse by clergy, in order to ascertain the legitimacy of restricting religious freedom by criminalizing failure to report abuse even at the expense of breaking the seal of confession.

**983-984**

**Comm 51 (2019), 427-435: Poenitentiaria Apostolica: Nota Poenitentiariae Apostolicae de fori interni maxima gravitate et de sigilli sacramentalis inviolabilitate, 1 Iulii 2019.** (Document)

In a culture where there is a constant demand for information, often without respect for privacy, the Penitentiary thought it opportune to comment on three points: the sacramental seal; the non-sacramental internal forum including spiritual direction; wider issues of confidentiality. The inviolability of the seal of confession is based on the understanding that the priest hears what is confessed not “as man but as God” – likewise anyone who might overhear what is said. Unless the penitent gives permission at the time for the matter to be discussed afterwards outside of confession the matter cannot be raised even with the penitent. Nor, once the sacrament has been celebrated, can the penitent release the confessor from this obligation. Natural law respect for the right not to incriminate oneself also means that the confessor cannot make absolution conditional on reporting one’s crime to the authorities. The non-sacramental internal forum, in areas such as spiritual direction, is also a ministry on behalf of Christ, whether arising from ordination or, in the case of lay people, from baptism. This is

analogous to the sacramental internal forum and also requires the upholding of confidentiality, as evinced by the prohibition on a spiritual director as well as a confessor from commenting on admission to orders or being questioned at the diocesan stage of a canonization process. The Note then speaks more broadly of professional confidentiality arising from natural law obligations, of which the Pontifical Secret is a particular example reinforced by an oath. The Note was approved by the Pope *in forma communi*.

### 983-984

**Comm 51 (2019), 440-443: Mauro Piacenza: *Garanzia indispensabile, Articulus explanans Poenitentiariae Apostolicae Notam, ab Em.mo D. Mauro Piacenza conscriptus.* (Article)**

See previous entry. This article appeared in *L'Osservatore Romano* on 1-2 July 2019. The Note from the Penitentiary on the seal of confession and confidentiality arose from points emphasized by Pope Francis in his address at a course on the internal forum on 29 March 2019. The sacrament of reconciliation is a blessing that the Church has always protected, and the seal is essential for the holiness of the sacrament and the freedom of conscience of the penitent. The context is that of a society powerfully influenced by the media and public opinion. The secret of the confessional is not something imposed externally but is intrinsic to the sacrament. Moreover, failure to preserve it would discourage the faithful from making use of it. The Note then considers confidentiality more widely both in the internal but non-sacramental forum and in a professional context. It is a principle of natural law that secrets are to be preserved as part of the common good.

### 983-984

**IC 59/118 (2019), 885-909: Mauro Card. Piacenza – Mons. Krzysztof Nykiel: *Nota de la Penitenciaría Apostólica sobre la importancia del foro interno y la inviolabilidad del sigilo sacramental (29 junio 2019); José-A. Fuentes: Sobre la importancia del fuero interno y la inviolabilidad del sigilo sacramental. Acerca de la Nota de la Penitenciaría Apostólica de 29-VI-2019.* (Document and comment)**

The Spanish text is given of the Apostolic Penitentiary's Note of 29 June 2019 (published on 1 July 2019) on the importance of the internal forum and the inviolability of the sacramental seal. It is accompanied by a comment from F., who looks at the doctrinal activity of the Apostolic Penitentiary, the

need for clarification in reaction to moves made by some civil legislatures, the traditional protection given to the intimacy of consciences and to entrusted secrets, the emphasis given by the Penitentiary in the first place to the sacramental seal, and then to the extra-sacramental internal forum, and other natural and professional secrets.

**992-997**

**AC 58 (2017), 265-277: Jean-Claude Agbeko Komla: Indulgence et miséricorde.** (Article)

In a doctoral thesis (2016) on this topic M. reviewed the theological and canonical tradition of indulgences and the reform introduced by Paul VI.

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

### 1009

**IC 59/118 (2019), 485-516: Juan Ignacio Arrieta: El sistema canónico de selección y de provisión de cargos. Análisis de conjunto.** (Article)

See above, canon 149.

### 1024-1054

**KIP 8 (21) 2019, nr 2, 87-103: Piotr Fialek: Zdatność do święceń i przygotowanie do kapłaństwa według Kodeksu Prawa Kanonicznego z 1983 roku i *Ratio fundamentalis institutionis sacerdotalis* z 2016 roku** (*Suitability for sacred ordination and preparation process for the priesthood according to the 1983 Code of Canon Law and the “Ratio fundamentalis institutionis sacerdotalis” of 2016*). (Article)

F. focuses on the sacrament of Holy Orders, in particular the preparation process for sacred ordination. He presents the canons relating to the prerequisites for the validity of sacred ordination in the CIC/83 and comments on their fairness, before examining the relevant norms of the 2016 *Ratio fundamentalis institutionis sacerdotalis*. He also mentions other binding rules of law which form part of the Church’s concern for the proper formation of those preparing for priesthood.

### 1029

**IC 59/118 (2019), 485-516: Juan Ignacio Arrieta: El sistema canónico de selección y de provisión de cargos. Análisis de conjunto.** (Article)

See above, canon 149.

### 1039

**QDE 32 (2019), 312-320: Andrea Migliavacca: Gli esercizi spirituali prima di ricevere il sacramento dell’ordine (can. 1039).** (Comment)

M. relates canon 1039 to other canons requiring retreats and looks at its roots in the CIC/17 and the canonical tradition before then. He identifies as the key elements of the canon the relationship of the retreat to the wider

context of priestly formation, and the role of the bishop in supervising the process.

#### **1041**

**S 81 (2019), 522-552: Jesu Pudumai Doss: «Cercate dunque fratelli...» (Atti 6,3). Alcune considerazioni canoniche sulla consulenza psicologica e formazione alla vita consacrata. (Article)**

See above, canon 642.

#### **1051**

**S 81 (2019), 522-552: Jesu Pudumai Doss: «Cercate dunque fratelli...» (Atti 6,3). Alcune considerazioni canoniche sulla consulenza psicologica e formazione alla vita consacrata. (Article)**

See above, canon 642.



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

**1055**

**Comm 51 (2019), 397-400: Pope Francis: Allocutio ad participantes Curriculum Institutionis Constitutum Rota Romana de matrimonio ac familia, 30 Novembris 2019.** (Address)

The Pope addresses participants in a course organized by the Rota on the safeguarding of marriage and the pastoral care of wounded couples. Accompaniment of such couples cannot be purely bureaucratic or mechanical. The Church must weep with them and bring them healing balm. This must shape the approach of all involved. Both as individuals and as a couple they are on a journey in faith. This has to begin with the preparation of engaged couples. The Pope refers to the example and encouragement St Paul found in Aquila and Priscilla. The Church at parish level needs similar support in its work.

**1055**

**EE 94 (2019), 883-923: María Elena Olmos Ortega: Libertad religiosa y matrimonio.** (Paper)

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

**1055**

**FCan XIII/2 (2018), 29-50: Héctor Franceschi: La expresión jurídico-canónica del matrimonio en diálogo con la cultura actual.** (Lecture)

In paying tribute to Prof. Pedro-Juan Viladrich, F. explains why the topic of the relationship between the juridical-canonical expression of marriage and modern culture is very appropriate. Viladrich has always clearly identified the need to recover the richness of the Church's legal heritage concerning marriage, and at the same time has been able to make very accurate judgements concerning the present-day culture surrounding marriage. Viladrich has spoken of the need to re-establish academic dialogue between canonical matrimonial law and contemporary culture. F. discusses the various aspects of Viladrich's thought and the points he considers central to renewal of the science of canonical marriage.

**1055**

**QDE 32 (2019), 185-214: Adolfo Zambon: Il contenuto del *bonum coniugum*. (Article)**

Z. begins with a reflection on the teachings of Popes Francis and Benedict XVI, to identify the *bonum coniugum* as a natural property of marriage; and although subsequent marital failure is not necessarily a sign of its absence, its nucleus seems to be the recognition of the otherness of the spouse in all of his or her dimensions. He considers the difficulty of delineating exactly the content of this good, especially given the diversity of cultural and personal contexts. He suggests that the heart of the idea of the *bonum coniugum* is to be found in the recognition not only of the otherness of the spouse (both as a human person and as a believer) but also of the marital quality of the relationship. He then relates the *bonum coniugum* to other grounds of nullity, in particular considering what exclusion might look like in this context.

**1058**

**Verg 9 (2019), 327-353: José María Martí Sánchez: Perspectiva jurídica y religiosa de los matrimonios interreligiosos en España. (Article)**

Statistics confirm the growing number of intercultural marriages. This explains the juridical concern that such marriages should be placed on a sound footing, as a factor favouring integration. Integration is more random if the religions are different, especially where the laws of those religions disapprove of such marriages. The Catholic Church's view is more flexible, since her point of departure is the *ius connubii*, and respect for religious freedom.

**1063-1072**

**Ap XCI (2018), 545-595: Marek Ondrej: Urgenze e prospettive pastorali e giuridiche emergenti nella preparazione al Matrimonio canonico oggi. (Article)**

Overcoming the artificial dichotomy and, often, the contrast between pastoral and juridical ministries, O. focuses on the substantial elements and factors – proximate and immediate – in marriage preparation, highlighting the meaning and value of what the norms of substantive matrimonial law accentuate and formalize for the validity of the Sacrament. The work of the 2014 and 2015 synods on the family highlighted the importance of the

period of engagement as an authentic formation path for the spouses, even calling for an analogy with the catechuminate or the novitiate, so that the juridical dimension of marriage preparation is not reduced simply to an “examination of the future spouses”.

### 1063-1072

**KIP 8 (21) 2019, nr 2, 143-154: Małgorzata Szemiel: Wymogi prawa a podejście duszpasterskie w przedślubnym badaniu nupturientów (*Legal requirements and a pastoral approach in the nuptial examination of intended spouses*). (Article)**

It is not uncommon to find a formalistic approach to marriage preparation. The current generation want to get things done without unnecessary formalities. That is why similar attitudes are revealed during premarital formation. Both the intended spouses and pastors often treat pre-marriage courses, administrative activities and writing reports as an unpleasant but necessary obligation. However, the meeting between the future spouses and the parish priest should be an opportunity for dialogue, catechesis and conversation. The parish priest is not only to examine whether the parties want to enter into a valid marriage, but should also form them for entering into a sacramental marriage. The pre-matrimonial examination needs to be both juridical and pastoral. It should also be an opportunity to check their motives for marrying and to deepen or correct their knowledge of sacramental marriage.

### 1095 2°-3°

**Ap XCI (2018), 427-503: Silvia Barca: Riflessioni in merito all'incidenza dell'Anoressia nervosa e della Bulimia nervosa sulla capacità consensuale. (Article)**

The last 50 years have been marked by the gradual awareness in canonical jurisprudence of the influence of psychological (not only psychiatric) components on consensual marriage capacity. The growing anthropological attention and the unitary and global consideration of the person have led to an awareness of the repercussions, especially on the *bonum coniugum*, of a certain number of psychosomatic disorders often connected to the structure of the individual personality. Jurisprudence has not been satisfied simply with the theoretical creation of canon 1095 but has devoted increasing interest to concrete situations – and pathologies – that call for the application of that canon in judicial settings.

### 1095 2°-3°

**FCan XIII/2 (2018), 151-169: Tribunal Arquidiocesano de Braga: Sentença de 25 de junho de 2018. Simulação total. Federica Dotti, Ponente.** (Sentence)

See below, canon 1101.

### 1097

**Canonist 10/2 (2019), 189-207: Sentence *coram* Pinto, 20 January 2012 (Pozzuoli, Italy). Error of Quality (can. 1097 §2).** (Sentence)

The male petitioner, a widower with four children, began visiting the respondent in 1997. She was a cousin of his deceased wife. He had in mind to require of her, as he said, to assist him in his old age, of which he was afraid. At the time of the wedding which took place shortly afterwards, he was 70 and she was 46. In 2000 he requested a declaration of nullity of the marriage on the ground of his own error concerning a quality on the part of the respondent directly and principally intended – namely, her “availability” to offer him help. The respondent claimed that the petitioner had never told her that he wanted to marry her because he needed above all a person who would assist him in his old age. Had he done so, she would not have married him. The Rota, having discussed the law on error directly and principally intended, found on the facts that there was no foundation of the cause. The “quality of availability”, whatever that may be, is only an end of marriage, and does not pertain to its essence: it is a motivating cause, and its absence does not void a marriage. In any event the petitioner was unable to prove that he had married the respondent only for her “quality of availability”. Nor was there evidence of any criterion of reaction: the petitioner left the home for various reasons, including dislike of the respondent’s parents, disagreements with the respondent’s sister, arguments over the respondent’s dogs which were everywhere, not excluding the marriage bed, and the petitioner’s own suspicion.

### 1098

**Ius IX 1/18, 51-94: Sijeesh Pullankunnel: The Use of Different Means of Proofs in Marriage Nullity Cases on the Ground of *Dolus* (CCEO c. 821 and CIC c. 1098).** (Article)

See above, CCEO canon 821.

**1099**

**Canonist 10/2 (2019), 175-188: Richard Laurenson: The Teaching of Pope Francis in his Addresses to the Roman Rota with regard to Canon 1099.** (Article)

L. examines how Pope Francis has interpreted canon 1099 in his Rotal addresses from 2015 to 2020. He notes the Pope's focus on the human and cultural context surrounding the formulation of the marriage intention; the relationship between faith and matrimony; the role of the conscience in matrimonial consent; the need for each spouse to establish "full unity and harmony" with the other; and the importance of being close to families, who often lack the light of faith through having been left on the sidelines in terms of pastoral care. L. offers some reflections regarding the evaluation of proofs of error in the light of papal teaching.

**1101**

**Canonist 10/2 (2019), 219-239: Sentence *coram* Defilippi, 5 December 2012 (Verona, Italy). Exclusion of the Good of the Sacrament (can. 1101 §2).** (Sentence)

After some doubts on his part, the petitioner married the respondent (with whom he had been living for some years) in 1994. The marriage was blessed with one child, but there were worsening disagreements between the parties, and when, in 1997, the petitioner discovered that his wife was conducting an extra-marital affair, he separated from her and eventually obtained a divorce. He requested a declaration of nullity on the ground of exclusion of the good of the sacrament on his own part, claiming that, at the time of the wedding, his intention had been that he would divorce if things did not work out. The Rotal judges, having set out in detail the law relating to simulation of consent, identified a number of difficulties contrary to the alleged exclusion of the good of the sacrament on the part of the petitioner; but after weighing everything in law and fact they concluded that there was proof of nullity, while at the same time they prohibited the petitioner from entering into another marriage, unless he first seriously promised before the local Ordinary, or his delegate, that he would properly contract marriage.

**1101**

**FCan XIII/2 (2018), 151-169: Tribunal Arquidiocesano de Braga: Sentença de 25 de junho de 2018. Simulação total. Federica Dotti, Ponente.** (Sentence)

Matrimonial consent, a positive act of will of mutual giving and acceptance which makes the marriage, consists of a decision resulting from the progressive dynamics between mind and will, animated by the affections. Validity of consent is approached in different ways according to whether the alleged ground of nullity is that of simulation or of incapacity under canon 1095. With simulation, a party makes the choice – by means of a positive act of will which is opposed to the divine economy and to the Church’s doctrine – of not wanting to be bound by the marriage pact. With incapacity, the act of will simply does not exist. This sentence examines each of these grounds, and concludes that the specific marriage under consideration had been pondered upon, but had been entered into carelessly and with little practical wisdom. Regarding total simulation, proof depends on the credibility of the parties and on the personality structure of both, especially the alleged simulator. Consistency of behaviour in the course of events, as well as during the process itself, is what lends credibility to the depositions.

**1103**

**Canonist 10/2 (2019), 208-218: Sentence *coram* Monier, 20 July 2012 (Lazio-Roma). Grave Fear (can. 1103).** (Sentence)

The couple met in 1970. The respondent’s father had a discussion with the father of the petitioner concerning the celebration of marriage. There was no time for engagement and the woman steadfastly opposed her father’s decision, but in vain, because the decision to marry was made between the parents of the respondent and the father of the petitioner as well as her stepmother. Only four days after their first meeting the couple were married on 8 August 1970. In 1983 the parties separated. In 1999 the petitioner requested a declaration of nullity on the ground of grave fear inflicted upon her. The Rota, after a detailed discussion of the law on force and grave fear, found that the petitioner had been forced to marry under the command of her father, without appropriate personal freedom, and at the time she had no other way but to accept the imposed marriage. At that time she was 16 years old, and it was not possible for her to resist the will of her father and stepmother, who alone ruled everything within the family. The petitioner considered that if she had rebelled, the very least that would have happened

was that her father would have thrown her out of the house. An affirmative decision was given, on the ground of grave fear inflicted on the petitioner.

**1108**

**BV 79 (2019), 989-1000: Andrej Saje: Sklepanje krščanskega zakona na Zahodu in Vzhodu od pozne antike do zgodnjega srednjega veka (*Celebration of Christian marriage in the West and East from the late Roman to the early medieval period*). (Article)**

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

**1108**

**KIP 8 (21) 2019, nr 2, 119-129: Miroslav Dovda: Liturgia sakramentu małżeństwa w realiach litewskich w diecezji Wilkawiszskiej (*Liturgy of the sacrament of marriage in Lithuania in Wilkawiszka Diocese*). (Article)**

D. explores the practical side of the celebration of marriage in a Lithuanian diocese, in the light of his sociological and pastoral research.

**1121-1122**

**RDC 68/2 (2018), 281-295: Luc-André Biarnais: Une histoire des registres de catholicité. Le cas du diocèse de Gap jusqu'en 2015. (Article)**

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

**1125**

**KIP 8 (21) 2019, nr 2, 31-48: Martyna Pereta: Prawo dziecka do wychowania w prawodawstwie Kościoła łacińskiego z elementami prawa polskiego (*Right of a child to be brought up, in the legislation of the Latin Church, with elements of Polish Law*). (Article)**

See above, canons 793-806.

**1136**

**KIP 8 (21) 2019, nr 2, 31-48: Martyna Pereta: Prawo dziecka do wychowania w prawodawstwie Kościoła łacińskiego z elementami**

**prawa polskiego** (*Right of a child to be brought up, in the legislation of the Latin Church, with elements of Polish Law*). (Article)

See above, canons 793-806.

### **1141-1150**

**Verg 9 (2019), 19-42: Federico Gravino: El favor fidei entre la disciplina canónica y la protección de los migrantes.** (Article)

In the context of the Church's concern for the protection of migrants, G. points out that matrimonial canon law includes various institutes *in favorem fidei*: the Pauline privilege, the Petrine privilege, and dissolution in favour of the faith. These can be instruments both for promoting religious freedom on the part of the faithful, and for offering juridical protection for all those – including migrants and refugees – who, although married, desire, following their conversion and baptism, to enter into a new marriage which would allow them to practise their faith freely.

### **1163**

**AC 58 (2017), 9-223: « Gasparri, La France et la codification ». Actes du colloque organisé à Paris par la S.I.D.C. les 7 et 8 novembre 2017 à l'occasion du centenaire du Code de 1917.** (Compilation)

See above, Historical Subjects (*1917 Code*) (contribution of Petit).



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

**1176**

**AC 58 (2017), 279-292: Hervé Miayoukou: L'inhumation et la crémation. Quelques réflexions sur le can. 1176 §3 à la faveur de la publication de l'Instruction *Ad resurgendum cum Christo* par la Congrégation pour la doctrine de la foi. (Article)**

In response to questions posed by bishops' conferences, the Congregation for the Doctrine of the Faith issued an instruction on 25 October 2016, *Ad resurgendum cum Christo*, on the burial of the deceased and the conservation of ashes in the case of cremation. The Church sees a symbolic link between the burial of the faithful and the burial of Jesus in a tomb. Burial also highlights faith in the resurrection of the body. Canon 1176 §3 is softer than canon 1203 §1 of the CIC/17. The Holy Office instruction *Piam et constantem* (5 July 1963) accepted that the Church was not opposed to cremation in principle. *Ad resurgendum cum Christo* asks that cremated ashes be reposed in a suitable place, that is, a cemetery, a church, or a space recognized by Church authorities, such as a columbarium. Church authorities should not permit the retention of ashes in a domestic home, except for grave and exceptional circumstances. The dispersion of ashes in the air, on land, at sea or in some other way should also be avoided. Ashes may not be divided among various family members. Neither may they be preserved in mementos, pieces of jewellery or other objects. (See also *Canon Law Abstracts*, nos. 118, pp. 85-87; 119, p. 87; 120, p. 89.)

## BOOK V: THE TEMPORAL GOODS OF THE CHURCH

**1274**

**REDC 76 (2019), 613-648: Luis Gregorio Holguín Galarón: Pensiones sacerdotales. Rentas de complemento como instrumento de previsión social en la Iglesia española del siglo XXI.** (Article)

See above, canon 281.

**1274**

**QDE 32 (2019), 159-170: G. Paolo Montini: Dal diritto missionario al diritto universale. Un'ispirazione.** (Article)

See above, canon 502.

**1277**

**Canonist 10/2 (2019), 252: Australian Catholic Bishops Conference: Complementary legislation for Australia pertaining to Acts of Extraordinary Administration and Alienation.** (Document)

The Australian Catholic Bishops Conference sets new limits for acts of extraordinary administration at A\$ 1.54 per capita or A\$ 308,816 (annual repayment), and A\$ 0.62 per capita or A\$ 123,527 (sum forgone), as from June 2019.

**1281**

**IC 59/118 (2019), 517-563: Ilaria Zuanazzi: La responsabilità giuridica dell'ufficio di governo nell'ordinamento canonico.** (Article)

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

**1292**

**Canonist 10/2 (2019), 252: Australian Catholic Bishops Conference: Complementary legislation for Australia pertaining to Acts of Extraordinary Administration and Alienation.** (Document)

The Australian Catholic Bishops Conference sets the approved amounts for alienation of temporal goods of the Church at A\$ 6,176,327 (maximum sum) and A\$ 30,882 (minimum sum), as from June 2019.

## BOOK VI: SANCTIONS IN THE CHURCH

### 1311

**Comm 51 (2019), 384-390: Pope Francis: Allocutio ad participes XX Internationalis Iuris Poenalis Consociationis Conventus, 15 Novembris 2019.** (Address)

Referring to a previous address in 2014 Pope Francis focuses on two aspects of penal law of particular relevance today: idolization of the market; and the risk of penal “idealism”. Specifically he speaks of the social harm created by economic offences, juridical protection of the environment, abuses of the power to punish such as preventive detention, excessive use of force for security reasons, a culture of scorn and hatred, and “weaponizing” the law. In place of this he urges a sense of responsibility and the promotion of restorative justice.

### 1311-1399

**AC 58 (2017), 9-223: « Gasparri, La France et la codification ». Actes du colloque organisé à Paris par la S.I.D.C. les 7 et 8 novembre 2017 à l’occasion du centenaire du Code de 1917.** (Compilation)

See above, Historical Subjects (*1917 Code*) (contribution of Gonçalves).

### 1341

**EIC 59 (2019), 609-627: Eduardo Baura: L’attività sanzionatoria della Chiesa: note sull’operatività della finalità della pena.** (Article)

B. examines the purpose of sanctions and their concrete operation in the light of the general principles of the Church’s juridical system, paying special attention to the remedial aspect.

### 1362

**IE XXXI (2019), 611-626: Supremo Tribunale della Segnatura Apostolica, 10 marzo 2017, Prot. n. 52634/17 VT, Decreto, Em.mo Arcivescovo N. – Congregazione per il Clero, di prescrizione penale; 18 marzo 2017, Prot. n. 52545/17 CA, Decreto, Ecc.mo Sig. X, Arcivescovo allora di N. – Pontificio Consiglio per i Laici, di prescrizione penale e riparazione dei danni; 15 settembre 2017, Prot. n. 52545/17 CA, Decreto,**

**Ecc.mo Ricorrente – Pontificio Consiglio per i Laici, di prescrizione penale e riparazione dei danni; Commento di Davide Cito, Annotazioni sulla prescrizione penale.** (Decrees and comment)

The text is given of three decrees of the Apostolic Signatura refusing requests for a derogation from the application of prescription under canon 1362. The norms on prescription are considered to have substantive value and are not merely procedural. The three-year rule on prescription also applies to offences under canon 1399, as this is not one of the canons excepted in canon 1362 §1 2°.

**1387-1388**

**IusM XIII/2019, 215-236: Robert J. Geisinger: Article 4, SST / Normae de gravioribus delictis 2010: A Case Study, and Praxis Considerations.** (Article)

G. presents a case study based on art. 4 §1 4° and 5° of *Sacramentorum sanctitatis tutela* as revised by the 2010 Norms. The *facti species* concerns a religious cleric who is also the pastor (parish priest) of a parish where he has heard the sacramental confessions of five young women (all adults), who experienced varying levels of discomfort during and after the experience. Second- or third-hand complaints have been received by the local diocesan bishop concerning the priest's celebration of the sacrament, including: 1. his physical comportment during these five confessions; 2. questions he asked and comments he made; and 3. a penance he gave. The bishop engages the priest in dialogue as part of a preliminary investigation. In his effort to defend or at least explain himself, the priest offers substantive information regarding the sacramental confessions and the penitents. The case analysis examines the primary issues concerning possible solicitation (art. 4 §1 4°) and possible violation of the sacramental confessional seal (art. 4 §1 5°). G. also evaluates the initial steps taken by the bishop; the role of the religious major superior (provincial); privacy, good name, and appropriate application of "precautionary measures"; and difficulties concerning how the accused might properly defend himself. How one treats all the parties in a pastorally and canonically appropriate manner in this complex case is of fundamental praxis interest.

**1388**

**Comm 51 (2019), 427-435: Poenitentiaria Apostolica: Nota Poenitentiariae Apostolicae de fori interni maxima gravitate et de sigilli sacramentalis inviolabilitate, 1 Iulii 2019.** (Document)

See above, canons 983-984.

**1388**

**Comm 51 (2019), 440-443: Mauro Piacenza: Garanzia indispensabile, Articulus explanans Poenitentiariae Apostolicae Notam, ab Em.mo D. Mauro Piacenza conscriptus.** (Article)

See above, canons 983-984.

**1388**

**IC 59/118 (2019), 767-809: Rafael Palomino Lozano: Sigilo de confesión y abuso de menores.** (Article)

See above, canon 983.

**1389**

**RDC 68/2 (2018), 203-221: Anne Bamberg: La révocation, sanction de la négligence de l'autorité. Réflexions autour du motu proprio *Comme une mère aimante*.** (Article)

With reference to the motu proprio *As a loving mother*, B. illustrates the removal procedure following negligence on the part of authority – placing these considerations within the broader context of the CIC/83 and the Instruction *Dignitas Connubii* – in cases where lack of diligence or vigilance, or neglect or abuse of office, entail not only punishment but also liability for damages.

**1395**

**BV 79 (2019), 727-737: Stanislav Slatinek: Právica do pravične sodne odločitve ob sumu spolne zlorabe mladoletne osebe (*The right to a fair judgment when suspecting sexual abuse of an underage person*).** (Article)

Over the past 20 years the Catholic Church has received numerous accusations that some clergy, including cardinals, bishops, priests, and deacons, have committed the sexual abuse of a minor. The first steps against these acts were already taken by Pope John Paul II. His successors, Pope Benedict XVI and Pope Francis, have also introduced a number of norms that, in the event of suspected sexual abuse of a minor, lead to the proper punishment of the perpetrator. Although these are serious crimes (*graviora delicta*) the Church does not favour trial by media, i.e. swift media postings of the suspected cleric's name, but takes the view that any suspected sexual abuse of a minor should be treated in accordance with proper legal standards. Any such suspected abuse should be reported to the competent civil and ecclesiastical authorities, so that a legal (criminal or administrative) procedure may be initiated in order to ensure a fair decision. Confirmed sexual abuse should be punished. The innocent cleric should be pardoned and have his good name restored.

**1395**

**Canonist 10/2 (2019), 144-163: Brendan Daly: *Vos Estis Lux Mundi*: New Procedures for Dealing with Complaints of Sexual Abuse.** (Article)

The motu proprio *Vos estis lux mundi* came into force on 1 June 2019 and will be re-evaluated after three years in 2022. It outlines the procedures for dealing with complaints of sexual abuse or failures of bishops and religious leaders to deal properly with complaints in both canon and civil law. Commenting on the content and significance of the motu proprio, D. looks at the aspects of sexual abuse, failure on the part of religious leaders to act, vulnerable persons, pornography, prescription, mandatory reporting, care of victims, lay people and lay organizations, complaints about bishops or their failure to act, time frames, qualified lay people, civil reporting laws, protection of whistle-blowers, and the "competent dicastery". He concludes that this new law is a significant step forward, and given that there are criticisms from some quarters that it is not strong enough, the forthcoming revision of penal law will be crucial.

**1395**

**Comm 51 (2019), 364-365: Pope Francis: Rescriptum Ex Audientia SS.mi, quibus nonnullae Normae de gravioribus delictis mutantur, 3 Decembris 2019.** (Document)

This rescript makes two changes in the provisions of the motu proprio *Sacramentorum Sanctitatis Tutela*. In article 6 §1 2° the age limit with regard to qualifying pornographic imagery is raised from 14 to 18 years; while in relation to articles 13-14 in the procedural section, a suitably qualified lay person may now be admitted as procurator or advocate, but in tribunals other than the Congregation for the Doctrine of the Faith the roles of judge, promoter of justice and notary remain reserved to priests.

**1395**

**Comm 51 (2019), 496-498: Maurizio Fontana: Dopo l'incontro di febbraio in Vaticano, Articulus ab Ill.mo D. Mauritio Fontana conscriptus.** (Article)

The meeting of the presidents of episcopal conferences and heads of religious orders at the Vatican in February 2019 to consider the question of child abuse in a systematic and worldwide way was something strongly desired by Pope Francis. F. sets out a brief report on the follow-up to this meeting. On 29 March 2019 Pope Francis made changes to the law of the Vatican City State. Early in April a plenary session of the Pontifical Safeguarding Commission studied various proposals including methods of monitoring. On 7 May 2019 Pope Francis signed the Apostolic Letter *Vos estis lux mundi*. (This article appeared in *L'Osservatore Romano* on 18 December 2019.)

**1395**

**EE 94 (2019), 655-703: José Luis Sánchez-Girón Renedo: El «motu proprio» «Vos Estis Lux Mundi»: contenidos y relación con otras normas del derecho canónico vigente.** (Article)

The motu proprio *Vos estis lux mundi* (May 2019) sets out canonical obligations concerning the informing of Church authorities of the sexual abuse of minors and vulnerable people, and of behaviour related to child pornography, carried out by clergy (including cardinals, bishops and legates) and religious; and also concerning acts of governance within the Church that seek to avoid or interfere with the investigation of such matters. Concerning



the response which is ultimately given to such information, the document refers to what is already established in Church law for each case, but the fact that the reporting of these facts is now obligatory is a significant step forward. The text of the document may require some clarification concerning the appropriate response to the information received, and will need to be coordinated with State legislation on obligatory reporting.

### **1395**

**EE 94 (2019), 705-741: Rafael Felipe Freije: La reforma legislativa de Benedicto XVI en relación con los abusos sexuales y algunas propuestas para la reflexión.** (Article)

There are those who talk of the “Ratzinger style” in the fight against paedophilia inside the Church. Pope Benedict XVI faced up to the problem and looked for solutions, by remaining vigilant, tightening up the regulations, meeting the victims, listening to their suffering, asking for forgiveness, and sharing their tears. He expected all local Churches to adopt similar behaviour. Three main aspects define the “Ratzinger style”: 1. unveiling, exposing, refusing to hide; 2. exercising justice with responsibility and finding canonical ways to avoid such situations; 3. listening, curing, healing and ask for forgiveness. Under Pope Benedict XVI the Church set about fighting against this ulcer in the body of the Church.

### **1395**

**ETJ 23 (2019), 150-174: George Thekkekara: An Overview of the *Vos Estis Lux Mundi*.** (Article)

T. summarizes the important provisions of the motu proprio *Vos estis lux mundi*, which expresses well the Church’s zero tolerance of delicts against the sixth commandment by clerics, including bishops and religious, and establishes clear procedures for reporting and handling such delicts.

### 1395

**IC 59/118 (2019), 813-884: Sumo Pontífice Francisco: Carta apostólica en forma de motu proprio *Vos estis lux mundi* (7 mayo 2019); Rafael Rodríguez-Ocaña: El motu proprio *Vos estis lux mundi*. (Document and comment)**

The Spanish text is given of *Vos estis lux mundi*, accompanied by a comment from R.-O. who examines the main elements contained in the motu proprio: the scope of its application, what is meant by reporting, who is under an obligation to report, who the report should be presented to, what it should contain, data protection and care for persons, the procedures to be followed for the investigation, the competent dicasteries, and respect for the civil law.

### 1395

**ITS 56 (2019), 307-358: Innasi Amalraj: *Vos Estis Lux Mundi: Procedural Norms on Protecting Minors and Vulnerable Adults*. (Article)**

A. analyses *Vos estis lux mundi* from the following perspectives: 1. the intention of Pope Francis in issuing the document (the desire to address the wounds caused to the body of Christ by sexual abuse; special concern and compassion for minors and vulnerable adults; and the application of the principle of “zero tolerance”); 2. the canonical significance of the document, especially as regards bishops and archbishops; 3. background study materials (details are provided of 12 documents which help to understand the spirit of *Vos estis lux mundi*, and especially the compassion of Pope Francis); 4. a canonical commentary (on the need for the document, and its salient features); 5. a textual analysis with practical applications (definitions of minors and vulnerable persons, and of child pornography; an “office/system” for reporting in every diocese; the obligation to report; child abuse and vulnerable adults; subjects of *Vos estis lux mundi*; the competent dicastery; dealing with cover-ups; protection of vulnerable people; protection of victims and those who report abuse; investigation of bishops; the role of the Metropolitan; involvement of the laity; the presumption of innocence; the carrying out and conclusion of the investigation; involvement of qualified persons; duration of the investigation; compliance with State laws); 6. the administration of justice (procedure for cases at the local level; applicable Church law regarding cases of clerical sexual abuse of minors; applicable Church law regarding cases of negligence by bishops).

### 1395

**IusM XIII/2019, 203-214: Claudio Papale: Aspetti procedurali e prassi della Congregazione per la Dottrina della Fede.** (Article)

See below, canons 1717-1728.

### 1395

**Per 108 (2019), 1-34: Marcelo Gidi: Lo statuto penale del minore nel can. 1395 §2: analisi critica alla luce dei presupposti dottrinali della teoria penale del bene giuridico.** (Article)

G. focuses on the delict concerning minors that is found in canon 1395 §2. He devotes attention particularly to the nature of the delict and the legal good that is protected or safeguarded by the law. He notes that, until 1983, the delict was considered explicitly as an offence against good morals, and the objective of the law was to safeguard a very specific juridical interest, namely, clerical celibacy and the religious vow of chastity. Taking as a starting point a comment made by P. Huizing in the course of the revision of the Code of Canon Law, to the effect that all crimes cause damage to the rights of other people, G. looks at the current legislation. Since *Sacramentorum sanctitatis tutela* in 2001, there has been a discernible shift in emphasis towards the person against whom the delict in canon 1395 §2 is committed, i.e. the minor. This awareness, he says, should become the guide for the Legislator in any revision of the law so that the legal good to be protected or safeguarded is no longer the violation of clerical celibacy or the religious vow of chastity but, first and foremost, the dignity of the person of the minor.

### 1395

**REDC 76 (2019), 819-850: Francisco: Carta apostólica en forma de Motu proprio *Vos estis lux mundi*, 07.05.2019. Texto y comentario.** (Document and comment)

The Spanish text of *Vos estis lux mundi* is accompanied by a comment by Francisco J. Campos Martínez.

**1395**

**SC 53 (2019), 467-479: Alexander M. Laschuk: Reflections on Clerical Concubinage. (Article)**

Since Apostolic times clerics have had chastity as part of their obligations. Violations of this obligation have been punished since the early traditions of the Church. While to hear of violations of celibacy is not new, cases of stable relationships with non-minors are increasing in frequency. L. begins by defining clerical concubinage, before examining and commenting on the current law of the Church. He provides various hypothetical cases to illustrate the clear procedural norms to be used in cases of concubinous clerics.

**1395**

**SC 53 (2019), 603-625: Thomas John Paprocki: Confronting the Myths and Realities of Clerical Sexual abuse of Minors in the Catholic Church. (Article)**

In the recent past, numerous revelations have been highly disturbing, particularly: the misconduct of former Cardinal Theodore McCarrick and his eventual dismissal from the clerical state; the Pennsylvania Grand Jury Report; and the allegations of cover-up claimed by Archbishop Carlo Maria Viganò. The reaction to hearing this convergence of distressing reports has been very understandable anger and disgust on the part of many, along with a desire for action and effective responses to remedy the situation. P. discusses various myths and misconceptions surrounding the issue, seeks to elucidate the actual realities of the problem, and presents some ways to think and act anew in order to deal effectively with the scourge of the sexual abuse of minors. Among the myths surrounding the sexual abuse of minors are that it is a uniquely Catholic problem, a priest problem, and a celibacy problem. The reality is that the sexual abuse of minors is a societal problem found not only in churches, but even more extensively in families, schools, scouts, youth organizations, and other sectors of society. P. summarizes the pioneering efforts of the Archdiocese of Chicago in the 1990s, the measures adopted by the United States Conference of Catholic Bishops in 2002 and more recently in June 2019, and the recent documents promulgated by Pope Francis to address the issue of clerical sexual abuse of minors in the Church. These actions by the Catholic Church offer constructive solutions that could well be emulated by secular entities to protect minors and provide a safe environment for young people.

**1395**

**SC 53 (2019), 627-658: John Anthony Renken: *Vos estis lux mundi*: The Evolution of the Church's Response to Sexual Abuse and Its Cover-Up After the Vatican Summit.** (Article)

Following the so-called "Vatican Summit" on 21-24 February 2019, Pope Francis issued his Apostolic Letter *motu proprio Vos estis lux mundi* whereby he expanded the offence and the offenders of sexual abuse of minors and vulnerable persons in the Church, identified certain rights of victims/survivors, and provided for a mechanism to investigate bishops and their equivalents who have committed this abuse or who have obstructed its investigation. R. provides a commentary on the document.

**1399**

**IE XXXI (2019), 611-626: Supremo Tribunale della Segnatura Apostolica, 10 marzo 2017, Prot. n. 52634/17 VT, Decreto, Em.mo Arcivescovo N. – Congregazione per il Clero, *di prescrizione penale*; 18 marzo 2017, Prot. n. 52545/17 CA, Decreto, Ecc.mo Sig. X, Arcivescovo allora di N. – Pontificio Consiglio per i Laici, *di prescrizione penale e riparazione dei danni*; 15 settembre 2017, Prot. n. 52545/17 CA, Decreto, Ecc.mo Ricorrente – Pontificio Consiglio per i Laici, *di prescrizione penale e riparazione dei danni*; Commento di Davide Cito, *Annotazioni sulla prescrizione penale.* (Decrees and comment)**

See above, canon 1362.

## BOOK VII: PROCESSES

### 1425-1426

#### **SC 53 (2019), 369-429: William L. Daniel: The Principle of Collegiality in the Exercise of Judicial Power in the Church. (Article)**

The canonical tradition bears witness to the wisdom of entrusting more grave and important judicial controversies to the judgment of a college of judges. In the *ius vigens*, certain causes are indeed reserved to a college of three judges (canon 1425 §1). The principle of collegiality in judging aids the discovery of the truth and protects the freedom of the judges. The general legislation defines the composition and competence of the college and prescribes how it is to act collegially (canons 1426, 1609). The presiding judge decrees the date, time, and place for its session; each judge in solitude examines the acts and writes a *votum*. When they gather, they pray, hear the report of the *ponens*, cast their votes, discuss the cause, and record the event in the *folium dispositivum*. The sentence is then drafted and approved by the judges. Certain illegitimate tribunal practices undermine these elements. D. discusses seven of these: the illegitimate use of a single judge (canon 1622 1°); the arbitrary standard of easy or difficult cases; the indeterminate constitution of the college; the lack of a judicial session; extraterritorial judging; the *pro forma* session; and the mixed session.

### 1445

#### **IusM XIII/2019, 181-199: Dominique Mamberti: A dieci anni dalla promulgazione della “Lex propria” della Segnatura Apostolica. (Article)**

M. studies the application of the *Lex propria* of the Supreme Tribunal of the Apostolic Signatura, ten years after its promulgation, looking at its formal aspect but above all evaluating its substantive aspects concerning the Signatura’s role, its contentious and administrative competences, and the peremptory term for recourses. He highlights the changes brought about by art. 123 of the Apostolic Constitution *Pastor Bonus*, the extension of the Signatura’s competence, and the execution of its sentences. He points out its role of vigilance – which may include dispensations from procedural laws and from the academic qualifications required for those working in tribunals – as well as many other competences, which taken together demonstrate the value and usefulness of the Apostolic Signatura for the Church.

**1455**

**Comm 51 (2019), 366-367: Pope Francis: Rescriptum Ex Audientia SS.mi, quo De secreto causarum Instructio promulgatur, 6 Decembris 2019.** (Document)

See above, canon 471.

**1483**

**Comm 51 (2019), 364-365: Pope Francis: Rescriptum Ex Audientia SS.mi, quibus nonnullae Normae de gravioribus delictis mutantur, 3 Decembris 2019.** (Document)

See above, canon 1395.

**1548**

**Comm 51 (2019), 418-419: Pontificium Consilium de Legum Textibus: Responsiones particulares: Quaestio quoad obligationem secretum de foro interno servandi.** (Reply)

A question had arisen over the implications of the reference to canon 1548 in article 3 §1 of *Vos estis lux mundi*, exempting certain parties from the obligation to inform, since the following article 4 states that such information does not constitute a violation of the secret of office. The provisions of *Vos estis lux mundi* must be applied in the light of the Code, and canon 1548 clearly distinguishes between the confidentiality of what a priest learns in his sacred ministry and that of office which binds public magistrates and other official office holders. This interpretation is confirmed by the Note from the Apostolic Penitentiary dated 29 June 2019 and published on 1 July 2019 (see above, canons 983-984).

**1608**

**ITS 56 (2019), 427-462: Innasi Amalraj: In Iudicis Animo: Canon 1608 §1 of CIC 1983 – Psychological Analysis of Judicial Decision-Making.** (Article)

In analysing the psychological aspects of ecclesiastical judicial decision-making, A. investigates: 1. the constitutive elements of decision-making; 2. models of decision-making; 3. theories of decision-making; 4. the different steps of decision-making; 5. the cognitive process of decision-making; 6.

judicial decision-making. Ecclesiastical decision-making is more than an art or a science, because it involves the sacramental life of an individual and parties in marriage nullity cases. Psychological decision-making is involved in all judicial decisions.

### 1609

**SC 53 (2019), 369-429: William L. Daniel: The Principle of Collegiality in the Exercise of Judicial Power in the Church.** (Article)

See above, canons 1425-1426.

### 1612

**IE XXXI (2019), 515-542: Armand Paul Bosso: L'iter rédactionnel de la sentence conclusive du procès canonique en déclaration de nullité matrimoniale.** (Article)

B. examines the dynamics of the drafting of the sentence declaring the nullity of a marriage, offering a practical guide to the principal requirements of the sentence: details of the judge or tribunal, the petitioner, the respondent, the defender of the bond, and the promoter of justice if involved in the process; a brief presentation of the facts with the positions of the parties and the formulation of the doubts; the dispositive part of the sentence, preceded by the reasons in law and in fact on which it is based; an indication of the place, day, month, and year in which the sentence is given, with the signatures of the judge or judges and the notary (cf. *Dignitas connubii*, art. 253). These precise requirements serve a pastoral purpose.

### 1620

**IE XXXI (2019), 627-646: Tribunale Apostolico della Rota Romana: Iurium (ius ad tumbam) – Nullità di sentenze – Decreto del Turno – 13 dicembre 2018 (B. 158/2018) – Sig.ra XX – Amministrazione del Cimitero, Grzegorz Erlebach, Ponente; Commento di Massimo del Pozzo, Una significativa querela di nullità per difetto del contraddittorio giudiziario.** (Decree and comment)

In February 2017 the petitioner, as legal guardian of her recently deceased grandmother, brought an action against the priest-administrator of a cemetery who she claimed had wrongly assigned the rights over the grave to the deceased's only son – the petitioner's father – who obstructed other



members of the family from performing acts of piety over the said grave. The case reached the Rota after a first instance decision in favour of the petitioner, which was declared null by a second instance tribunal; that second decision was in its turn appealed against by the petitioner. The Rota found that the first instance decision was indeed null, as the petitioner's father – who held the disputed title to the grave – was not cited or even heard (cf. canon 1620 4°). The second instance decision was also null, because the promoter of justice did not take part in the *querela nullitatis*: such presence is held by Rotal jurisprudence to be necessary *ad validitatem iudicii* because of the complexity of the procedural questions involved in a *querela nullitatis*.

#### 1641

**IE XXXI (2019), 543-566: Pietro Lo Iacono: Conformità per equivalenza, divieto di ripresentare la «medesima causa» e *salus animarum*: il difficile equilibrio tra giustizia e legalità.** (Article)

The principle of “equivalent conformity” can be used to avoid an infringement of the rule *ne bis in idem*, especially in cases involving the nullity of marriage. Lo I. examines the main tendencies of doctrine and case law in this regard, pointing out that the Rota has often disapproved of this application. He highlights the requirement to protect the respondent's procedural position, so that the petitioner is not unduly privileged.

#### 1671-1691

**Ap XCI (2018), 405-426: Manuel Jesús Arroba Conde: Missione ecclesiale e Pastorale giudiziale.** (Article)

As a meta-juridical norm of constitutional significance, the *norma missionis* does not translate immediately into either special positive norms or juridical legal principles, even though it influences and directs both. This is what occurred with the reform of matrimonial procedural law brought about by *Mitis Iudex*, which, although having formally changed only a few canons, has actually changed the very prerequisites of the marriage nullity declaration process. The result is a more explicit and organic connection with pastoral marriage care and, above all, with its crisis. In this way, the ecclesial mission of bringing salvation and liberation to people of every time and place stands out more effectively today, including in the matrimonial nullity process.

### 1671-1691

**KIP 8 (21) 2019, nr 2, 105-118: Maciej Andrzejewski: Zasada kontradiktoryjności procesu o nieważność małżeństwa na tle zasady *salus animarum* oraz zasady prawdy (*The adversarial principle of proceedings for nullity of marriage with regard to the principle of “salus animarum” and the principle of truth*). (Article)**

A. explores the significance of the principles of *salus animarum*, the truth, and the adversarial system used in the marriage nullity process. The *salus animarum* principle defines the supernatural purpose of canon law; the principles of the marriage nullity process must therefore be subject to it. The principle of knowledge of the truth is the key principle in the marriage nullity process, which all who take part in it are to follow. The way of ascertaining the truth is to base the process on the values arising from the adversarial principle.

### 1671-1691

**KIP 8 (21) 2019, nr 2, 131-142: Monika Górna: Wpływ dochodzenia przedprocesowego na przebieg procesu o stwierdzenie nieważności małżeństwa (*Influence of the pre-judicial inquiry on the process for the declaration of nullity of marriage*). (Article)**

Although the pre-judicial inquiry introduced by *Mitis Iudex* was already included in the procedural instructions contained in *Dignitas connubii*, it required more detailed regulation. Its purpose is to help the spouses learn the truth about their marriage. The issue of pre-trial consultation is important because it influences the possible commencement of the marriage nullity process. It is of primary interest in the case of spouses who have separated or divorced and have doubts about the validity of a sacramental marriage.

### 1679-1682

**Ius Comm VII (2019), 275-325: Grzegorz Erlebach: La ejecutividad de la sentencia y del decreto de confirmación a la luz del Motu pr. *Mitis Iudex Dominus Iesus*. (Article)**

The institute of the execution of a sentence in marriage nullity cases needs to be considered in connection with the declaration of the nullity of the marriage and its effects, so as to make it possible to arrive at a better understanding of the characteristics of any sentence declaring the nullity of marriage, regardless of whether or not it automatically becomes adjudged

matter. Concerning the application of the institute of execution in marriage nullity cases, what is of most interest is the typical situation in which the first sentence declaring nullity has not been appealed against *intra tempus*: in such cases a separate decree of execution needs to be issued. There are many atypical situations in which, if there are no factors to impede it, a decree of execution is to be issued, or alternatively the case is to be archived without a decree of execution being issued (or a decree of non-execution or of only partial execution being issued instead).

## 1680

**Canonist 10/2 (2019), 240-251: Decree *coram* Arellano Cedillo, 9 May 2017 (Italy), Appeal against the First Instance Affirmative Sentence (can. 1680 §2); Decree *coram* Arokiaraj, 16 May 2018 (Western Australia), Appeal against the First Instance Affirmative Sentence (can. 1680 §2); Decree *coram* da Costa Gomez, 11 July 2018 (Mumbai, India), Subjection of an Affirmative 1st Instance Sentence to Ordinary Examination in 2nd Grade (can. 1680 §2). (Documents)**

The text is given of three Rotal decrees, each deciding the preliminary question: “Whether the appeal against the affirmative first instance tribunal, which declared the nullity of marriage in the case, must be admitted, or the affirmative sentence of the prior grade must be confirmed according to the norm of canon 1680 §2”. The Rota stressed that the new canon 1680 §2 uses the word “confirm” and not simply “ratify”, meaning that the appeal tribunal should discern the truth from facts, circumstances, surroundings, and supportive elements, and should weigh the procedural elements globally and in accordance with the norm of canon 1608 and article 12 of the *Ratio Procedendi* of *Mitis Iudex*. In each of the three cases the Rota found weaknesses in the first instance decision, and concluded that in each case the appeal against the first instance sentence must be admitted. According to the custom at the Rota, and making use of the faculty granted by the rescript during the audience with the Holy Father on 7 December 2015, the doubt to be discussed at the second grade would be: “Whether there is proof of nullity of marriage in the case”.

### 1683

**QDE 32 (2019), 448-507: Paolo Bianchi: Questioni legate alla scelta della via processuale nel nuovo processo di nullità matrimoniale: la evidenza del motivo di nullità (can. 1683, 2° e art. 14 RP).** (Article)

In the light of the literature that exists on the topic, B. examines the question of the level of evidence required for the briefer process to be chosen. He favours a view that it is more than would be needed to establish a possible case, but need not be sufficient to establish moral certainty. He then offers a detailed review of the possible grounds of nullity laid out in article 14 of the *Ratio Procedendi* attached to *Mitis Iudex*. He concludes that in every case it is necessary to examine the situation in detail, and to avoid generic judgments.

### 1683-1684

**QDE 32 (2019), 215-250: Donatella Saroglia: L'istanza del bene dei fedeli: il ruolo dell'avvocato.** (Article)

S. begins by offering general reflections on the role of the advocate in the briefer process. In the consultation phase, she reflects on the choice of process to be followed and the issue of collaboration between the parties. She then considers the drafting of the petition and the collection of the supporting documents, as well as the role of the advocate in the decision to admit the case to the briefer process. She goes on to examine how the advocate can assist in the instruction of the case, in the debate that precedes the sentence, and in any decisions about appealing against the sentence, and offers concluding reflections on the pastoral role of the advocate.

### 1683-1687

**Per 108 (2019), 35-72: G. Paolo Montini: L'uso illegittimo del *processus brevior*. Rimedi processuali ordinari e straordinari.** (Presentation)

This is the text of M.'s presentation to the 53rd annual Colloquium of the Canon Law Faculty of the Pontifical Gregorian University that took place in Brescia in June 2018. One of the innovations of the motu proprio *Mitis Iudex Dominus Iesus* was the introduction of the *processus brevior* (the shorter or abbreviated process) for cases of marriage nullity. Based on his experience in the Supreme Tribunal of the Apostolic Signatura, M. reflects on instances where the shorter process has been used unlawfully, and he asks what are the possible procedural remedies for such an action. For him,

the documentary process and the jurisprudence surrounding its unlawful use offer the principle analogy for resolving difficulties associated with the unlawful use of the abbreviated process. He devotes particular attention to the *querela nullitatis*.

### **1685-1687**

**QDE 32 (2019), 360-379: Fabio Franchetto: Il ruolo dell'istruttore e dell'assessore nel processo breve.** (Article)

F. examines, for both the instructor of the cause and the assessor, the task each has in the briefer process, the way in which they are appointed, the qualities they should possess, and the way they relate to the diocesan bishop.

### **1686-1687**

**QDE 32 (2019), 322-359: Concetta Caviglia: L'istanza del bene del matrimonio: il ruolo del difensore del vincolo.** (Article)

C. analyses the role of the defender of the bond in the shorter process, looking at each stage of that process in the light of both practical experience and Rotal sentences. She highlights the importance of the role of the defender in the shorter process, both in terms of ensuring that the process is followed correctly and in providing an element of debate around the claim of nullity.

### **1717-1728**

**IusM XIII/2019, 203-214: Claudio Papale: Aspetti procedurali e prassi della Congregazione per la Dottrina della Fede.** (Article)

P. looks at certain practical procedural aspects that may result in difficulties of application or interpretation in lower tribunals, and offers solutions.

### **1720-1728**

**SC 53 (2019), 561-601: Valère Nkouaya Mbandji: L'instruction d'une cause pénale.** (Article)

M. focuses on two main areas: the judicial penal process (canons 1721-1728) and the extrajudicial penal process (canon 1720). He is particularly interested in the role of the judge and the Ordinary in these two types of

process. He highlights their different stages, and questions the reasons given for the current practice of relying on extrajudicial trials in the Church. The latter do not offer reliable legal guarantees of respect for the rights of accused persons and do not allow them properly to ensure their defence. Administrative trials should not evade the canonical requirement of a fair and equitable process recognizable as such by all the faithful of Christ.

### **1734-1738**

**EE 94 (2019), 785-823: Francisco José Zamora: Requisitos y efectos de la interposición del recurso jerárquico. (Article)**

Among the means available to administrative justice there is the so-called hierarchical recourse. Knowledge of the requirements and effects of the presentation of a hierarchical recourse are essential if the recourse is to proceed and be resolved adequately. The requirements are set out in CIC/83, canons 1734-1738.

### **1740-1752**

**Ius Comm VII (2019), 361-401: Supremum Signaturae Apostolicae Tribunal: Sentencia definitiva, 16 noviembre 2011, Remoción de la parroquia; Decreto definitivo, 16 enero 2016, Traslado de parroquia; Pablo E. Lamata Molina: Comentario. (Documents and comment)**

Given here are two decisions of the Apostolic Signatura, one dealing with a recourse against a decree of removal of a parish priest, the other with a recourse against a decree of transfer. In his comment on the decisions L.M. points out the need to distinguish clearly between the two procedures of removal and transfer of a parish priest. Different procedures, and different justifying causes, apply according to whether what is involved is a removal, an involuntary transfer, or a voluntary transfer. The confusion can arise because of certain common elements which the procedures share, such as the good of souls being the ultimate motive justifying them, or the fact that in the case of removal, the parish priest may be assigned to another parish, without the bishop's act thereby being turned into an act of transfer, or that in the case of a transfer, the parish priest may be given a non-parochial office (or a less important office than the one he had), without this turning it into a removal. The two decisions of the Signatura demonstrate that a transfer of a parish priest assumes that he has been governing his parish satisfactorily (cf. canon 1748): in other words, that his ministry is not harmful or ineffective. Hence if a "transfer" were in fact motivated by harm

or inefficiency, it would not be a transfer but a removal (canons 1740-1741). If the priest has been governing his parish satisfactorily, a transfer can only be made for the purposes of a greater good (“the good of souls or the necessity or advantage of the Church”), which needs to be specific, and, if the transfer is against the priest’s will, requires a “grave” cause, whereas for a voluntary transfer only a just cause is needed.

## 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 Agustiniiano
- Estudios Eclesiásticos
- Folia Theologica et Canonica
- Forum Canonicum
- Forum Iuridicum
- Indian Theological Studies
- Immaculate Conception School of Theology Journal
- Irish Theological Quarterly
- Ius Canonicum
- Ius Communionis
- Ius Ecclesiae
- Iustitia: Dharmaram Journal of Canon Law
- Journal of Sacred Scriptures
- The Jurist
- Kościół i Prawo
- Laurentianum
- Law and Justice
- Louvain Studies
- Periodica
- Philippine Canonical Forum
- Philippiniana Sacra
- Quaderni dello Studio Rotale
- 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

AC	L'Année Canonique, Paris – Most Rev. Dr. John McAreavey, Co. Down.
ACR	Australasian Catholic Record, New South Wales – V. Rev. Ian B. Waters, Melbourne.
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.
Comm	Communicationes, Rome – Rev. Mgr Gordon Read, Colchester, Essex.
EE	Estudios Eclesiásticos, Madrid – Abstracts supplied by publisher.
EIC	Ephemerides Iuris Canonici, new series, Venice – 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.
IE	Ius Ecclesiae, Pisa-Rome – Abstracts supplied by publisher.
ITS	Indian Theological Studies, Bangalore – Editor.
Ius	Iustitia: Dharmaram Journal of Canon Law, Bangalore – Rev. Mgr Gordon Read, Colchester, Essex.
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.
LJ	Law and Justice, Worcester – Abstracts supplied by publisher.
PCH	The Person and the Challenges, Krakow – Abstracts supplied by publisher.
Per	Periodica, Rome – Fr Aidan McGrath OFM, Dublin.
QDE	Quaderni di Diritto Ecclesiale, Milan – Fr Luke Beckett

	OSB, Ampleforth, York.
RDC	Revue de Droit Canonique, Strasbourg – Abstracts supplied by publisher.
REDC	Revista Española de Derecho Canónico, Salamanca – Abstracts supplied by publisher.
S	Salesianum, Rome – Abstracts supplied by publisher.
SC	Studia Canonica, Ottawa – Abstracts supplied by publisher.
Verg	Vergentis: Revista de Investigación de la Cátedra Internacional conjunta Inocencio III: Universidad Católica San Antonio de Murcia – Abstracts supplied by publisher.

## ENGLISH-LANGUAGE BOOKS REVIEWED IN THE ABOVE PERIODICALS

- Jonas ACHACOSO: *Due Process in Church Administration. Canonical Norms and Standards*, EUNSA, Colección canónica, Pamplona, 2018, 256pp., ISBN 978-8431333133 (reviewed by Javier Canosa, *IE XXXI* [2019], 710-712)
- Rafael DOMINGO – Javier MARTÍNEZ-TORRÓN (eds.), *Great Christian Jurists in Spanish History*, Cambridge University Press, Cambridge, 2018, xiii + 395pp., ISBN 978-1-10-842807-1 (hardback); ISBN 978-1-10-844873-4 (paperback) (reviewed by W. Becket Soule, *SC 53* [2019], 667-669)
- John D. FARIS: *Canon Law and Ecumenism: What We Have To Be Is What We Are*, Dharmaram Canonical Studies – 21, Dharmaram Vidya Kshetram, Bengaluru, 2018, ix + 115pp., ISBN 978-93-84964-09-2 (reviewed by Sr M. R. Saritha, *Ius IX* 2/18, 381-383; also by W. Becket Soule, *SC 53* [2019], 669-671)
- Richard HELMHOLZ, *The Profession of Ecclesiastical Lawyers*, Cambridge University Press, Cambridge, 2019, xvii + 232pp., ISBN 978-1-10-849906-4 (reviewed by W. Becket Soule, *SC 53* [2019], 673-675)

## BOOKS RECEIVED

- Celia Alejandra RAMÍREZ SANTOS – José Luis EGÍO: *Conceptos, autores, instituciones. Revisión crítica de la investigación reciente sobre la Escuela de Salamanca (2008-19) y bibliografía multidisciplinar*, Dykinson, Madrid, 2020, 333pp., ISBN 978-84-1324-721-2 [see above, Historical Subjects (16th-19th centuries)]