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

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GENERAL SUBJECTS

Comparative law

EIC 61 (2021), 279-309: Naonyir Sébastien Somda: La consuetudine dei popoli in Burkina Faso e il suo possibile rapporto con il diritto della Chiesa. (Article)

S. offers an introduction to the topic of the customs of the people of Burkina Faso, examining such customs from a canonical and a civil law perspective. Some customs have characteristics that approximate them to canonical provisions, or elements that could allow for a more suitable application of the universal law to the situations of the particular Churches, hence giving room to the idea of their purification through the inculturation of canon law or through their “canonization”. S. looks in particular at Burkina Faso customary law relating to marriage, domicile, family and the person, filiation and relationship, State property, the administration of justice, and funerals.

Ius 11, No. 1 (2020), 35-67: Jobe Abbass: The Eastern Code Turns Thirty: Finding Its Place in the One *Corpus Iuris Canonici*. (Article)

See below, CCEO canon 678.

Ius 11, No. 1 (2020), 69-83: Alisha Paul: Dismissal Procedure in Religious Institutes: A Comparison between CIC and CCEO. (Article)

See below, CCEO canons 497-503.

Ius 11, No. 1 (2020), 113-128: Biju Varghese Perumayan: From Reservation to Vigilance: A Possible Step in Dealing with the *Delicta Graviora*. (Article)

See below, CCEO canon 89.

Ius 11, No. 2 (2020), 219-237: Varghese Koluthara: *Communis Vita and Oriental Religious Institutes.* (Article and document)

See below, CCEO canon 497.

Compilations

IC 61/121 (2021), 473-500: Joaquín Sedano: *Crónica de Derecho Canónico 2020.* (Compilation)

In this review of the more significant canonical developments in 2020, S. mentions the writings, decisions, and discourses of the Roman Pontiff, including his address to the Roman Rota on the primary role of the spouses Aquila and Priscilla as examples of married life (25 January 2020: see below, canon 1055); the post-synodal Apostolic Exhortation *Querida Amazonia* in which the Pope asks among other things that the bishops be generous in sending missionary priests to the Amazon region (2 February 2020); a *rescriptum ex audientia Sanctissimi* modifying the statutes and regulations of *Caritas Internationalis* (13 January 2020, taking effect from 2 February 2020); an announcement of the Pope's intention to set up a working group to help episcopal conferences, religious institutes, and societies of apostolic life, in preparing and implementing directives on the protection of minors (28 February 2020); the incorporation of Cardinal Luis Antonio Tagle into the College of Cardinals without the assignation of any suburbicarian church (as none was vacant), and derogating from canons 350 §§1-2 and 352 §§2-3; a *motu proprio* on transparency, oversight, and the awarding of public contracts of the Holy See and the Vatican City State (19 May 2020: see below, General Subjects (*Relations between Church and State*)); a *rescriptum ex audientia Sanctissimi* on the jurisdiction of the Eastern Catholic Patriarchs in the Arabian Peninsula (6 August 2020: see below, Code of Canons of the Eastern Churches (*General*)); the *motu proprio Authenticum charismatis* (1 November 2020) and the corresponding *motu proprio* for the Eastern Churches *Ab initio* (21 November 2020) on the erection of institutes of consecrated life and societies of apostolic life by diocesan bishops (see below, CCEO canon 435 and CIC canon 579); a *motu proprio* aimed at achieving better regulation of the economic and financial activities of the Holy See (26 December 2020: see *Canon Law Abstracts*, no. 126, pp. 55-56); and various decrees of erection and reorganization of ecclesiastical circumscriptions in the Latin and Eastern Catholic Churches.

The review goes on to mention the more significant documents and activities of the Roman Curia in 2020, including the appointment of the first woman with managerial duties in the Secretariat of State (Francesca di Giovanni, Undersecretary for Multilateral Affairs in the Section for Relations with States: 15 January 2020); two decrees of the Congregation for the Doctrine of the Faith, of which one (*Quo magis*) approved seven new Eucharistic Prayers for use with the Extraordinary Form of the Roman rite, while the other (*Cum sanctissima*) offered guidance on the celebration of recently canonized saints in the Extraordinary Form (22 February 2020); the announcement by the Holy See Press Office that the Pope had instituted a commission for the study of the female diaconate (8 April 2020); the publication by the Congregation for the Doctrine of the Faith of a *Vademecum* on certain points of procedure in treating cases of sexual abuse of minors committed by clerics (16 July 2020: see *Canon Law Abstracts*, no. 126, pp. 98-99, and below, canons 1319* and 1395*); a Response from the same Congregation that the formula “We baptize you in the name of the Father and of the Son and of the Holy Spirit” is invalid (24 June 2020: see *Canon Law Abstracts*, no. 126, p. 75); several decrees (19 March, 25 March, and 18 December 2020) of the Congregation for Divine Worship and the Discipline of the Sacraments in relation to the celebration of the Paschal Triduum, Christmas, New Year, and the Epiphany during the Covid-19 pandemic; a letter from the Prefect of the same Congregation communicating the Pope’s desire that the invocations *Mater misericordiae*, *Mater spei*, and *Solacium migrantium*, be added to the Litany of Loreto (20 June 2020); a letter from the same Congregation clarifying the correct way to administer Confirmation validly during the time of pandemic, making clear that in case of necessity the use by the minister of an instrument (gloves, cotton swab, etc.), does not affect validity (1 October 2020); the Congregation for the Clergy’s Instruction “The pastoral conversion of the parish community in the service of the evangelizing mission of the Church” (29 June 2020: see *Canon Law Abstracts*, no. 126, pp. 63-64); transitory norms issued by the Congregation for Catholic Education concerning the application of the Apostolic Constitution *Veritatis gaudium* during the pandemic (6 May and 15 June 2020), and an Instruction from the same Congregation on the affiliation of institutes of higher studies (8 December 2020); the making known in 2020 of an interpretation of 3 September 2019 by the Pontifical Council for Legal Texts of article 3 §1 of *Vos estis lux mundi* in relation to canons 1548 §2 of the CIC/83 and canon 1229 §2 of the CCEO (see *Canon Law Abstracts*, no. 124, p. 109); Responses by the same Pontifical Council concerning doubts over canons 1421 §3 and 1435 in relation to the correct proof of having obtained the necessary licentiate in

canon law in the case of judges and promoters of justice (Prot. 17263/2020, 7 December 2020) and over the competent minister for the institution of the ministries of acolyte and lector (Prot. 17234/2020, 10 December 2020); the presentation by the President of the Pontifical Council for Promoting New Evangelization of the new “Directory for Catechesis” (25 June 2020; the document bears the date 23 March 2020); the presentation of the Pontifical Council for Promoting Christian Unity’s document entitled “The Bishop and Christian Unity. An Ecumenical Vademecum” (4 December 2020; the document bears the date 5 June 2020); the announcement following the 34th session of the Council of Cardinals (meeting via internet on 13 October 2020) that the draft of an Apostolic Constitution on the Roman Curia was in the hands of the competent dicasteries; a Note from the Apostolic Penitentiary on the sacrament of reconciliation in the current pandemic (20 March 2020); and a decree from the Apostolic Penitentiary granting indulgences on the occasion of the Year of St Joseph proclaimed by Pope Francis.

The following section of the review is dedicated to the diplomatic activity of the Holy See during 2020, including the entry into force of Accords with the Congo and Burkina Faso; the ratification by the Holy See of the Kigali Amendment to the Montreal Protocol on the consumption and production of hydrofluorocarbons; an Accord with Austria on patrimonial relations between Austria and the Holy See; and the extension of a provisional Accord with China. At the end of 2020 the Holy See had diplomatic relations with 183 countries, in addition to the European Union and the Sovereign Military Order of Malta.

Details are also provided of documentation and activity of the Spanish Episcopal Conference in 2020.

Ecclesiology

IC 61/121 (2021), 9-41: Geraldina Boni: Algunas reflexiones sobre el anhelo y laborioso connubio entre la ciencia canónica y la ciencia teológica. (Article)

The context of this article is the “multidisciplinary discussions in canon law” promoted by *Ius Canonicum*. B. proposes an epistemological renewal aimed at developing an “interdisciplinary canon law” through the fruitful re-establishment of relationships between canon lawyers and theologians, as well as with specialists in other academic areas, and with scholars in civil

law. However, she also highlights some risks which should not be underestimated. What emerges is the need for law and canonical science to acquire their own mature identity, as well as an awareness of their own irreplaceable role in today's Church, overcoming the current "crisis" and regaining confidence, credibility, and authority.

IC 61/121 (2021), 43-62: Francisco Cuenca Boy: La relación entre la teología y el derecho canónico. Un apunte histórico. (Article)

C. B. contributes to the "multidisciplinary discussions in canon law" project, from the field of the history of law. On the relationship between theology and canon law, he sets out the position of the late medieval canonists who were the first to frame the problem as such. He summarizes the ideas of various theologian-jurists of the School of Salamanca, before explaining in broader detail the thought of Melchor Cano, a master of that School who addressed the issue in depth. He then does likewise with Francisco Suárez.

ITQ 86 (2021), 21-38: Peter John McGregor: Synodality and the Australian Plenary Council: Listening to and Looking at those who are Living in the Spirit. (Article)

See below, canons 439-446.

Ius Comm IX (2021), 27-45: Antonio M^a Rouco Varela: Carismas institucionales y personales. (Article)

In contrast to a vision of a strictly and purely charismatic Church that leads to opposition between charism and institution, and between canon law and the being of the Church (R. Sohm, 1892), the Second Vatican Council in *Lumen gentium*, no. 8, spoke of the unity of these elements, similar to the unity existing in the Incarnate Word. Thus, as People of God and Body of Christ, the Church is configured kerygmatically and sacramentally around the ministry of the successor of Peter and the successors of the apostles who direct and shepherd her. Hence the Church is truly the creature of the Spirit, but is also the Body of Christ, so that the Church is configured charismatically and sacramentally in simultaneity and proportion; it is at the same time the Church of the Spirit and the Church of the Word and Sacrament. The criterion of the authenticity of the Word and Sacrament in the Church is given by the principle of apostolic succession. This

kerygmatic–sacramental structure finds its best definition in the category of *communio*.

J 77 (2021), 3-23: Christophe Pierre: Synodality and Pope Francis: The Church that Walks Together. (Lecture)

The Apostolic Nuncio of the United States explains that the Church is called to live the faith in a synodal way by journeying toward Christ together through time and circumstances, with the goal of evangelization. Pope Francis has repeatedly emphasized synodality understood as believers listening to one other and to the Holy Spirit in all dimensions of ecclesial life, always *cum Petro* and *sub Petro*. The Church's synodality has Trinitarian, Christological, and pneumatological–Mariological foundations. Its practice involves a spirituality of discernment expressed in the postures of recognizing, interpreting, and choosing. In the discipline of the Church, it is carried out through co-responsibility at the universal and intermediate levels and especially at the local level of the diocese and of the parish.

J 77 (2021), 25-47: John P. Beal: Synodality and Pope Francis: There Are More Things in Heaven and Earth Than Are Dealt with in Your Code: The Relevance of Social Science for Canon Law. (Lecture)

As the careers of Stephan Kuttner and James Provost demonstrate, history and social sciences are valuable tools for interpreting and evaluating canon law. Historians can identify three phases in the evolution of structures of diocesan governance in the United States. In each of these phases, the Church has adopted and adapted the prevailing organizational models used by business enterprises. B. argues that social science analysis of these business models can diagnose weaknesses and problems in current models of organization that contribute to institutional dysfunctions and sometimes paralysis.

QDE 34 (2021), 136-160: Eugenio Zanetti: Sinodalità e altri dimensioni ecclesiali: distinzioni e relazioni. (Article)

See below, canon 342.

Family issues

IM 30 (2019), nr. 2, 29-47: Zbigniew Janczewski: Prawo o sakramentach wtajemniczenia chrześcijańskiego jako imperatyw budujący *communio familiaris*. (Canon law regarding the sacraments of Christian initiation as an imperative to build family communion). (Article)

See below, canons 849-878.

Law reform

FThC IX (2020), 243-260: Juan Ignacio Arrieta: Modifiche e aggiornamenti del testo del Codice del 1983 durante il pontificato di Papa Francesco. (Article)

A. looks at the changes introduced during the pontificate of Pope Francis to the text of the CIC/83, specifically: 1. the motu proprio *Mitis Iudex Dominus Iesus*, 15 August 2015, and subsequent clarifications, which affect the canons dealing with matrimonial processes (canons 1671-1691) as well as canon 1421 §2 (the diocesan bishop, instead of the episcopal conference, can now decide concerning the appointment of lay judges); canon 1423 §1 (the approval of the Apostolic Signatura is not now needed for establishing an interdiocesan tribunal within an ecclesiastical province; also a diocesan bishop can withdraw from an interdiocesan tribunal even if was not established on the initiative of the bishops but of the Holy See); and canons 1425 §1 1°, 1425 §4, and 1639 §1 (where the cross-references in the current wording of the Code need to be amended to fit the numbering of the revised canons 1671-1691); 2. the motu proprio *De concordia inter Codices*, 31 May 2016, whereby ten canons of the CIC/83 (canons 111, 112, 535, 868, 1108, 1109, 1111, 1112, 1116, and 1127) were amended to harmonize them with the CCEO; 3. the motu proprio *Magnum principium*, 3 September 2017, which modified canon 838, with the result that while adaptations to liturgical texts approved by the episcopal conference require the *recognitio* of the Holy See, responsibility for translations of liturgical texts falls on the episcopal conference itself, and the competent Roman dicastery limits itself to granting confirmation only; 4. the motu proprio *Communis vita*, 19 March 2019, which amended canon 694 and introduced *ipso facto* dismissal, subject to certain conditions, for a religious who is unlawfully absent from the religious house for 12 consecutive months; a small modification was also required to canon 729 relating to secular institutes, to which the new provision does not apply; 5. the motu proprio *Authenticum charismatis*, 1

General Subjects (Law reform)

November 2020, affecting canon 579, and making it a condition of validity for the erection of a diocesan institute of consecrated life that the prior permission of the Apostolic See be obtained; 6. the motu proprio *Spiritus Domini*, 10 January 2021, affecting canon 230 §1 and removing the limitation of the ministries of lector and acolyte to men only. A. also refers to three other documents that have introduced changes while not altering the text of the CIC/83: the Apostolic Constitution *Episcopalis communio*, 15 September 2018, allowing synodal assemblies different from those foreseen in canons 342-348; an authentic response of the Pontifical Council for Legislative Texts of 31 May 2016 confirming that non-Catholics are included in the irregularities in canon 1041 4°-5°; and the motu proprio *Nel corso dei secoli* of 21 December 2019, whereby the Pope declared that the Dean of the College of Cardinals, while continuing to be chosen in the manner established in canon 352 §2, will henceforth remain in his post not for life but for a renewable five-year term.

FThC IX (2020), 261-317: Manuel Saturino da Costa Gomes: Le norme extra-codiciali di Papa Francesco afferenti alle tematiche dei libri VI e VII del CIC 1983. (Article)

This article [which pre-dates the motu proprio *Pascite gregem Dei* of 23 May 2021 introducing the new Book VI] focuses on norms issued by Pope Francis in relation to Books VI and VII of the Code. In relation to sanctions in the Church, it first examines legislation for the whole Church, especially concerning the *delicta graviora*, before turning to penal norms for the Vatican City State. In relation to processes it highlights *Mitis Iudex Dominus Iesus* and *Mitis et misericors Iesus*, and explains in detail the guiding principles behind the new process for marriage nullity cases.

FThC IX (2020), 319-332: Szabolcs Anzelm Szuromi: Pastoral legislation of Pope Francis: New norms on teaching and sanctifying mission since 2013. (Article)

S. gives an overview of the legislative innovations under Pope Francis that affect Books III and IV of the CIC/83 (excluding marriage). The themes covered include Catholic education and ecclesiastical universities and faculties; inter-Church questions of baptism; the Holy Eucharist; the ongoing formation of confessors; liturgical texts, acts, and feasts; ecclesiastical burial; supervision of shrines; and the cessation of the Pontifical Commission *Ecclesia Dei*.

IC 61/121 (2021), 65-98: William L. Daniel: La normalización del proceso penal extrajudicial (c. 1720). Análisis, crítica, propuestas. (Article)

See below, canon 1720.

Legal theory

EIC 61 (2021), 265-278: Marco Cossutta: Autorità e Autonomia: note intorno ad un'apparente opposizione. (Article)

C. explores the relationship between two apparently antithetical concepts: authority and autonomy. A philological analysis of the terms reveals that such an antithesis is false. In fact it is authoritativeness that allows autonomy to unfold.

RGDCDEE 55 (2021): Juan Goti Ordeñana: Aportación del derecho canónico a la ciencia del derecho. (Article)

G.O. reflects on the history of canon law, from the time of its birth at the University of Bologna in the 12th century. It was able to initiate a new law in contrast to the formalism of Roman law, by systematizing the principles of Christian doctrine – the dignity of the person, equality, and freedom – thus broadening the field of law, while at the same time creating criminal, procedural, and matrimonial law, and laying the foundations on which European law has developed up to the present day. This line of law was further developed by the School of Salamanca: Vitoria and his disciples, who, on studying the problems caused by the discovery of America, were able to provide solutions to matters corresponding to political, international, and commercial law, thus laying the foundations of the new society. These principles were opposed by the Enlightened Despotism, but were restored by the French Revolution, which appropriated them without citing their origin; and they have been present in political life up to the present day. Thus canon law, forgotten in Spanish university teaching, is at the root of today's legal studies.

RMDC 26/1 (2020), 39-73: Rogelio Ayala Partida: Actos jurídicos y negocios jurídicos: su comprensión a partir del Derecho Romano. (Article)

See below, canon 124.

RTL 52 (2021), 257-272: Alphonse Borrás: Note de lecture. La nature du droit canonique. À propos d'un livre récent. (Bibliographical review)

B. reviews *La nature du droit canonique. Essai de théorie et de théologie du droit* by Jean-Marc Bahans (Toulouse, 2019), which consists of three parts: 1. a discussion of the “schools” of canon law; 2. an examination of what the Word of God, as clarified by the Church’s Magisterium, teaches us on the matter; and 3. an attempt to redefine the nature of canon law, taking as the central object of canon law the ecclesial juridical act – the just act in the Church – the evaluation of which is carried out in the external forum, according to the objective order of justice in the Church. The reviewer considers that the book starts from a general theory of law to arrive at a theology of law *in* the Church, rather than a law *of* the Church. Nevertheless the book is of value for its reflections on the juridical act as the object of law and for the wealth of doctrinal references it offers on the history of ideas and the theory of law.

Relations between Church and State

AnC 16 (2020) 2, 37-44: Piotr Kroczyk: Pracownik organu nadrzędnego parafii katolickiej jako jej pełnomocnik procesowy (*Employee of the superior authority of the Catholic parish as its court representative*). (Article)

K. demonstrates that in civil legal cases in Poland, in which a legal person may be represented by an employee of its superior authority, in the case of a parish such superior authority is not the diocesan curia or the diocese itself, but only the diocesan bishop. Consequently, only a person employed by the diocesan bishop can represent the parish before the ordinary courts.

AnC 17 (2021) 1, 39-56: Aleksandra Nieczarowska: Wolontariat jako forma zatrudnienia przez parafie na przykładzie muzyka kościelnego

(Volunteering as a form of employment by parishes, using the example of church musicians). (Article)

N. assesses the practice of Catholic parishes in Poland of employing volunteers as church musicians (organists), concluding that such employment by parishes to carry out regular work in the parish church as organists must be regarded as contrary to the provisions of generally applicable national law and the norms of canon law.

AnC 17 (2021) 1, 57-73: Dariusz Walencik: Legitymacja czynna domu zakonnego Ojców Augustianów w Krakowie w postępowaniu regulacyjnym (*The standing [locus standi] of the monastery of Augustinian Fathers in Krakow in regulatory proceedings*). (Article)

W. examines the issues involved in the reclaiming by the Augustinian Fathers in Krakow of a property nationalized by the State authorities in 1950.

CLSN 199/21, 78-83: William Richardson: Distributing Holy Communion Outside Mass: Is It a Criminal Offence in Ireland in 2021? (Article)

R. clarifies some misconceptions and inconsistencies concerning the application of government regulations in Ireland for the suppression of Covid-19, insofar as these relate to religious services.

ELJ 23 (2021), 127-139: Rowan Williams: ‘Saving Our Order’: Becket and the Law. (Lecture)

The conflict between Henry II and Thomas Becket was often seen in the past as a collision between the first stirrings of real legal universalism (the same law for all) and claims to exemptions and immunities. Recent scholarship has seriously qualified this picture, recognizing the degree to which Henry sought an unfettered authority for the Crown, overriding traditional patterns of obligation and mutuality. Becket’s resistance to this was intelligible, but he was increasingly driven to oppose to it a controversial account of clerical immunity, in which the person of the cleric was sacrosanct and all punishment meted out to the cleric must be essentially reformatory in purpose. W. explores the origins of this, and

discusses contemporary implications in regard to conscientious religious liberties and also to persisting high-risk cultures of clerical immunity.

FCan XV/2 (2020), 133-144: Paul R. Gallagher: Construir juntos a Europa. 50 anos da Santa Sé no Conselho da Europa. (Lecture)

G., Secretary for Relations with States within the Holy See's Secretariat of State, speaks at the opening of the *Building Europe Together* conference at the University of Strasbourg in January 2020, to mark 50 years of the Holy See's presence at the Council of Europe. He sets out some ideas for a project of European construction which are not only valid for Catholics or Christians in general, but which can constitute elements of reflection for any person of goodwill.

IC 61/121 (2021), 417-430: Pilar Solá Granell: Contratación pública en el derecho canónico. Algunas consideraciones acerca del *Motu Proprio* de 19 de mayo de 2020, sobre transparencia, control y competencia en la adjudicación de contratos públicos de la Santa Sede y del Estado de la Ciudad del Vaticano. (Comment)

S.G. comments on the *motu proprio* of 19 May 2020 concerning transparency, oversight, and the awarding of public contracts of the Holy See and the Vatican City State (see *Canon Law Abstracts*, no. 126, pp. 14-16, 20). She looks at the aspects of integrity and efficiency in public procurement; public procurement in Church law; and the main measures adopted by the *motu proprio*.

RMDC 26/1 (2020), 128-131: PP. Francisco: Carta Apostólica en forma de «*Motu Proprio*». Sobre la transparencia, el control y la competencia en los procedimientos de adjudicación de los contratos públicos de la Santa Sede y del Estado de la Ciudad del Vaticano, del 19 de mayo de 2020. (Document)

Spanish text of the *motu proprio* referred to in the previous entry.

IE XXXIII (2021), 275-305: Cour d'appel d'Amsterdam: Arrêt de la chambre civile multiple du 30 juin 2020, N. de liste des affaires du Tribunal d'Amsterdam: C/13/631678 / HA ZA 17-673, (Diocèse de Haarlem–Amsterdam contre la Fondation catholique romaine)

Maagdenhuis), con un commento di Jean-Pierre Schoupe, *La reconnaissance de la nature ecclésiastique d'une fondation catholique dans le diocèse de Haarlem (Amsterdam). L'affaire Stichting Het Roomsch Catholijk Maagdenhuis.* (Civil sentence and comment)

See below, canon 179.

RMDC 26/1 (2020), 75-115: Antonio Verdín Delgado – Luis de Jesús Hernández Mercado: *Las garantías sociales de los trabajadores en la Iglesia Católica. A la luz de la Doctrina Social de la Iglesia y de los Principios del Sistema Jurídico Mexicano.* (Article)

The authors explore the principles of the social doctrine of the Church and those of the legal system of the Mexican State insofar as they deal with the topic of work.

RMDC 26/2 (2020), 321-420: Antonio Verdín Delgado – Luis de Jesús Hernández Mercado: *Las leyes laborales aplicables en México que tutelan los derechos de los fieles que trabajan en instituciones de la Iglesia católica.* (Article)

The authors look at the relevant canonical provisions relating to employment in institutions of the Catholic Church, and point out criteria for applying both the principles of the social doctrine of the Church and the principles of the Mexican legal system that deal with the rights of workers.

Religious freedom

EIC 61 (2021), 135-165: Rita Benigni: *Libertà di educazione e pluralismo scolastico nel diritto internazionale. Il ruolo prevalente dello Stato e degli obiettivi sociali nell'azione e nella giurisprudenza Onu e delle Istituzioni europee.* (Article)

In the law of the United Nations, the Council of Europe, and the European Union, educational freedom and private schooling are being brought more and more under strict State control. B. analyses the increasingly dominant role of the State in connection with lifelong learning objectives and in response to the risks of the commodification of education and the formation of separate societies linked to growing ethnic-religious pluralism. She points

out the risk of emptying out educational freedom and school pluralism, and the negative repercussions on religious freedom.

IC 61/121 (2021), 199-243: Manuel Ganarin: Especificidad y potencialidad del derecho canónico durante la crisis epidémica en Italia. (Article)

G. examines the response of the Church in Italy (Holy See, Italian Episcopal Conference, regional episcopal conferences, diocesan bishops) to decrees issued by the President of the Council of Ministers to combat and contain the spread of Covid-19, seeking solutions that would avoid gatherings while also ensuring full freedom to enact the salvific mission of the Church, which is expressed above all in the liturgy and the sacraments.

IC 61/121 (2021), 331-366: Elena García – Antón Palacios: Lo espiritual y lo religioso en los planes de estudio de Estados Unidos a la luz de la Primera Enmienda constitucional. (Article)

This article provides a legal analysis of the protection of religious freedom and the right of parents to ensure their children are educated in accordance with their religious and moral beliefs in the US education system. The context is the possibility that students at public schools might take yoga and meditation or mindfulness classes as part of the curriculum, which, depending on how they are taught, could involve some form of indoctrination and, consequently, be contrary to the principle of State neutrality or separation of Church and State, as set out in the First Amendment of the US Constitution.

IE XXXIII (2021), 89-116: Daniela Milani: Covid-19 e libertà religiosa in Italia: lo spirito di resilienza dello Stato e della Chiesa davanti alla sfida della pandemia. (Article)

M. analyses the measures affecting the exercise of religious freedom in Italy during 2020 as a result of the Covid-19 pandemic; the legal issues that arise; and the way in which the ecclesiastical authority has reacted with a spirit of collaboration and sense of responsibility.

IE XXXIII (2021), 117-141: Stefan Mückl: Libertà religiosa in tempo di pandemia di Covid-19. La situazione in Germania. (Article)

After a summary description of the constitutional framework and options for action under German civil legislation, M. analyses – from the perspective of their impact on religious freedom – the measures taken by the State and Church authorities to contain the coronavirus pandemic. Three decisions of the Federal Constitutional Court emphasizing the high value of religious freedom deserve special attention. From a broader perspective, the reactions to the challenge of this pandemic reflect the significance of religion and free practice in a secularized society. (See also *Canon Law Abstracts*, no. 126, p. 26.)

IE XXXIII (2021), 143-183: José Ignacio Rubio López: Culto religioso y Estado de Derecho en tiempos de pandemia: España y Estados Unidos. (Article)

As in other countries, the governments of Spain and the United States limited the right of citizens to attend places of worship as a result of Covid-19. They did so for public health reasons, but without always respecting other fundamental rights that were unilaterally restricted and without the proportionality required in a State governed by the rule of law. In certain cases, religious activities, considered non-essential services, received worse treatment than secular activities at similar or even lower risk. Religious denominations and believers were substantially limited in the free exercise of their religion, without the government being able to prove the existence of a compelling State interest that would not be satisfied by other less restrictive means.

IE XXXIII (2021), 185-197: Emmanuel Tawil: Le libre exercice du culte en France durant les 11 premiers mois de l'épidémie de Covid-19 (14 mars 2020 – 15 février 2021). (Article)

T. analyses the measures restricting religious worship in France during the first 11 months of the Covid-19 epidemic, and also the appeals brought before the *Conseil d'État*, which has gradually adopted a more respectful approach to religious freedom, insisting on the need for consultation between the State and religions.

IE XXXIII (2021), 199-218: Antonio S. Sánchez-Gil: Per una cura pastorale integrale dei fedeli in caso di pandemia. Profili canonici e pastorali. (Article)

The Church, by virtue of the mission she has received from Christ, is responsible for the integral (material and spiritual) health of the person, and she must be able to exercise this mission even in the event of a pandemic, in collaboration with the State. The State itself is called upon to protect not only the material but also the spiritual health of all people, respecting their religious liberty. The pastors of the Church, in the exercise of their mission in the event of a pandemic, must be inspired by the primacy of the *salus animarum*, the necessary protection of the *salus corporum*, and a balanced appraisal of the goods at stake with *aequitas canonica*. Only the authorities of the Church – specifically the Apostolic See and the diocesan bishop – are competent to regulate pastoral care and the liturgy, in compliance with the legitimate provisions established by the State health authorities for such situations. In the event of a pandemic, the common law applies in cases of (serious) inconvenience, (grave) necessity, and (imminent) danger of death, but it is desirable that special rules be issued by the competent authorities.

Social issues

EIC 61 (2021), 167-203: Chiara Minelli: Cura del creato ed educazione dei giovani. L'eco del diritto canonico. (Article)

M. deals with the topics of the care of creation and the education of young people in today's situation, burdened as it is by the global impact of the health emergency and the consequent resurgence of several interlinked crises. In both respects, ecological and educational, there has been a serious breakdown of relational structures, and hence there is an urgent need to restore damaged relationships that underpin the workings of society. Significant in this regard is the epistemological contribution of law, which has undergone important developments on the environmental front at various different levels. Canon law has its own contribution to make here, and shows itself capable of sustaining the transcendent dimension inherent in the dignity of the human person.

FCan XV/2 (2020), 145-158: Miguel Falcão: Feminismo e ideologia do género. (Article)

F. summarizes the contributions of the various speakers at a meeting promoted by the Portuguese Association of Canonists in Fatima (2–5 September 2020), dedicated to the topic of gender ideology. He seeks to clarify what gender ideology is and its consequences for the family and society. In general, what stands out in this ideology is its absolute denial of the sexual difference between human persons, so that each person can assume the behaviour he or she wants at any time, not only in social life but in sexual life, to the point of desiring to change his or her body physically. Faced with such an approach which is clearly opposed to reality, and yet which has spread rapidly with the assistance of legislation, F. examines its origin. He is not content simply to attribute it to the new postmodern culture; rather, he sees the origin of gender ideology in the individualism that manifests itself in Western feminism, in conjunction with the LGBT sexual liberation movement.

Ius Comm IX (2021), 69-85: Juan José García Faílde: Argumentos de ética natural en contra de la legalización de la eutanasia y a favor del reconocimiento legal de la libertad de conciencia y de la objeción de conciencia. (Article)

With reference to the recent legalization of euthanasia in Spain, G.F. notes that conscientious objection to euthanasia is provided for in the case of doctors and health care providers, but nothing is said in the law concerning clinical or hospital centres.

HISTORICAL SUBJECTS

1st millennium

AnC 16 (2020) 2, 109-128: Marek Story: Sakrament chrztu w świetle średniowiecznych ksiąg pokutnych (*The sacrament of baptism in the light of the medieval penitential books*). (Article)

The penitential books, written in late Christian antiquity and the early Middle Ages, bear witness to the development of penitential practice in the Church. In the light of these books, S. highlights various improper practices connected with the sacrament of baptism, which resulted in the imposition of severe punishments on the guilty. Such penitential practices required adequate atonement which was often difficult to fulfil. The penitential books stipulated that the child should be baptized as soon as possible, especially if it was ill. Confessors were also instructed to verify in confession the time at which the parents brought the child to be baptized. The books discussed when baptism is validly conferred and when it is not, emphasizing that a baptism validly conferred cannot be repeated. In some of the penitential books, however, there is an erroneous understanding of the relationship between the moral life of the minister and the validity of the sacrament administered. There is also the question of who may act as godparent, as well as a discussion of the impediment of spiritual kinship arising out of the sacrament of baptism.

FThC IX (2020), 73-89: Péter Erdő: The origin and spread of parishes. Models of mission and local pastoral care in the first millennium. (Article)

E. investigates the birth and development of the parish during the first centuries and in the high medieval period. His analysis highlights the fundamental role of this institution in the work of evangelization and in the development of Christian communities.

FThC IX (2020), 147-161: Szabolcs Anzelm Szuromi: The early councils and their effect on liturgy, according to the canonical collections up to the *Decretum Gratiani*. (Article)

S. looks at the liturgical content and influence of several early conciliar texts, summarizing the conciliar regulations on sacrifice and rite in councils between the second and sixth centuries, especially those of Elvira (first quarter of the fourth century), Arles (314 AD), Ancyra (314 AD), Neo-Caesarea (314-319 AD), Nicaea I (325 AD), Antioch (341 AD), Gangra (c. 340), Serdica (342-343) Laodicea (second half of the fourth century), and Chalcedon (451). He then identifies those conciliar canons which became part of the systematic collections up to the *Decretum Gratiani*.

FThC IX (2020), 177-240: José Miguel Viejo-Ximénez: La antigüedad del manuscrito *Sg* a la luz de las glosas y las adiciones marginales de los *Exserpta Sanctorum Patrum*. (Article)

A little over 20 years ago, Carlos Larráinzar published a study on the *Exserpta ex decretis Sanctorum Patrum* contained in the Sankt Gallen Stiftsbibliothek MS 673 (“Sg”) (*El borrador de la «Concordia» de Graciano: Sankt Gallen, Stiftsbibliothek MS 673 (=Sg)*, in *Ius Ecclesiae* XI 3/99, 593-666: see *Canon Law Abstracts*, no. 85, p. 10), in which he identified over 200 glosses, which he described as repetitions of words, doctrinal commentaries, or references to parallel and contrary places. He also identified three moments in the confection of these marginal additions and glosses: one contemporary to the copy of Sg, predating the existence of the *Concordia discordantium canonum* (CDC), one subsequent to the distribution of the CDC, and one subsequent to the other two. Various studies have been carried out on the marginal additions and glosses on the first part of Sg since that time, which V.-X. presents here. (See also *Canon Law Abstracts*, no. 126, p. 28.)

S 83 (2021), 309-328: Andreas von Teuber Corradi – Miran Sajovic: Dos aspectos jurídicos en la *Vita Malchi* de san Jerónimo. (Article)

The two authors wrote different parts of this article. In the first part, S. traces out a possible learning path (*iter*) for St Jerome, suggesting that he may have been instructed by the “three teachers” of Roman antiquity: the *ludi magister*, the *grammaticus*, and the *rhetor*. From Jerome’s own testimony it seems that he perfected his schooling by means of travelling, attending lessons of renowned masters such as Didymus the Blind, and extensive

Historical Subjects (1st millennium / Classical period)

personal reading. S. concludes with a brief presentation of *Vita Malchi*, a short work by Jerome. T.C. then carefully scrutinizes two juridical elements which are implicitly mentioned by Jerome in the work: – the *postliminium* or recovery of rights and privileges on the part of a banished person, including inheritance rights; and the *ius connubii* or bond between the kidnapped monk and the captive woman, already married but violently separated from her husband and handed over to Malco as a trophy. T.C.’s analysis helps give an idea of the vast learning of Jerome, extending also to juridical matters.

Classical period

ELJ 23 (2021), 127-139: Rowan Williams: ‘Saving Our Order’: Becket and the Law. (Lecture)

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

IE XXXIII (2021), 219-240: Justin M. Anderson – Jörgen Vijgen: Thomas Aquinas and Medieval Canon Law: Two Cases of Gratian’s Influence in the *Summa Theologiae*. (Article)

A. and V. argue that Thomas Aquinas’s interaction with Gratian’s *Decretum* constitutes a provocative yet relatively unexplored avenue of study. As a sample of this thesis, they analyse two passages where Aquinas refers to Gratian directly and the juridical tradition indirectly. The first passage pertains to Aquinas’s interpretation of Gratian’s definition of natural law in the *Prima Secundae* of the *Summa Theologiae*, but leads the authors to move to other places in Thomas’s tract on the virtue of justice and his commentary on Peter Lombard’s *Sententiae*. The second example is found in Aquinas’s tract on the sacrament of penance, in the closing pages of the *Summa*. Both instances provide brief glimpses into a vastly larger intellectual domain awaiting exploration.

RDC 71/1 (2021), 7-19: Christine Barralis – Rowan Dorin: Diffusion des normes dans l’Église. Les législations ecclésiastiques locales (1215-1500). (Conference presentation)

B. and D. offer an overview of the major conceptual frameworks and historiographical developments in the study of local ecclesiastical legislation

between the 13th and 15th centuries. A close examination of these sources raises the question of the limits of papal centralization in the wake of the Gregorian reform movement, the persistence of local identities and variations within the broader Church community, and the dynamics of local ecclesiastical power. Yet the difficulties of accessing these sources (which are widely scattered and often still unpublished) have posed hurdles for such research, hindering in particular comparative and large-scale analyses. Two areas of inquiry have been of notable interest to scholars: the impact of model texts (especially during the 13th century), and the relationship between this local legislation and the general law of the Church. In both of these areas, much remains to be explored.

RDC 71/1 (2021), 21-38: Véronique Beulande-Barraud: Le synodal de Reims en sa province (des statuts de Guiard de Laon au synodale de Guillaume de Trie). (Conference presentation)

The oldest synodal statutes preserved for the diocese of Reims date from 1330. They were written later than those of several other dioceses within the ecclesiastical province of Reims, and although they are not particularly original, their organization and content differ from these neighbouring examples in several respects. The Reims statutes seem to be both anchored in the tradition of statutes as instruments for defending the jurisdiction of the archbishop, and oriented towards a pastoral discourse that emerged in this genre in the 14th and 15th centuries.

RDC 71/1 (2021), 39-66: Élisabeth Lusset: Les statuts synodaux bilingues du diocèse de Troyes (14^e-15^e siècle). (Conference presentation)

In May 1374, Jean Braque, bishop of Troyes, issued a compilation of earlier diocesan statutes from the 13th and 14th centuries. The originality of the surviving text lies in its precocious bilingualism. After an overview of previous scholarship and a comparison of the manuscripts that preserve this compilation, L. examines how the translation from Latin to French transformed the content of the statutes and how this translation was written to familiarize the local clergy and faithful with Church law. L. argues that the bilingual version of the compilation was not produced in 1374, but rather in the first half of the 15th century, under Bishop Jean Léguisé (1426-1450).

RDC 71/1 (2021), 67-108: Laurent Guitton: Circulations, créations et instrumentalisations des normes dans les législations épiscopales en Bretagne (13^e-début du 16^e siècle). (Conference presentation)

The systematic study of the 116 extant Breton synodal statutes, promulgated over more than two centuries for seven of the duchy's nine dioceses, confirms the well-known phenomenon of the reproduction of texts issued by the superior authorities – provincial and general councils – in local legislation, while also demonstrating the weight of the internal legislative tradition within each diocese. The legislative process also innovates, in adapting the norms of the synodal statutes to developments in civil society. The most noteworthy aspect of these synodal sources, however, lies in their deployment (one might even say instrumentalization) during situations of crisis between the bishop and his chapter, in order to resolve internal tensions within the Church.

RDC 71/1 (2021), 109-138: Carole Avignon: Fiançailles, juridictions et disciplines synodales. Ambiguïtés d'une norme et discontinuités de sa diffusion (13^e-15^e siècle). (Conference presentation)

A. marshals the documentary resources of the *Corpus Synodaliium* database to study how medieval synodal statutes handle the concept of “betrothal”. She focuses in particular on the specific regulations that these statutes develop for the laity, and to what extent they transmit, accentuate, or attempt to resolve the ambiguities of the Church's general law and medieval doctrine in respect of *sponsalia*, especially regarding publicity and the varying relationship with *matrimonium*. A typological approach to canonical betrothal as it is presented in the synodal texts raises the issue of the autonomy of the bishop's law within his diocese. Through the complexity of its doctrinal elaboration, the theme of betrothal reveals the diversity of local legislative initiatives circulating different norms and vocabularies, and sheds light on the normative interactions between canonical doctrine, decretals, and the disciplinary priorities of bishops with regard to the instruction of the faithful.

RDC 71/1 (2021), 139-174: Arnaud Fossier: Confession et absolution dans les statuts synodaux italiens (13^e-15^e siècle). (Conference presentation)

F. examines the “pastoral revolution” that resulted from the annual confession of sins as mandated in the famous canon 21 (*Omnnes utriusque*

sexus) of the Fourth Lateran Council. His focus here is on late medieval Italian synodal statutes, which remain much less well studied than their French and English equivalents. Their chapters on confession and penance, as well as the lists of cases reserved to the bishop, reveal the strong jurisdictional tensions concerning confession that arose after 1215. It is likely that in Italy, as elsewhere, the main threat to the bishops stemmed from the activity of priests in the “penitential forum”, and more precisely the increased priestly capacity to absolve a potentially unlimited number of sins. While the origins and dissemination of these lists of “serious”, “major”, or “scandalous” sins are often difficult to reconstruct precisely, the lists provide valuable evidence regarding synodal normativity (which has too often been reduced to the enforcement of the great councils held under papal leadership), the relative autonomy of synodal statutes, and the legal creativity of the issuing prelates.

RDC 71/1 (2021), 175-206: Fabrizio Pagnoni: Coutume, droit canonique, pouvoir épiscopal. La diffusion des normes relatives aux dîmes dans les législations synodales (Italie du Nord, 13^e-14^e siècle). (Conference presentation)

P. focuses on the diffusion of norms concerning episcopal control over tithes within synodal constitutions issued in late medieval Northern Italy. These norms appeared between the 13th and 14th centuries, probably as a result of the insistence of canon law and decretals on this point. P. focuses on the extent to which the “transfer” of legislation from the papal “centre” to the periphery was accompanied by other dynamics, such as the transfer of models from one diocese to another or the survival of local customs. He pays particular attention to the political and institutional role of these norms, whether in preserving the *libertas ecclesiae* or reinforcing the local spiritual and political authority of the bishop.

16th-19th centuries

ADC 10 (abril 2021), 131-175: José Antonio Calvo Gómez: El proceso remisorial apostólico para la canonización de Fernando III, El Santo (1201-1252). (Article)

C.G. examines some aspects of the process during the 17th century of the canonization of Ferdinand III, known as the Saint (1201-1252). Pope Urban VIII, by means of the apostolic letter *Caelestis Hierusalem cives* of 5 July

1634, gave the Sacred Congregation of Rites, established in 1588, a precise itinerary to reach the truth about the destiny of the just. This legislation made it necessary to draw up a new testimonial examination of the reputation of holiness of Ferdinand and of the miracles attributed to his intercession, a period of three years being granted to complete this process. After several extensions of this time limit, the entire transcript was sent to the Apostolic See. After a certain *sanatio in radice*, it was possible to achieve closure of the process which had been initiated in 1624, with the solemn canonization of the Castilian and Leonese monarch in 1671.

IC 61/121 (2021), 367-413: Álvaro Fernández de Córdoba: «Elegir obispos que parezcan bien a Dios y al mundo». Patronato regio y elecciones episcopales durante el viaje de Fernando el Católico a Italia (1506-1507). (Article)

F. analyses the episcopal vacancies and appointments in Castile between the death of Philip the Fair in September 1506 and the return of Ferdinand the Catholic from Naples in August 1507. During that year, the Royal Council and the Aragonese monarch took measures to defend the royal patronage in the face of Queen Joanna's refusal to fill the vacant sees, which were disputed by nobles, clergymen and courtiers, while Pope Julius II claimed the right to appoint replacements for those who had died *in Curia*. Making use of new documentation, F. sheds light on this unique situation in the Castilian Church, which Ferdinand needed to resolve in order to resume his governance, together with the help of Archbishop Cisneros, who was in favour of electing bishops "who seemed good to God and the world".

1917 Code

FCan XV/2 (2020), 39-56: Dominique Le Tourneau: Le statut de la femme dans les codifications de 1917 et de 1983. (Article)

See below, canon 208.

20th century

EIC 61 (2021), 205-233: Bruno Fabio Pighin: Cina: il 1° istituto religioso clericale indigeno fondato nel 1927 nel solco dell’“inculturazione” cristiana. (Article)

The process of the “*plantatio Ecclesiae*” with indigenous clergy and the “inculturation” of Christianity in China, promoted by the Apostolic Letter *Maximum illud* of 1919 and launched by the arrival in China of the first apostolic delegate, Mgr Celso Costantini, led to an important event in 1927 with the founding of the first indigenous clerical religious institute, the *Congregatio Discipulorum Domini* (CDD). This foundation was not well accepted by European clerical missionary institutes operating in China, but was seen by the Holy See as a model for similar initiatives in other countries and continents, because up to that point it was the only one of its kind outside Western culture and the territory of the Eastern Churches. The experiment was a success, but was almost entirely wiped from history by the Maoist revolution. P. attempts to reconstruct the different phases of life of the CDD, which continues to flourish to this day, from its conception until the time when it was given its definitive constitutions in 1939.

IM 30 (2019), nr. 3, 125-138: Ginter Dzierżon: Dorobek kanonistyki uprawianej na Katolickim Uniwersytecie Lubelskim w przedmiocie materialnego prawa małżeńskiego w okresie międzywojnia (1918-1939) (*Canon law studies at the Catholic University of Lublin in the field of substantive matrimonial law during the inter-war period, 1918-1939*). (Article)

In this analysis of canonical matrimonial studies at the Catholic University of Lublin between 1918 and 1939, D. demonstrates that scholars categorically opposed the governmental lay reform project of personal marital law, defending Catholic marriage teaching, and taking up subject matter which in those times was thoroughly innovative.

Second Vatican Council and revision of the CIC and CCEO

ADC 10 (abril 2021), 93-130: Juan Damián Gandía Barber: El proceso de codificación del canon 1186. (Article)

See below, canon 1186.

Ap XCII (2019), 447-500: Dario Vitali: Chiese e Vescovi nel Vaticano II. (Article)

See below, canon 369.

HPR May 2021: Charles Fox: What Direction Does the Church Give to Homilists? (Article)

See below, canons 767-769.

RGDCDEE 55 (2021): Rafael Domingo: Juan Pablo II y el Derecho. (Article)

D. examines John Paul II's contribution to the law as a statesman, world leader, and universal pastor of the Roman Catholic Church. His approach to the law was shaped by the stark realities of having suffered at first hand the injustice of two totalitarian regimes and the cruelties of the Second World War. An ardent defender of human rights, especially the rights to life and religious liberty, John Paul II saw in the dignity of man and in human solidarity the two great levers for furthering the development of legal systems. D. goes on to explore John Paul II's invaluable role in updating and reforming the Church's canon law. He had a singular role in promulgating the Code of Canon Law of 1983, the Code of Canons of the Eastern Churches of 1990, and the Apostolic Constitution *Pastor Bonus* of 1988 on reforming the organization and government of the Roman Curia. For these and other relevant legal contributions, John Paul II well deserves the title of jurist.

Kevin Otiendo Mwandha (ed.): *De potestate regiminis. Il ruolo della donna nella Chiesa oggi.* (Book)

See below, canon 129 (especially the article by Kevin Otiendo Mwandha).

CODE OF CANONS OF THE EASTERN CHURCHES

General

IusM XV/2021, 149-162: Lorenzo Lorusso: La giurisdizione dei Patriarchi sulla Penisola Arabica. (Article)

A rescriptum ex audientia Ss.mi of 6 August 2020 restored the jurisdiction of the Catholic Oriental Patriarchs in the Arabian Peninsula, but subject to certain conditions. Unfortunately, the issue of the pastoral care of Syro-Malabar and Syro-Malankara Catholics – currently entrusted to the Latin Apostolic Vicar – still remains to be resolved. (See also *Canon Law Abstracts*, no. 126, pp. 39-40.)

CCEO 27-28

Ap XCII (2019), 385-446: Natale Loda: Le Strutture sovradiocesane in Oriente ed Occidente. (Article)

See below, CCEO canons 55-176.

CCEO 55-176

Ap XCII (2019), 385-446: Natale Loda: Le Strutture sovradiocesane in Oriente ed Occidente. (Article)

From the very beginning of the Church, there have been meetings of bishops, not only for reasons of pastoral action, doctrine, discipline, and communion, but also for organizational and structural purposes. In the Eastern Churches, true supra-episcopal structures developed through decisive synodal activity that favoured unity and *communio*, following the Eucharistic model. The relatively few supra-episcopal structures in the Latin Church developed the collegial element derived from Roman Law, with less consideration given to the synodal dimension. L. compares the simple supra-episcopal structures in the Latin Church with the structural complexity of the Eastern Churches, which operates through the synod of bishops of the patriarchal and major-archiepiscopal Churches permanent synods, patriarchal assemblies, and meetings of the various hierarchs of the ecclesiastical provinces under the care of a patriarch. The metropolitan provinces of the patriarchal and major-archiepiscopal Churches are also

constituted as mixed organizations in which synodal and collegial values alternate. L. also looks at the particular synods referred to in *Christus Dominus*, no. 36, with reference to the common or “joint” synod of the dioceses of the Federal Republic of Germany in February 1969, given the current relevance of the topic.

CCEO 89

Ius 11, No. 1 (2020), 113-128: Biju Varghese Perumayan: From Reservation to Vigilance: A Possible Step in Dealing with the *Delicta Graviora*. (Article)

The present legislation of the Holy See regarding the *delicta graviora* seems not to have taken sufficiently into consideration the three-tiered hierarchical structure of the Eastern Catholic Churches. The heads and synods of the Eastern Catholic Churches do not have any competence or role in dealing with such delicts committed by their clerics. Considering the present legislation as an instance of emergency and an extraordinary measure, this study discusses the possibility of assuming the patriarchal *ius vigilantiae* in CCEO canon 89 §1 as a principle of harmonious coordination of penal competence among the various hierarchical levels, instead of the present system of reservation. It is true that both systems – those of reservation and of vigilance – imply limits to the autonomy of the lower authorities. However, the system of vigilance seems to have certain advantages over that of reservation.

CCEO 193

Ius 11, No. 1 (2020), 35-67: Jobe Abbass: The Eastern Code Turns Thirty: Finding Its Place in the One *Corpus Iuris Canonici*. (Article)

See below, CCEO canon 678.

CCEO 322

Ap XCII (2019), 385-446: Natale Loda: Le Strutture sovradiocesane in Oriente ed Occidente. (Article)

See above, CCEO canons 55-176.

CCEO 394-398

Ius 11, No. 2 (2020), 165-186: Thomas Mathew Adoppillil: Procedural Norms for the Laicization of Clerics. (Article)

The sacrament of sacred ordination confers an indelible character. A man validly ordained cannot cease to be a cleric, but he can lose the clerical state. A. sets out and explains the various ways of losing the clerical state; treats the meaning of the law and the values underlying the canons (CIC canons 290-293 and CCEO canons 394-398); and investigates the practical implementation of these canonical procedures from the time of the promulgation of the Latin and Eastern Codes. “Laicization” can be defined as an act of the legitimate authority that takes away from a cleric the lawful use, except in emergencies, of the power of orders; deprives him of his rights, privileges, and clerical status; and renders him juridically equivalent to a lay person.

CCEO 435

CLSN 198/21, 77: Pope Francis: Apostolic Letter issued “motu proprio” *Ab initio*, 8 December 2020. (Document)

This text is given of the Pope’s motu proprio of 8 December 2020 adjusting the law in the CCEO in line with the provisions of the CIC/83 as amended by *Authenticum charismatis* (see below, CIC canon 579; see also *Canon Law Abstracts*, no. 126, pp. 41 and 66).

CCEO 435

FCan XV/2 (2020), 121-128: Papa Francisco: Motu proprio *Authenticum charismatis*; Motu proprio *Ab initio*; As Derrogações efetuadas pelo Papa Francisco nos cánn. 579 do CIC e 435, § 1 e 506, § 1 do CCEO. Comentário às Cartas Apostólicas Motu Proprio *Authenticum charismatis* e *Ab initio*. (Documents and comment)

See below, CIC canon 579.

CCEO 487-488

Ius 11, No. 2 (2020), 187-201: Rosmin Cheruvilparambil: Transfer between Religious Institutes: Requirements, Process and Effects. (Article)

To live the charism of a religious institute and to find meaning in it is not easy for all the members of the institute. Sometimes the religious may find difficulty in adapting to the charism and life style of the religious institute where they made their first commitment. Both Codes set out provisions enabling those concerned to overcome such situations. C. focuses on one of those provisions, concerning the transfer from one religious institute to another, explaining its requirements, process, and effects.

CCEO 497

Ius 11, No. 2 (2020), 219-237: Varghese Koluthara: *Communis Vita* and Oriental Religious Institutes. (Article and document)

Pope Francis, through his Apostolic Letter *Communis vita* of 19 March 2019, introduced some significant modifications to the CIC/83: in particular, to canon 694. Strictly speaking there remains a *lacuna* as regards the CCEO for handling difficult cases of finally professed religious who in an unauthorized and continuous manner are absent for more than one year from their religious community. Religious superiors of monasteries, orders, and congregations of the Oriental Churches need a parallel legal provision in the CCEO. (The English text of *Communis vita* is given on pp. 237-239.)

CCEO 497-503

Ius 11, No. 1 (2020), 69-83: Alisha Paul: Dismissal Procedure in Religious Institutes: A Comparison between CIC and CCEO. (Article)

Articles on the dismissal of religious are numerous, and therefore the procedure of dismissal is not a new theme. However, many superiors as well as the personnel who are responsible for carrying out this task are left with doubts concerning the procedure to be observed in dismissing religious, for which clarification is needed. P. examines the dismissal procedure from the viewpoint of administrative procedure, focusing in detail on the procedure for dismissal which is extrajudicial or administrative in nature. At the same time, she highlights the ways in which the rights of the religious as well as the common good are safeguarded, which is the ultimate aim of the disciplinary procedures in the Church.

CCEO 506

CLSN 198/21, 77: Pope Francis: Apostolic Letter issued “motu proprio” *Ab initio*, 8 December 2020. (Document)

See above, CCEO canon 435.

CCEO 506

FCan XV/2 (2020), 121-128: Papa Francisco: Motu proprio *Authenticum charismatis*; Motu proprio *Ab initio*; As Derrogações efetuadas pelo Papa Francisco nos cánn. 579 do CIC e 435, § 1 e 506, § 1 do CCEO. Comentário às Cartas Apostólicas Motu Proprio *Authenticum charismatis* e *Ab initio*. (Documents and comment)

See below, CIC canon 579.

CCEO 544-545

Ius 11, No. 2 (2020), 187-201: Rosmin Cheruvilparambil: Transfer between Religious Institutes: Requirements, Process and Effects. (Article)

See above, CCEO canons 487-488.

CCEO 551

Ius 11, No. 2 (2020), 219-237: Varghese Koluthara: *Communis Vita* and *Oriental Religious Institutes*. (Article and document)

See above, CCEO canon 497.

CCEO 551-553

Ius 11, No. 1 (2020), 69-83: Alisha Paul: *Dismissal Procedure in Religious Institutes: A Comparison between CIC and CCEO*. (Article)

See above, CCEO canons 497-503.

CCEO 678

Ius 11, No. 1 (2020), 35-67: Jobe Abbass: *The Eastern Code Turns Thirty: Finding Its Place in the One Corpus Iuris Canonici*. (Article)

30 years after the promulgation of the Eastern Code, canonical experts continue to define the interrelationship of the Eastern Code and the Latin Code together with *Pastor Bonus*. Given CCEO canon 1 and the Holy See's 2011 Explanatory Note regarding that canon, as well as Pope Francis's 2016 *De concordia inter Codices*, A. examines two Eastern norms (canons 678 §1 and 1102 §1) and their possible application to the Latin Church. He then looks at CCEO canon 193 §1 and the standard of care it establishes for a bishop entrusted with the care of faithful of another Church *sui iuris*. *De concordia inter Codices* has provided some clarity in the matter. Finally, A. examines the possibility of appeals from patriarchal tribunals to the Roman Rota. At issue is the significance of Eastern canon 1063 §3 in relation to *Pastor Bonus*, article 128, a question which still awaits a definitive response from the Holy See.

CCEO 854-860

Ius 11, No. 2 (2020), 203-218: Sebastian Payyappilly: *The Juridical Competence of the Catholic Church in Annuling the Marriage of the Unbaptized*. (Article)

The Catholic Church accepts the validity of the marriage of non-Catholics provided they are married according to the norms or customs of their own or of the place that do not go against the divine or natural law. The law applicable to the nullity procedure in the case of a marriage involving two

unbaptized persons is given in *Dignitas connubii*, which can be considered as a complementary source of interpretation of the Oriental Canons. Marriage nullity cases of the unbaptized are considered only when there is a necessity to prove the free state of a party before the Church.

CCEO 1055-1356

Ius 11, No. 1 (2020), 11-33: Varghese Palathingal: Court Procedures in the Eastern Churches Seventy Years after the Promulgation of *Sollicitudinem Nostram*. (Article)

The Eastern legislation *Sollicitudinem nostram* (SN) was the first common Code on procedural law of the Eastern Churches. Seven decades have elapsed since its promulgation. P. examines the canons of SN and evaluates how this Code influenced the revision of the Code of Canons of the Eastern Churches. He underlines the development of procedural law in the Eastern canonical system, and discusses the importance of safeguarding the rights of the faithful and respecting the just autonomy of Churches *sui iuris* in the light of the teachings of the Second Vatican Council. It is certain that SN has been a strong basis for the enactment of norms of procedure in the administration of justice.

CCEO 1063

Ius 11, No. 1 (2020), 35-67: Jobe Abbass: The Eastern Code Turns Thirty: Finding Its Place in the One *Corpus Iuris Canonici*. (Article)

See above, CCEO canon 678.

CCEO 1102

Ius 11, No. 1 (2020), 35-67: Jobe Abbass: The Eastern Code Turns Thirty: Finding Its Place in the One *Corpus Iuris Canonici*. (Article)

See above, CCEO canon 678.

CCEO 1152

Ius 11, No. 1 (2020), 113-128: Biju Varghese Perumayan: From Reservation to Vigilance: A Possible Step in Dealing with the *Delicta Graviora*. (Article)

See above, CCEO canon 89.

CCEO 1309-1319

Ius 11, No. 2 (2020), 149-164: Frederick C. Easton: Appeal and Recourse Procedures against Ecclesiastical Penalties according to the Code of Canons of the Eastern Churches. (Article)

See below, CCEO canon 1487.

CCEO 1456

Ius 11, No. 1 (2020), 129-138: Apostolic Penitentiary: Note on the Importance of the Internal Forum and the Inviolability of the Sacramental Seal. (Document)

The text is given of the Apostolic Penitentiary's Note of 29 June 2019 (published on 1 July 2019) regarding the importance of the internal forum and the inviolability of the sacramental seal (see *Canon Law Abstracts*, nos. 124, pp. 82-84; 126, pp. 79-80).

CCEO 1487

Ius 11, No. 2 (2020), 149-164: Frederick C. Easton: Appeal and Recourse Procedures against Ecclesiastical Penalties according to the Code of Canons of the Eastern Churches. (Article)

E. addresses not only the delicts reserved to the Congregation for the Doctrine of the Faith but also non-reserved delicts. His principal focus is on the determination of the competent superior for recourse as well as the competent appeal tribunal. He considers the differences which occur for processes taking place both inside and outside the territories of the patriarchal and major archiepiscopal Churches *sui iuris*.

CODE OF CANON LAW BOOK I: GENERAL NORMS

4

FThC IX (2020), 91-128: Bruno Esposito: Il rapporto del Codice di Diritto canonico latino con i privilegi. Commento sistematico-esegetico alla seconda parte del can. 4 del CIC/83. (Article)

In a commentary on the first part of canon 4, E. had dealt with the question of acquired rights (see *Canon Law Abstracts*, no. 118, p. 38). He now turns his attention to privileges, analysing each of the terms used in canon 4 (“privilege”, “Apostolic See”, “physical or juridical persons”, “in use”, “Code”, “canons”, “expressly revoked”). Whereas the CIC/83 did not revoke any acquired rights, there are three cases in which privileges are expressly revoked: canons 396 §2 (any privilege contrary to the bishop’s right to select any clerics he wishes as his companions and helpers in a visitation), 509 §1 (any privilege contrary to the bishop’s right to bestow canonries in the cathedral church and in a collegiate church), and 1019 §2 (any indult granted to superiors contrary to the requirement that the ordination of candidates to certain institutes or societies be governed by the law applying to the secular clergy).

23-28

EIC 61 (2021), 279-309: Naonyir Sébastien Somda: La consuetudine dei popoli in Burkina Faso e il suo possibile rapporto con il diritto della Chiesa. (Article)

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

124

RMDC 26/1 (2020), 39-73: Rogelio Ayala Partida: Actos jurídicos y negocios jurídicos: su comprensión a partir del Derecho Romano. (Article)

Juridical acts occupy a very important place in the life of the Church. Through them, those who exercise power of governance perform the most important acts of government. A.P. analyses the nature and essential elements of the juridical act, looking at its origins in Roman law. He cites

and analyses texts from the Digest, and points out the influence of Roman law on current canonical norms, especially in the areas of the contractual nature of matrimony, consent as the essential element of any contract, and the topic of juridical representation.

127

QDE 34 (2021), 161-180: Alessandro Giraud: I processi consultivi e deliberativi nella Chiesa. (Article)

G. begins by examining what consultation means in the Church, and what value it has, in the light of the International Theological Commission (ITC) text on *Synodality in the life and mission of the Church*. He looks especially at the notion of a consultative vote, which the ITC renders as expressing desires. With this in mind he goes on to examine the problems connected with asking who is the person (or group) to be consulted, and how they relate to the pastors of the Church. In particular he examines the representative function of those who are consulted. G. then examines whether synodality would be promoted by extending the number of deliberative votes. He looks at the ways in which deliberative votes are presently structured and given context in canon law, and re-examines Coccopalmerio's proposal that a "communion" structure for parish pastoral councils might promote greater participation and co-responsibility in the parish.

129

Canonist 12/1 (2021), 67-83: Marcus Francis: Obedience in the 1983 Code of Canon Law. (Article)

See below, canon 212.

129

Kevin Otiendo Mwandha (ed.): *De potestate regiminis. Il ruolo della donna nella Chiesa oggi.* (Book)

This volume presents a series of reflections on the power of governance and the role of women in the Church. All but two of the contributions are from women with important responsibilities in ecclesiastical tribunals or in the teaching of canon law. The topics are divided into three areas: the power of governance and its foundation; women in the Church today; and specific

roles within the ecclesiastical tribunals. On the power of governance and its foundation, **Massimo del Pozzo** deals with the principle of equality and the principle of variety in the juridical thought of Javier Hervada; **Kevin Otiendo Mwandha** with the power of governance in the Church in some unpublished writings of Pier Giorgio Marcuzzi; and **Michaela Pitterová** with the question of whether women govern or merely collaborate in the power of governance. On the question of women in the Church today, **Maria Maddalena Mazzia** looks at responsibility and service, participation and sharing by women in the Church; and **Gabriela Zinkl** at women in papal Magisterium and canonical developments since the promulgation of the CIC/83. On the role of women within ecclesiastical tribunals **Christelle Euphrasie Avle** examines the topic of the conferral of ecclesiastical offices upon women; **María Victoria Hernández Rodríguez** investigates the possibility of a single or collegiate tribunal consisting solely of women; **Rosanna Iannaccone** looks into the possibility and opportuneness of appointing a woman as defender of the bond; **Tiziana Merletti** examines the power of a female provincial superior and the assumption of the role of judge under canon 1427; and **Marisa Marcolini** reflects on her own 30 years of experience in ecclesiastical tribunals. (For bibliographical details see below, Books Received.)

144

IM 30 (2019), nr. 3, 5-56: Wojciech Góralski: Uzupełnienie braku upoważnienia do asystowania przy zawieraniu małżeństwa wyrazem ochrony dobra wspólnego (*Supplying the lack of delegation to assist at marriage as an expression of protection of the common good*). (Article)

See below, canon 1111.

144

S 83 (2021), 152-162: Kevin Otieno Mwandha: *Supplet Ecclesia: l’Istituto giuridico della supplezza della potestà esecutiva*. (Article)

M. explains the origins and nature of the institute of *supplet Ecclesia*; what is meant by common error of fact or law and positive and probable doubt of fact or law; and the situations in which *supplet Ecclesia* may apply: the faculty of confirming (canon 883); the faculty of absolving sins (canon 966); and in the case of priests and deacons, the faculty of assisting at the celebration of marriages (canon 1111 §1).

145-156

Kevin Otiendo Mwandha (ed.): *De potestate regiminis. Il ruolo della donna nella Chiesa oggi.* (Book)

See above, canon 129 (especially the article by Christelle Euphrasie Avle).

166

QDE 34 (2021), 161-180: Alessandro Giraud: I processi consultivi e deliberativi nella Chiesa. (Article)

See above canon 127.

179

IE XXXIII (2021), 275-305: Cour d'appel d'Amsterdam: Arrêt de la chambre civile multiple du 30 juin 2020, N. de liste des affaires du Tribunal d'Amsterdam: C/13/631678 / HA ZA 17-673, (Diocèse de Haarlem–Amsterdam contre la Fondation catholique romaine Maagdenhuis), con un commento di Jean-Pierre Schoupe, *La reconnaissance de la nature ecclésiastique d'une fondation catholique dans le diocèse de Haarlem (Amsterdam). L'affaire Stichting Het Roomsche Catholijk Maagdenhuis.* (Civil sentence and comment)

S. comments on a case involving a Catholic foundation with juridical personality under the CIC/17 which was also recognized in Dutch law. A dispute arose over the appointment by the diocesan bishop of a new board of directors of the foundation, after it was found that the appointments of the previous board had not received the bishop's confirmation as required by the foundation's statutes (cf. canon 177 §1 of the CIC/17; canon 179 §1 of the CIC/83). The case was pursued before the Apostolic Signatura (following an unsuccessful canonical hierarchical recourse to the Congregation for the Clergy) and subsequently in the civil courts. Both cases were decided in favour of the bishop. The text of the civil decision – that of the Court of Appeal of Amsterdam – is given here. S. is of the opinion that both decisions are timely in giving hope to administrators and canonists – as well as to founders and the faithful concerned – who are faced with unjust, problematic or apparently irremediable patrimonial situations. These judicial decisions illustrate the importance of the proper exercise of ecclesiastical government by the diocesan Ordinary, and show that canon law has the suitable tools for redressing situations that seem to be out of control and for guaranteeing the preservation of ecclesiastical patrimony as well as the

Catholic identity of the entities concerned. It is also significant to note that a civil appeal court has taken into account canon law, in particular, the jurisprudence of the Signatura.

BOOK II, PART I: CHRIST'S FAITHFUL

208

FCan XV/2 (2020), 39-56: Dominique Le Tourneau: Le statut de la femme dans les codifications de 1917 et de 1983. (Article)

An examination of the CIC/17 shows that, contrary to popular belief, there were few norms that actually discriminated against women. However, a study of the CIC/83 reveals the progress made thanks to the ecclesiology of Vatican II concerning the fundamental equality of men and women in the Church arising out of the common priesthood of all the Christian faithful. Le T. studies the various provisions in the CIC/83 concerning women, without ignoring the question of the non-accession of women to the priesthood, and sets out proposals to achieve a more complete equality of women and men where nothing exists to impede this.

208-231

Kevin Otiendo Mwandha (ed.): *De potestate regiminis. Il ruolo della donna nella Chiesa oggi.* (Book)

See above, canon 129 (especially the articles by Massimo del Pozzo and Maria Maddalena Mazza).

212

Canonist 12/1 (2021), 67-83: Marcus Francis: Obedience in the 1983 Code of Canon Law. (Article)

F. explains how the general obligation of Christian obedience informs cooperation by all members of the Church, including those laity who cooperate more closely with the ordained in their ministry. Obedience is a precondition for cooperation to take place. Originating as it does in the example and person of Christ, such cooperation and obedience is never blind, coerced or begrudging. The individual obeys out of a desire to serve the Church and in doing so act to the greater glory of the Father. The Church, as communion, by its nature embodies the values of mutuality, freedom, and dialogue, in a dynamic and outward-looking mission to manifest the Kingdom of God to the world. Laity will contribute in their own way to the completion of the mission given by Christ to the Church.

215

IE XXXIII (2021), 307-331: Miguel Delgado Galindo: Ordini equestri e diritto canonico: annotazioni per un inquadramento giuridico. (Article)

The equestrian orders are institutions that arose in the Middle Ages for the purposes of reconquering and protecting the Holy Land. Dynasties and States, as well as the Holy See, have also instituted equestrian orders in order to confer honours for particular acts of merit. Beginning with their history, D.G. examines the juridical nature of the equestrian orders specific to the Holy See and those recognized by it, proposing some points of reflection for their future.

220

AnC 17 (2021) 1, 7-21: Robert Czarnowicz – Piotr Kroczek: Przetwarzanie danych osobowych w pracy kapelanów szpitalnych wyznania rzymskokatolickiego – wybrane zagadnienia (*Processing of personal data in the work of Roman Catholic hospital chaplains – selected issues*). (Article)

C. and K. look at some canonical and legal issues concerning the processing of personal data in the context of pastoral care by Catholic hospital chaplains.

220

AnC 17 (2021) 1, 23-37: Kinga Karsten: Kilka uwag dotyczących zastosowania dekretu Konferencji Episkopatu Polski o ochronie danych osobowych z 2018 r. do spraw małżeńskich lub rodzinnych (*Some comments on the application of the 2018 Decree on the protection of personal data in matrimonial or family matters*). (Article)

K. examines the Decree on the protection of individuals with regard to the processing of personal data issued by the Polish Episcopal Conference on 13 March 2018, and some of the theoretical and practical difficulties in implementing it (see also *Canon Law Abstracts*, no. 126, p. 50).

220

IM 30 (2019), nr. 4, 81-99: Michał Poniatowski: Ochrona danych osobowych świadków w sprawach o stwierdzenie nieważności

małżeństwa kanonicznego (*Protection of witnesses' personal data in marriage nullity cases*). (Article)

P. looks at the question of the protection of personal data in the Church, which he states is an obligation and is not a novelty in the Church's legal order. He then examines the autonomy and independence of the Church in the field of personal data processing, pointing out the relationship between the norms of canon law and secular law, before focusing on the protection of personal data of witnesses, whether or not they are members of the Church.

222

AnC 16 (2020) 2, 91-108: Karolina Mazur: Obowiązek zarządzania potrzebom Kościoła w zakresie sprawowania kultu Bożego (kan. 222 § 1 KPK) (*The duty to provide for the needs of the Church in relation to the worship of God*). (Article)

M. presents and discusses the most important needs of the Church regarding divine worship, to which the faithful are obliged to contribute according to 222 §1, relating this to Polish secular legislation.

226

EIC 61 (2021), 69-75: Andrea Nicolussi: Il tempo e i tempi dell'educazione. Spunti introduttivi. (Article)

See below, canon 793-821.

226

EIC 61 (2021), 77-103: Carlo Rusconi: Educazione dei figli e responsabilità genitoriale. Itinerario del diritto italiano. (Article)

See below, canon 793-821.

226

EIC 61 (2021), 105-134: Héctor Franceschi: I protagonisti dell'alleanza educativa e i dinamismi dell'ordinamento canonico. (Article)

See below, canon 793-821.

230

CLSN 198/21, 66-71: Pope Francis: Apostolic Letter issued “motu proprio” *Spiritus Domini*, 10 January 2021; Letter to the Prefect of the Congregation for the Doctrine of the Faith Regarding Access of Women to the Ministries of Lector and Acolyte, 10 January 2021. (Documents)

On 10 January 2021 the Pope issued a motu proprio modifying canon 230 §1 to allow women to be admitted on a stable basis to the ministries of lector and acolyte. A letter of the same date to the Prefect of the Congregation for the Doctrine of the Faith gives the background to and reasons for this decision, which the Pope states will render more effective in the Church everyone's participation in the work of evangelization.

230

NRT 143 (2021), 256-265: Arnaud Join-Lambert – André Haquin: Lectorat et acolytat pour les femmes. Transformer une évidence en opportunité pour le renouveau de l'Église. (Article)

With the motu proprio *Spiritus Domini* of 10 January 2021, Pope Francis removed the clause reserving the instituted ministries of lector and acolyte to men. In order to understand this decision, which has been awaited for several years, the authors of this article describe the reform of the minor orders in the 1960s and the move towards the creation of lay ministries. They then detail the opportunity offered by this decision of the Pope to renew and expand the service of the Word of God in many activities beyond the Sunday celebration. In the same way, a ritual institution at the service of the Eucharist of a few men and women could enrich the prayer of communities and groups. The Covid-19 pandemic has manifested the lack of lay responsibilities in the area of spiritual life in the community. The ministries of acolyte and lector could thus contribute to local ecclesial renewal.

230

Kevin Otiendo Mwandha (ed.): *De potestate regiminis. Il ruolo della donna nella Chiesa oggi.* (Book)

See above, canon 129 (especially the article by Gabriela Zinkl).

231

RMDC 26/2 (2020), 321-420: Antonio Verdín Delgado – Luis de Jesús Hernández Mercado: Las leyes laborales aplicables en México que tutelan los derechos de los fieles que trabajan en instituciones de la Iglesia católica. (Article)

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

271

IusM XV/2021, 47-69: Antoine Ndiaye: Prêtres diocésains en mission à l'extérieur. (Article)

20 years have passed since the publication of the Instruction of the Congregation for the Evangelization of Peoples on the sending abroad and sojourn of diocesan priests from mission territories. N. reflects on the document, and present some proposals for the application of ecclesial discipline in the field of missionary cooperation and thus enhance the collaboration of all concerned. There are numerous factors that lead to confusion: hence there is a need to understand what is at stake in order to live authentically this exchange between Churches. N. also offers comments on the ten norms of the Instruction.

271

IusM XV/2021, 173-191: Roberto Malpelo: I nuovi schemi di convenzione per la cooperazione tra le Chiese predisposti dalla Conferenza Episcopale Italiana. (Article)

The presence and service of foreign priests in Italian dioceses and their involvement in diocesan pastoral work have led to the Italian Episcopal Conference providing guidance regarding framework agreements regulating the pastoral service of priests working outside their dioceses of incardination. The aim is to contain and reduce the phenomenon of permanence abroad of priests from mission territories, in line with the indications given in the 2001 *Instruction on the sending abroad and sojourn of diocesan priests from mission territories* of the Congregation for the Evangelization of Peoples. M. explains the content of the framework agreements which the Church *a qua* and the Church *ad quam* are invited to sign, with the purpose of improving not only the number but also the quality of the pastoral activities of the priests, thereby safeguarding the missionary spirit and the proper relationship and cooperation between the Churches.

273

Canonist 12/1 (2021), 67-83: Marcus Francis: Obedience in the 1983 Code of Canon Law. (Article)

See above, canon 212.

274

Kevin Otiendo Mwandha (ed.): De potestate regiminis. Il ruolo della donna nella Chiesa oggi. (Book)

See above, canon 129 (especially the article by Michaela Pitterová).

290

Ius Comm IX (2021), 109-126: Giuseppe Sciacca: Notas sobre la dimisión del Obispo del estado clerical. (Article)

S. offers a series of reflections on the dismissal of bishops from the clerical state. Although canon 290 seems to exclude bishops from the penalty of the loss of the clerical state by a rescript of the Apostolic See, the *motu proprio Sacramentorum sanctitatis tutela* makes express reference to cardinals and bishops being subject to the penalties it establishes. S. stresses the distinction between the sacramental–ontological and the canonical–juridical aspects of order. By means of the former, the bishop becomes part of the College of Bishops, and remains so even if hierarchical communion is lost. It is episcopal consecration that confers the fullness of the *munus*, while hierarchical communion is simply the condition for its exercise. Dismissal of a bishop from the clerical state thus inevitably conflicts with the fact that the bishop objectively continues to form part of the College of Bishops. Such distinctions have been largely lost sight of not only in the secular reporting of cases but even within canonical circles. When a bishop is dismissed from the clerical state, the one dismissing him (the Roman Pontiff), although holding the Primacy and the fullness of jurisdiction, is sacramentally the same as the one being dismissed; and Sciacca is of the view that to proceed in this way – even if it cannot be proved to be formally inconsistent with the theological–canonical system – is nevertheless totally inopportune and dangerous.

290-293

Ius 11, No. 2 (2020), 165-186: Thomas Mathew Adoppillil: Procedural Norms for the Laicization of Clerics. (Article)

See above, CCEO canons 394-398.

298-320

IE XXXIII (2021), 307-331: Miguel Delgado Galindo: Ordini equestri e diritto canonico: annotazioni per un inquadramento giuridico. (Article)

See above, canon 215.

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

342

QDE 34 (2021), 136-160: Eugenio Zanetti: Sinodalità e altri dimensioni ecclesiali: distinzioni e relazioni. (Article)

Z. looks at the concepts of communion, hierarchical communion, participation and cooperation, and synodality, from theological and canonical perspectives, examining how the various ideas link to one another and are distinguished from one another.

342-348

QDE 34 (2021), 181-204: Matteo Visioli: Una riforma per il Sinodo dei vescovi: la Chiesa nella prospettiva della sinodalità. (Article)

V. reviews the reforms of the Synod of Bishops introduced in the Apostolic Constitution *Episcopalis communio* of 2018. The importance of the Synod is shown by the selection of an Apostolic Constitution (rather than a *motu proprio*) as the form of the new legislation. V. argues that the Synod should be seen as a process, not an event, and thus the preparation and implementation of the Synod are vital parts of its work. The consultation phase, already present in recent practice, is now formalized, and the distinction between consultation and attempts to find the majority view is clarified. Part of this is that those who take part in any synodal process do so as representatives, not as delegates. This is most obviously true of the bishop members, who represent the whole College of Bishops. V. examines the possibility of non-bishop members, noting that only members of clerical religious institutes have the possibility of voting membership open to them: he questions the justification for this. The final stage of the synodal process he presents as implementation rather than execution, requiring a synodal process rather than simply the publication of a document. Nonetheless, the new legislation presents the final document of the Synodal Assembly as being part of the Church's ordinary Magisterium. V. concludes with suggestions for further development which start from the ideas of the synod as a making present of the collegial power of the episcopate, and as a modification of the way in which papal primacy is exercised.

369

Ap XCII (2019), 447-500: Dario Vitali: Chiese e Vescovi nel Vaticano II. (Article)

The relationship between bishops and their Churches as dealt with by Vatican II is again becoming a focus of attention, both in ecclesiology and in canon law. Many scholars have hitherto considered this an entirely marginal topic in the conciliar documents, as *Lumen gentium* would seem to favour a universalist ecclesiology; and this seems to be borne out by the small number of texts explicitly referring to the particular Church and to the bishop as its principle and foundation of unity. Through a rigorous examination of the conciliar documents – specifically the third chapter of *Lumen gentium* – V. seeks to show that such a conclusion is unfounded, and demonstrates how this doctrine already finds its roots in the First Vatican Council. Although better known for its doctrine on the Primacy, Vatican I dealt at length with the *iura Episcoporum*, a matter explicitly taken up by the first schema *De Ecclesia* presented at Vatican II. From the stages in the process of drafting the texts, it emerges that the question of the bishops and their Churches is of decisive importance in the context of the conciliar ecclesiology.

372

J 77 (2021), 49-72: James Bradley: Increase in Wisdom and Stature: Personal Ordinariates from Benedict XVI to Francis. (Article)

The personal ordinariates erected under the auspices of the 2009 Apostolic Constitution *Anglicanorum coetibus* are often seen as a particular project of Pope Benedict XVI. Whilst the Apostolic Constitution itself and the erection of the three extant ordinariates occurred during his pontificate, a great deal of their early life has in fact taken place in the pontificate of Pope Francis. B. addresses the ways in which the perceived and actual priorities of Pope Francis find a particular articulation in the developing structures, mission, and life of the personal ordinariates. He considers the means by which Pope Francis has, directly or indirectly, shaped the personal ordinariates in their composition, internal governance, and liturgy. He then examines how certain elements of the Anglican patrimony and the experiences of the clergy and lay faithful of the personal ordinariates emphasize in a particular way certain themes of the pontificate of Pope Francis: namely, missionary discipleship, poverty, and accompaniment.

375

Ius Comm IX (2021), 109-126: Giuseppe Sciacca: Notas sobre la dimisión del Obispo del estado clerical. (Article)

See above, canon 290.

409

IC 61/121 (2021), 431-470: Supremo Tribunal de la Signatura Apostólica: Decretos; Javier Canosa: Las distintas clases de administradores y la ponderación de bienes en la actividad administrativa de la Iglesia. (Decrees and comment)

See below, canon 1445.

431-459

Ap XCII (2019), 385-446: Natale Loda: Le Strutture sovradiocesane in Oriente ed Occidente. (Article)

See above, CCEO canons 55-176.

439-446

ITQ 86 (2021), 21-38: Peter John McGregor: Synodality and the Australian Plenary Council: Listening to and Looking at those who are Living in the Spirit. (Article)

In response to Pope Francis’s call for greater synodality in the Church, the Catholic Church in Australia has been preparing for a plenary council. Both Pope Francis and those preparing for the council have especially stressed the need to listen to the Holy Spirit through listening to one another. McG. argues that while such “listening” is necessary it is not “sufficient”. Although “listening” is an essential prerequisite for success, for true synodality to occur it is also necessary to be “looking” in order to see what the Holy Spirit is already “doing” in the Church. McG. supports his argument by examining the biblical meaning of *koinonia* (communion) and *homothumadon* (of one accord). These are essential for discerning what the Spirit wishes to say at this time to the Church.

439-446

Ius Comm IX (2021), 89-108: Lluís Martínez Sistach: Futuro de los sínodos diocesanos y de los concilios provinciales. (Article)

See below, canons 460-468.

439-446

QDE 34 (2021), 219-234: Marino Mosconi: Il concilio plenario della Chiesa che è in Australia. (Article)

M. examines the plenary council of the Church in Australia. He begins by looking at the reasons surrounding the summoning of the council, and examines the relationship between a plenary council and an episcopal conference in the context of the service of the particular Churches in a given country. He goes on to study the structures which have been erected to enable the plenary council to take place, paying close attention to the participation of the laity in these various structures. He notes that the laity constitute a majority of the membership of the plenary council, even though they have only consultative votes. Examining some of the areas proposed for discussion at the council he looks at the way in which these will have an impact on the relationship between the particular Churches in Australia and the universal Church, paying special attention to the approval granted by the Holy See for the convocation of the plenary council and the (planned) submission to the Holy See of the *acta* of the Council for *recognitio*.

443

QDE 34 (2021), 205-218: G. Paolo Montini: Il «Cammino sinodale» in Germania. Una nota. (Note)

M. analyses the legal framework of the Synodal Path undertaken by the German bishops and laity, focusing on the statute which governs the institution created for this purpose. He looks first at the draft statute, which provided for all participants to be given a deliberative vote and offered a means for transmitting to the Holy See matters which concerned the universal Church. M. then considers the definitive statute and observes that it offers an equality of treatment between the episcopal conference and the (lay) central committee: thus from a legal perspective it is *sui generis* and does not correspond to any of the existing canonical models for synods. M. recalls as apparently similar the Synod of Würzburg in the 1970s, but suggests that the real problem with such new models is that they do not

balance sufficiently the pressure that is generated by decisions which are formally without legal force, but which nonetheless are surrounded by rhetoric which suggests that they are binding.

447-459

FCan XV/2 (2020), 79-119: Paulo Pires: A *Potestas da Conferência Episcopal: breve estudo canónico.* (Article)

The role played by episcopal conferences in relation to the Covid-19 pandemic, in entering into dialogue with national States and regulating the life of the faithful, brings with it new (and old) questions about the institute of the episcopal conference itself: its nature, its relationship both with the supreme authority in the Church and with that of each bishop, and above all the kind of power it holds and the way in which it exercises such power.

460-468

Ius Comm IX (2021), 89-108: Lluís Martínez Sistach: *Futuro de los sínodos diocesanos y de los concilios provinciales.* (Article)

The Second Vatican Council expressed the desire that diocesan synods and provincial councils be reinvigorated in the Church of our times. The pastoral activity carried out by diocesan synods and the complementary need for provincial councils, so that diocesan Churches and ecclesiastical provinces and regions may be more effective instruments of evangelization in their own territories, are serving to make this desire of the Council a reality, and highlight the current-day pastoral usefulness of diocesan synods and provincial councils.

482-491

AnC 16 (2020) 2, 45-90: Piotr Lewandowski: *Raport szacowania ryzyka doboru środków bezpieczeństwa (Risk assessment report for the selection of security measures).* (Article)

L. looks at possible ways of mitigating risks to the security of personal data protection in parishes. He sets out the methodology and principles of risk management relating to data processing and storage.

494

IC 61/121 (2021), 431-470: Supremo Tribunal de la Signatura Apostólica: Decretos; Javier Canosa: Las distintas clases de administradores y la ponderación de bienes en la actividad administrativa de la Iglesia. (Decrees and comment)

See below, canon 1445.

511-514

FThC IX (2020), 129-146: Levente Linczenbold: The theological and juridical significance of the pastoral council as a body serving the cooperation of the bishop and the laity. (Article)

The Second Vatican Council, in response to the pastoral challenges facing the Church, articulated the need to set up a pastoral council that adequately expressed the specific mission and cooperation of both the clergy and the lay faithful. The CIC/83 clearly applied the conciliar principles in this regard. Over time, however, the consultative nature and representative character of this body has sometimes been overemphasized. Pastoral circumstances have often overwritten the theological and juridical principles that have defined the pastoral council from the beginning, to the extent that its role has come to be regarded not as one of collaboration with the bishop but as one of participation in the power of governance. Nevertheless, if the diocesan bishop applies the prescriptions pertaining to it, the theological and juridical significance of the pastoral council will unquestionably remain and will continue to be of great help to him in pastoral matters.

515

FThC IX (2020), 73-89: Péter Erdö: The Origin and Spread of Parishes. Models of mission and local pastoral care in the first millennium. (Article)

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

515

IE XXXIII (2021), 241-274: Supremo Tribunale della Segnatura Apostolica, 2 ottobre 2018, Prot. n. 52094/16 CA, Ordinariato Militare N. Della soppressione della parrocchia X presso l'Accademia Militare Y (Rev.do Z e altri – Congregazione per il Clero), con un commento di

Giovanni Parise, *Suppressione di una parrocchia e impossibilità di sanare un atto amministrativo illegittimo da parte del superiore gerarchico.* (Definitive sentence and comment)

See below, canon 1445.

515

J 77 (2021), 197-223: Supreme Tribunal of the Apostolic Signatura: 1. Decree of the *Congresso, Execution of the May 21, 2011 Sentence of this Supreme Tribunal*, prot. n. 48568/13 CA, May 30, 2014; 2. Decree of the Secretary, *Suppression of Parish Y in the City of H-K and the Status of the Church*, prot. n. 48760/14 CA, March 24, 2014; 3. Decree of the *Congresso, Suppression of Parish Y in the City of H-K and the Status of the Church*, prot. n. 48760/14 CA, January 21, 2015; Edward Lohse: **Brief Note on the Contentious-Administrative Process and the Jurisprudence on the Status and Use of Churches. (Decrees and comment)**

See below, canon 1445.

536

QDE 34 (2021), 161-180: Alessandro Giraud: *I processi consultivi e deliberativi nella Chiesa.* (Article)

See above canon 127.

539-541

IC 61/121 (2021), 431-470: Supremo Tribunal de la Signatura Apostólica: *Decretos; Javier Canosa: Las distintas clases de administradores y la ponderación de bienes en la actividad administrativa de la Iglesia.* (Decrees and comment)

See below, canon 1445.

564

AnC 17 (2021) 1, 7-21: Robert Czarnowicz – Piotr Kroczek: *Przetwarzanie danych osobowych w pracy kapelanów szpitalnych wyznania rzymskokatolickiego – wybrane zagadnienia* (*Processing of*

Book II, Part II: The Hierarchical Constitution of the Church

personal data in the work of Roman Catholic hospital chaplains – selected issues. (Article)

See above, canon 220.

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

579

CLSN 198/21, 72-76: Pope Francis: Apostolic Letter issued “motu proprio” *Authenticum charismatis* amending canon 579 of the Code of Canon Law, 1 November 2020. (Document and comment)

The text of the Pope’s motu proprio of 1 November 2020 amending canon 579 so as to require the written permission of the Holy See as a condition for the valid erection of a diocesan institute of consecrated life is accompanied by a short comment from William Richardson (see also *Canon Law Abstracts*, no. 126, pp. 66-67).

579

FCan XV/2 (2020), 121-128: Papa Francisco: Motu proprio *Authenticum charismatis*; Motu proprio *Ab initio*; As Derrogações efetuadas pelo Papa Francisco nos cánn. 579 do CIC e 435, § 1 e 506, § 1 do CCEO. Comentário às Cartas Apostólicas Motu Proprio *Authenticum charismatis* e *Ab initio*. (Documents and comment)

See preceding entry. The Portuguese texts of *Authenticum charismatis* and *Ab initio* (see above, CCEO canon 435) are accompanied by a short comment by Hugo Cavalcante.

579

RMDC 26/2 (2020), 247-319: Julio García Martín: La licencia de la Santa Sede para erigir un Instituto de vida consagrada, según el motu proprio *Authenticum charismatis* (1-XI-2020). (Article)

Canon 579, as promulgated in 1983, recognized the diocesan bishop’s competence to erect an institute of consecrated life of diocesan rite, after having consulted the Apostolic See. The formulation gave rise to conflicting interpretations on the part of the commentators and to uncertainty on the part of the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, which sought the guidance of the Pontifical Council for Legislative Texts. The Pontifical Council, by means of a rescript *ex audientia*, confirmed that prior consultation was necessary for the validity of

the subsequent decree of erection given by the bishop. But in fact the reply to the question was to be found in the general norm of canon 127, according to which the consultation is required for validity and the response of the Apostolic See is a consent, a written permission also for validity, as was later established by Pope Francis in modifying canon 579 and better determining the power of the diocesan bishop.

596

Kevin Otiendo Mwandha (ed.): *De potestate regiminis. Il ruolo della donna nella Chiesa oggi.* (Book)

See above, canon 129 (especially the article by Michaela Pitterová).

601

Canonist 12/1 (2021), 67-83: Marcus Francis: Obedience in the 1983 Code of Canon Law. (Article)

See above, canon 212.

604

J 77 (2021), 73-101: Nancy Bauer: *Ecclesiae sponsae imago: Instruction on the Order of Consecrated Virgins Aids in Implementing Canon 604 and the Rite of Consecration.* (Article)

Very early in the life of the Church, as early as New Testament times, some Christian women chose to forgo marriage and embrace lifelong virginity for the love of Christ. By the fourth century, a solemn liturgical rite of consecration of virgins was in use. These consecrated virgins continued living in their family homes, that is, “in the world”. With the rise of cenobitic monasticism, more women chose to dedicate themselves to Christ through this communal form of life. Over time, the rite of consecration of virgins became available only to nuns. While the *ordo virginum* for women living in the world (*in saeculo*) was revived in 1970 with the revised rite of consecration, little guidance was provided for bishops on how to establish and oversee this vocation within their dioceses. The only universal law addressing consecrated virginity was the brief *praenotanda* to the 1970 *Ordo consecrationis virginum* and a single canon in the CIC/83. Bishops petitioned the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life to issue an instruction on the consecration of virgins *in*

saeculo. The Congregation responded in 2018 with the Instruction *Ecclesiae sponsae imago*. B. reviews the law regarding consecration of virgins as found in canon 604 and the *praenotanda* to the rite, and then focuses on the main points of the Instruction, beginning with the introduction, and proceeding through each of its three sections. After a summary of each section B. provides her own canonical commentary.

684-685

Ius 11, No. 2 (2020), 187-201: Rosmin Cheruvilparambil: Transfer between Religious Institutes: Requirements, Process and Effects. (Article)

See above, CCEO canons 487-488.

694

Ius 11, No. 2 (2020), 219-237: Varghese Koluthara: *Communis Vita* and Oriental Religious Institutes. (Article and document)

See above, CCEO canon 497.

694-704

Ius 11, No. 1 (2020), 69-83: Alisha Paul: Dismissal Procedure in Religious Institutes: A Comparison between CIC and CCEO. (Article)

See above, CCEO canons 497-503.

697

Canonist 12/1 (2021), 55-66: Brendan Daly: Put It in Writing. (Article)

See below, canon 1339*.

729

Ius 11, No. 2 (2020), 219-237: Varghese Koluthara: *Communis Vita* and Oriental Religious Institutes. (Article and document)

See above, CCEO canon 497.

BOOK III: THE TEACHING OFFICE OF THE CHURCH

747

EIC 61 (2021), 167-203: Chiara Minelli: Cura del creato ed educazione dei giovani. L'eco del diritto canonico. (Article)

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

767-769

HPR May 2021: Charles Fox: What Direction Does the Church Give to Homilists? (Article)

F. considers the provisions of canon law concerning the homily. Preeminent among the forms of preaching, the homily finds its basis in the proclamation of the Gospel. Focusing primarily on the content of the homily – rather than on the proper minister of the homily, which has been a point of contention in recent decades – F. highlights some of the key magisterial sources, together with the insights of theologians from the years preceding and following the Second Vatican Council. The ultimate goal of proclaiming the Gospel is to lead people into a loving and intimate relationship with the Lord, a relationship that forms the character of their persons and guides them in living out their faith.

781-792

IusM XV/2021, 71-97: Giacomo Incitti: Ripensando al diritto missionario... Ridefinire il diritto missionario? (Article)

In the aftermath of the Council there has been increasing awareness among theologians that every Church is in a “missionary state”. The Church exists because of her mission: the Church is at the service of mission. This calls for canonical reflection on missionary law. Through rereading the sources of the Code, I. suggests that not only the content but also the vocabulary needs to be looked at in a new perspective. The *missio ad gentes* finds itself within a new context marked by the intercultural dimension, and consequently interreligious dialogue becomes more and more a priority. These are the challenges that the forthcoming reform of the Roman Curia poses in particular for the Congregation for the Evangelization of Peoples, which historically has been the “cradle” of missionary law.

791

IusM XV/2021, 17-45: Jean Yawovi Attila: La cooperazione missionaria (CIC can. 791). (Article)

Missionary cooperation is the collaboration of all ecclesial communities and of individual faithful in the mission of the Church, namely teaching the deposit of faith, which, in order to be implemented, requires the availability of human and economic resources. This collaboration consists in exchanging these resources between communities, for helping those that are in need in the fulfilment of this mission. Starting from the teachings of the Church, A. examines canon 791 of the CIC/83 on such co-operation, and highlights the challenges that this involves, while also proposing solutions in order to maintain the identity of this exchange.

793-821

EIC 61 (2021), 5-39: A. Vincenzo Zani: «Gravissimum educationis»: traiettoria del magistero postconciliare e Patto Educativo Globale. (Article)

In her two-thousand-year history, the Church has developed her own mission through integral education and a pedagogical vision inspired by the Word of God. In the contemporary age, the Church has responded to the problem of Christian education by means of magisterial documents, among them the Second Vatican Council's Declaration on Christian Education *Gravissimum educationis*, which has played a fundamental role. Following the line traced by this document and in the context of an epochal change, there exists the need to rethink the educational trends in terms of otherness and through the introduction of new models, capable of facing contemporary challenges. This commitment – strongly proposed and emphasized by Pope Francis's Magisterium – requires going beyond a simple methodological organization and implementing a real “anthropological refoundation”, that extends to the entirety of the educational event within a Global Compact on Education, in which there is a renewed vision of interpersonal care and intergenerational relationships as well as a culture of dialogue, inclusion, and responsible citizenship, in the perspective of integral ecology.

793-821

EIC 61 (2021), 41-68: Gabriella Gambino: Centralità della persona e “metamorfosi antropologica”: nuovi scenari educativi. (Article)

If it is true that the art of living “takes shape by contemplating the end”, this is especially so for the art of educating. The ongoing anthropological metamorphosis, which can be identified as ethical subjectivism, the deprivation of God, and the fragmentation of the concept of personhood, calls for a radical rekindling of our passion for education, restoring the central role of the integral person in educational processes and rediscovering the link between faith and morality for an effective education of new generations. G. investigates the reasons for this renewal and discloses its perspectives and pathways, at the intersection of philosophical elaboration and pastoral implications, in the light of recent Magisterium.

793-821

EIC 61 (2021), 69-75: Andrea Nicolussi: Il tempo e i tempi dell’educazione. Spunti introduttivi. (Article)

N. sets out in summary form some basic key issues in education, presented as a task of parental responsibility.

793-821

EIC 61 (2021), 77-103: Carlo Rusconi: Educazione dei figli e responsabilità genitoriale. Itinerario del diritto italiano. (Article)

R. analyses, from the perspective of Italian civil law, the delicate topic of parental responsibility in relation to the education of children.

793-821

EIC 61 (2021), 105-134: Héctor Franceschi: I protagonisti dell’alleanza educativa e i dinamismi dell’ordinamento canonico. (Article)

On 15 October 2020, Pope Francis spoke of the urgent need for a Global Pact on Education, calling on all the parties concerned – families, schools, children and young people, governments, religions – to become involved in the integral educational process, and setting out what the cornerstones of this pact should be. F. looks at some of the questions to which this gives rise, and attempts to answer them from an ecclesial perspective, which not

only takes into account the text of the relevant norms but is juridical in the deepest sense, examining the right and duty of Christian parents in relation to the educational process of their children, that is, in determining what is right (*iustum*) concerning the education of their offspring – a task which they have often delegated completely to the Church and the school from their children’s earliest years. In order to succeed in this endeavour, written norms are not enough: what is required is a further development of the canon law of the family as a science and as a systematic order.

793-821

EIC 61 (2021), 135-165: Rita Benigni: Libert  di educazione e pluralismo scolastico nel diritto internazionale. Il ruolo prevalente dello Stato e degli obiettivi sociali nell’azione e nella giurisprudenza Onu e delle Istituzioni europee. (Article)

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

BOOK IV, PART I, TITLE I: BAPTISM

849

AnC 16 (2020) 2, 109-128: Marek Story: Sakrament chrztu w świetle średniowiecznych ksiąg pokutnych (*The sacrament of baptism in the light of the medieval penitential books*). (Article)

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

849

CLSN 198/21, 78-82: Congregation for the Doctrine of the Faith: Response to two questions regarding the validity of Baptism conferred with the formula: *We baptize you in the name of the Father and of the Son and of the Holy Spirit*, 24 June 2020. (Document)

The Congregation for the Doctrine of the Faith rules that the use of the formula “*We baptize you in the name of the Father and of the Son and of the Holy Spirit*” is invalid and that in such a case the person must be rebaptized absolutely (see *Canon Law Abstracts*, no. 126, p. 75)

849

ELJ 23 (2021), 19-33: Judith Hahn: Invalid Baptismal Formulas: A Critical View on a Current Catholic Concern. (Article)

See preceding entry. In explaining its response the Congregation referred to Thomas Aquinas, who addressed these and similar issues in his sacramental theology. This reference is evidently due to Aquinas’ pioneering thoughts on the issue. However, in studying Aquinas’ work on the subject it is surprising to find that they reveal a far less literalist approach than the Congregation suggests. In fact, his considerations point at an alternative reading, namely that sacramental formulas should be understood as acts of communication which, based on the ministers’ intention of doing what the Church does, aim at communicating God’s grace to the receivers in an understandable way.

849-878

IM 30 (2019), nr. 2, 29-47: Zbigniew Janczewski: Prawo o sakramentach wtajemniczenia chrześcijańskiego jako imperatyw

budujący *communio familiaris*. (Canon law regarding the sacraments of Christian initiation as an imperative to build family communion). (Article)

Baptism, confirmation, and the Eucharist are the three sacraments of Christian initiation. The sacraments were instituted by Christ the Lord and entrusted to the Church. As actions of Christ and of the Church, they are signs and means by which faith is expressed and strengthened, worship is offered to God, and our sanctification is brought about. Thus they contribute in the most effective manner to establishing, strengthening and manifesting ecclesial communion. The sacraments of Christian initiation also contribute to establishing, strengthening, and manifesting family communion. J. explains how sacramental canon law can inspire spouses to build a *communio familiaris*.

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

879-896

IM 30 (2019), nr. 2, 29-47: Zbigniew Janczewski: Prawo o sakramentach wtajemniczenia chrześcijańskiego jako imperatyw budujący *communio familiaris*. (Canon law regarding the sacraments of Christian initiation as an imperative to build family communion). (Article)

See above, canons 849-878.

883

S 83 (2021), 152-162: Kevin Otieno Mwandha: *Supplet Ecclesia: l'Istituto giuridico della supplenza della potestà esecutiva*. (Article)

See above, canon 144.

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

897-958

IM 30 (2019), nr. 2, 29-47: Zbigniew Janczewski: Prawo o sakramentach wtajemniczenia chrześcijańskiego jako imperatyw budujący *communio familiaris*. (Canon law regarding the sacraments of Christian initiation as an imperative to build family communion). (Article)

See above, canons 849-878.

915-916

IM 30 (2019), nr. 4, 37-53: Pavlo Basystyi: Пастырское служение для разведённых в *Amoris Laetitia* (Pastoral ministry for the divorced in “*Amoris Laetitia*”). (Article)

B. looks at the development of the pastoral ministry to the divorced and remarried in the light of the post-synodal Apostolic Exhortations *Familiaris consortio* of 1981 and *Amoris laetitia* of 2016. The latter document talks of accompanying, discerning and integrating weakness, but in confidentiality. The important things, according to B., are letters from individual bishops or episcopal conferences that have supported the Holy Father and have already taken advantage of the opportunities offered of helping their faithful to return to the Church community and become actively involved in its life.

915-916

IM 30 (2019), nr. 4, 55-79: Jarosław Mlot: Relacja nauczania papieża Franciszka zawartego w adhortacji *Amoris laetitia* do dotychczasowego posoborowego Magisterium (The relationship of Pope Francis’s teaching in the Exhortation “*Amoris laetitia*” to the current post-conciliar Magisterium). (Article)

The Apostolic Exhortation *Amoris laetitia*, issued by Pope Francis on 8 April 2016, is the fruit of two Synods on the Family held in 2014 and 2015. Regarding the relationship of its teaching to the current post-conciliar Magisterium, there are those who express doubts concerning the text of the document, and those who read it in the key of the hermeneutic of continuity. M. points out that the Pope did not intend to set forth by this document

general norms applicable to all cases. That is why he left the bishops of individual regions of the world to create guidelines that would be suitable to the traditions and requirements of their region. M. provides some examples of local guidelines.

915-916

MFS 27 (2021), 71-81: †Eberhard Schockenhoff: The Church as a Community of Reconciliation: In Favor of Allowing Divorced and Remarried Persons to Receive Communion. (Article)

In an article written shortly before his death and published posthumously, S. reflects on the possibility of admitting divorced and civilly remarried Catholics to Communion. He argues that Jesus' teaching on marriage and divorce was adjusted by Paul, and that the evangelists added certain exceptions where divorce was allowable. He also refers to evidence that remarriage was tolerated in the early Church. He then addresses certain contemporary responses to the difficulties experienced by the civilly remarried, putting forward his own way of addressing the issue, which would involve the Church recognizing that the civil marriage is built on real matrimonial values, even though it cannot be called a sacramental marriage. The Church would thus be involved in pastoral care for persons in troubled marriages through the whole process of the attempt at reconciliation, the possible realization that such reconciliation is impossible, the resolution of the guilt involved in the breakup, and the eventual discovery of a new relationship. It could provide needed pastoral care, he argues, where the Church is now simply absent.

915-916

MFS 27 (2021), 82-91: Adrian Loretan: Marriage Endings, New Beginnings, Sin and Grace: Reflections in Response to Eberhard Schockenhoff. (Article)

L. offers a new post-conciliar perspective on marriage. The Second Vatican Council, especially in *Dignitatis humanae*, turned to a human rights approach by embracing human dignity and the rights flowing from it. The Council set aside the old *ius in corpus* paradigm of the CIC/17 and praised marriage as a community of life and love in *Gaudium et spes*, nos. 47-52. The CIC/83, however, contains the notion of marriage as a covenant (and contract) in canon 1055 but has not yet totally implemented the new person-centred approach. L. questions whether people should be prevented from

taking part in the life of the Church when their partner leaves them and they afterwards start a new family. How should their desire to live in harmony with ecclesiastical rules, and to take part actively in the community of the faithful, be dealt with? What is the value of a new union? In *Amoris laetitia* and also in the Encyclical *Fratelli tutti*, Francis states the need to look at every situation in particular, as every history of a couple is different. What seems appropriate is not a paternalistic act, but a pastoral support to educate one's own conscience. L. argues for the implementation of this differentiated perspective. The integration of the more person-oriented approach into the CIC/83 is still an open point.

915-916

NRT 143 (2021), 204-227: Cédric Burgun: Des critères de communion à la lumière d'*Amoris laetitia*. (Article)

The debate on access to Eucharistic Communion for “irregular” couples was relaunched with chapter 8 of *Amoris laetitia*. The problem is finally to determine concrete criteria of discernment for opening to Communion. B. proposes five objective and subjective criteria, based on ecclesial mediation and the conviction that marriage is part of an authentic history of salvation.

942

QDE 34 (2021), 94-107: Gianni Trevisan: L'esposizione pubblica e prolungata del Santissimo Sacramento: le Quarantore e l'adorazione perpetua (can. 942). (Comment)

T. argues that the exposition of the Blessed Sacrament is not merely encouraged but is required by canon 942. He considers the purpose and the canonical history of the practice, especially of the Forty Hours' devotion, and offers more detailed comments on the specific requirements of the canon. He also relates this to the practice of perpetual adoration.

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

966

S 83 (2021), 152-162: Kevin Otieno Mwandha: *Supplet Ecclesia: l'Istituto giuridico della supplenza della potestà esecutiva.* (Article)

See above, canon 144.

983-984

Ius 11, No. 1 (2020), 129-138: Apostolic Penitentiary: *Note on the Importance of the Internal Forum and the Inviolability of the Sacramental Seal.* (Document)

See above, CCEO canon 1456.

BOOK IV, PART I, TITLE VI: ORDERS

1008-1009

Kevin Otiendo Mwandha (ed.): *De potestate regiminis. Il ruolo della donna nella Chiesa oggi.* (Book)

See above, canon 129 (especially the article by Gabriela Zinkl).

BOOK IV, PART I, TITLE VII: MARRIAGE

1055

CLSN 199/21, 71-77: Congregation for the Doctrine of the Faith: Response to a Dubium: “Regarding the blessing of the unions of persons of the same sex”, 22 February 2021; Official commentary on the Dubium: “Regarding the blessing of the unions of persons of the same sex”, 15 March 2021. (Documents)

To the question whether the Church has power to give a blessing to unions of persons of the same sex the Congregation for the Doctrine of the Faith responded “*Negative*”. Only those realities that are in themselves ordered to serve the designs of God inscribed in creation and fully revealed by Jesus Christ are congruent with the essence of a blessing imparted by the Church. However, a blessing may be given to a person with homosexual inclinations who manifests the will to live in fidelity to the revealed plans of God as proposed by Church teaching; what the *responsum* precludes is any form of blessing that tends to acknowledge homosexual unions as such. A commentary on the *responsum* published on the Vatican website on 15 March 2021 provides further clarification regarding the truth and value of blessings, the designs of God inscribed in creation and fully revealed by Christ, and the need to avoid the error of assimilating the blessing of unions of person of the same sex to that of matrimonial unions.

1055

FCan XV/2 (2020), 57-77: Alberto de la Hera: La comprensión canónica de la institución matrimonial. A propósito de un libro de Carmen Peña. (Bibliographical review)

De la H. reviews *Mariage et causes de nullité dans le droit de l'Église* (Éditions L'Harmattan, Paris, 2021, 504pp., ISBN 978-2-343-21438-2) by Professor Carmen Peña of the Comillas Pontifical University, Madrid. He notes how the author pays attention to the crisis of the Christian vision of life today, which affects marriage and the family in a very particular way, and how she looks at canonical marriage in the context of the social secularism to which Pope Francis refers when he warns that the faithful currently encounter serious difficulties in witnessing to a way of life that is in accordance with the Gospel. In this regard he asks what the essential elements of marriage are, and how they must be taken into account in order

to give life to the conjugal union. New questions arise within an ideological and social environment that attempts to ignore the Church and the faith so as to turn the world away from God and his teachings.

1055

HPR June 2018: Lawrence J. Welch: Renewing or Imperiling our Understanding of the Sacrament of Marriage? (Article)

W. responds to calls for the Church to be open to the idea that consummation of a marriage should be understood not to be fulfilled by a single physical act, but rather as emerging over time, and involving a gradual actuation of true personal self-giving. Related to this is the idea that the personal faith of the couple is required for valid marital consent to sacramental marriage. W. argues that this view of the role of personal faith in marital consent, and this proposal for understanding consummation, would work against a renewed understanding of the sacramentality of marriage. A careful review of the speeches to the Roman Rota of Popes John Paul, Benedict, and Francis shows that it is the consistent teaching of the papal Magisterium that the faith of the couple, whatever its stage or apparent absence, is not required for the making of the sacrament of marriage. W. also contends that the completion and enactment of marital consent in consummation, likewise, should not be understood to depend on the subjective interpersonal growth of the couple. To claim otherwise cannot be reconciled with the Church's teaching that the power of Christ and the Spirit act in and through the celebration of the sacrament independently of the holiness of the ministers.

1055

HPR October 2018: Catherine Godfrey-Howell: Marriage and the Juridical Relevance of Pastoral Language. (Article)

See below, canon 1095.

1055

IM 30 (2019), nr. 3, 111-124: Tomasz Smoliński: Istotne cele małżeństwa katolickiego (*Essential purposes of Catholic marriage*). (Article)

Contemporary Church legislation indicates two basic purposes of marriage: the good of the spouses and the procreation and upbringing of offspring. This doctrine is based on the teaching of philosophers, theologians, and doctors of the Church. S. examines the considerations have been made regarding the essential purposes of marriage, taking into account the views of scholars from ancient times, through the Middle Ages, to the CIC/17, the Second Vatican Council, and finally the CIC/83.

1055

RMDC 26/1 (2020), 119-127: PP. Francisco: Discurso del Santo Padre Francisco. Con ocasión de la inauguración del año judicial del Tribunal de la Rota Romana, del sábado 25 de enero de 2020. (Address)

The Pope's address to the Roman Rota, dealing with the need to journey in the company of Christ, and applying this in a particular way to marriage, drawing on the example of married couples such as Aquila and Priscilla, is accompanied by a short comment from Luis de Jesús Hernández Mercado. (See also *Canon Law Abstracts*, nos. 125, p. 72; 126, p. 82.)

1055

QDE 34 (2021), 9-27: Matteo Visioli: La dimensione naturale del matrimonio. (Article)

V. relates the notions of natural and sacramental marriage, arguing that the former is a complete notion in itself, even before it is elevated by grace; he also looks at the natural law structure of marriage. He then deals with the necessary elements of a natural marriage, examining the natural meaning of the sexuality, love, and consent of the spouses, relating these to the essential elements of marriage as seen in the canonical tradition. He also considers the idea of naturally sufficient consent, and offers practical suggestions as to how this concept might be relevant today.

1055-1165

IM 30 (2019), nr. 3, 75-95: Jerzy Adamczyk: Normy komplementarne do Kodeksu prawa kanonicznego z 1983 r. w sprawach małżeńskich Konferencji Episkopatów Stanów Zjednoczonych i Kanady (*Complementary norms to the 1983 Code of Canon Law in matrimonial matters issued by the Episcopal Conferences of the United States and Canada*). (Article)

A. presents the complementary norms to the CIC/83 in respect of matrimonial matters issued by the episcopal conferences of the United States and Canada. He cites and assesses individual complementary norms, first discussing obligatory matters, before moving on to optional norms. He ends with conclusions and references.

1056

HPR September 2018: Kenneth M. Dos Santos: A Case for the Sacrament of Marriage. (Article)

Dos S. provides an explanation of unity and indissolubility as essential properties of marriage, in the light of Scripture, Magisterium, and Tradition. The permanent and indissoluble marital union is a proper sign and symbol of the perfect fidelity between Christ and the Church. Both the fidelity shared between spouses and the perfect fidelity between Christ and his Church are signs of the perfect union we will share with God when we enter into his presence in eternal beatitude.

1057

HPR October 2018: Catherine Godfrey-Howell: Marriage and the Juridical Relevance of Pastoral Language. (Article)

See below, canon 1095.

1057

IM 30 (2019), nr. 1, 65-76: Tomasz Smoliński: Zgoda małżeńska jako przyczyna sprawcza małżeństwa (*Marital consent as the causative factor of marriage*). (Article)

S. looks at consent as the cause of marriage. After presenting an outline of the genesis of the problem, taking into account different cultures, he focuses

on the history of marital consent in Christian culture, moving on to current Church teaching on marital consent. The act of will to marry must be expressed by the interested parties, and must be undertaken consciously, voluntarily, and mutually. The consent itself is the cause of marriage, and therefore the marriage does not have to be consummated for the marriage to be valid. It is also worth noting that conjugal love, despite its great importance in the relationship between the spouses, is not relevant to the validity of the marriage.

1062

IM 30 (2019), nr. 1, 39-63: Jerzy Adamczyk: Przyrzeczenie zawarcia małżeństwa. Aspekt prawno-pastoralny (*Promise of marriage. Legal and pastoral aspects*). (Article)

A. looks at various issues surrounding the promise of marriage, i.e. the legal aspects of betrothal or engagement in the light of universal and particular law.

1063

IC 61/121 (2021), 289-330: Carmen Peña: Fe e intención requerida para el matrimonio sacramento. Consecuencias canónicas del documento de la Comisión Teológica Internacional. (Article)

See below, canon 1101.

1065

IM 30 (2019), nr. 1, 77-91: Andrzej Żarkowski: Sakrament pojednania i pokuty w przygotowaniu nupturientów do zawarcia małżeństwa sakramentalnego (*The role of the sacrament of reconciliation and penance in preparing prospective spouses for the sacrament of marriage*). (Article)

The sacrament of penance and reconciliation constitutes an integral part of Christian life. It restores the state of sanctifying grace lost as a result of mortal sin. Confession also plays a major role in the preparation of prospective spouses for being joined in the sacrament of matrimony. No mandatory duty is imposed in this respect, but the sacrament of penance is strongly recommended before the marriage takes place in order to render it more fruitful. The priest preparing the prospective spouses is obliged to

raise the question of premarital confession and be available for the sacrament should the need arise. The confessor should be characterized by appropriate spiritual and intellectual formation. He should demonstrate particular tact and thoughtfulness when asking questions, especially those concerning premarital sex. The priest's teaching should result in providing positive guidelines for future married life. The prospective spouses need to fulfil all the acts required of the penitent: repentance, confession of sins, and satisfaction. A careful examination of conscience is another significant component paving the way for a good confession and a fruitful marriage.

1071

FThC IX (2020), 163-176: Lóránd Ujházi: Nuptial prohibitions in the current Code of Canon Law (Can. 1071). (Article)

Canon 1071 §1 prohibits certain marriages without the permission of the local Ordinary, outside a case of necessity. U. looks at the principles involved in the prohibition of six categories of marriage: marriages of *vagi*; marriages which cannot be recognized by the civil law or celebrated in accordance with it; marriages of persons for whom a previous union has created natural obligations towards a third party or towards children; marriages of those who have notoriously rejected the Catholic faith; marriages of persons under censure; and marriages of minors whose parents are either unaware of or are reasonably opposed to the marriage. U. also refers briefly to a seventh category of prohibited marriages, those to be entered into through a proxy, although he notes that these should be the subject of a separate study. He points out that the list in canon 1071 §1 is not exhaustive, as there exist other forms of prohibition, such as the *vetitum* (now dealt with, post-*Mitis Iudex*, in canon 1684 §1); and also that prohibitions affect only the lawfulness, not the validity, of marriages. Some authors argue that the prohibitions are directed to the ministers assisting at marriage rather than to the marrying couples themselves, as they relate to “permitted assistance”. The consequence of this would be that from the spouses’ point of view the marriage could be not only valid but also lawful.

1095

AnC 16 (2020) 2, 7-19: Rafał Dappa: Biegły jako asesor w procesie skróconym przed biskupem (A tribunal expert as an assessor in the briefer matrimonial process before the bishop). (Article)

See below, canons 1671-1691.

1095

HPR March 2018: Catherine Godfrey-Howell: Briefly Revisiting Pre-1983 Canonical Practice for a Better Response to Marriage Issues. (Article)

Canonical marriage cases in the United States have been dominated by claims of incapacity, and the response to this phenomenon has been an attempt to formulate more positively what it means to have a Christian marriage. However, G.-H. argues that such attempts have led to the abandonment of canonical discipline, and that the perspective has shifted from the right of the bond, to the liberty to be happy and unforced. Present-day discussions of canonical interpretation and application of the concept of incapacity for marriage are part of a long history that is difficult to navigate; and the number of divergences in jurisprudence with respect to the notion of incapacity can be traced back to debates pre-dating the CIC/83. When the Code was finalized, many of the associated issues affecting canonical perspective should have been concluded and removed as sources of insight. The relationship with psychological sciences is likewise problematic. A more complete visitation of American canonical practice, and concerns prior to the promulgation of the CIC/83, would be very helpful.

1095

HPR October 2018: Catherine Godfrey-Howell: Marriage and the Juridical Relevance of Pastoral Language. (Article)

At present the commanding trend with respect to consensual incapacity is one that subtly alters the object of consent to include persons not just in their power to consent, but also in their goodness or badness as spouses. Canonists have looked beyond the definition of marriage consent and interpreted canon 1055 as a juridical definition of marriage itself because the language it uses, taken almost directly from *Gaudium et spes*, fits the campaign to elevate the interpersonal union to a place of distinction alongside the conjugal union. The CIC/83, however, gives a definition of *consent* for marriage in canon 1057 – canon 1055 is not in fact a veritable juridical definition, and only provides a certain *description* of marriage. Some authors equate the bond and the community of life and love, which associates the capacity for consent with the capacity to maintain communion. Yet the bond is itself the instrument of grace, and Pope St John Paul II exhorts that the CIC/83 is fully consonant with the teachings of Vatican Council II, and it is already the “translation” of Council teaching in

the manner fit to be applied in the form of positive law. That is, the law as promulgated stands on its own feet as representative of Church doctrine without the direct importation of *Gaudium et spes* to determine cases of marriage nullity, for example. Essentially, these authors believe that the bond of marriage is *not* properly an object of the law and so it becomes necessary that marriage canons be interpreted only in a theological–pastoral context, and the outcomes do not seek justice but self-communication. The CIC/83 gives no juridical definition of marriage, and certainly not one that is understood as essentially two-pronged – namely, that interpersonality is distinct from and equal to conjugality. Therefore, reliance on pastoral language in canonical judgments is difficult to explain. In the end, it may be that the favour given to pastoral language in jurisprudence – and not hiding the fact that it is utterly pastoral – manifests what G.-H. calls “that strange desire for a just outcome that soothes the feeling of conflict but cannot name or identify the realities of justice.”

1095 2°

Canonist 12/1 (2021), 121-128: Roman Rota: Sentence *coram* P.V. Pinto, 13 May 2014 (Rome, Italy). Exclusion of the Indissolubility of Marriage (can. 1101, §2). Grave Defect of Discretion of Judgement (can. 1095, 2°) (Affective Immaturity). (Sentence)

See below, canon 1101.

1095 2°

Canonist 12/1 (2021), 129-136: Roman Rota: Sentence *coram* Viscome, 6 October 2020 (Adelaide, Australia). Nullity of the Sentence (can. 1598, §1). Nullity of Marriage: Grave Defect of Discretion of Judgement (can. 1095, 2°). (Sentence)

The grounds considered at first instance were defect of discretion of judgement on the part of both the man petitioner and the woman respondent; an affirmative decision was given on both grounds. The appeal tribunal issued a negative decision on both grounds, but its sentence involved various violations of law, one of which – its failure to publish the acts of the case – constituted proof, the Rota decided, of irremediable nullity of the sentence. Regarding the substance of the case, the Rota considered that the petitioner had sufficient capacity to make a personal decision to marry. The fact that he may have had concomitant motives in marrying (e.g. a desire to be in a higher level of society) was compatible with an authentic intention to

contract marriage. Having several goals in marrying does not necessarily take away or diminish due freedom or suitable weighing. As for the respondent, the existence of certain alleged character defects on her part did not lead with moral certainty to the nullity of the marriage. Furthermore, the concrete evolution of the marriage – with over thirty years of common life – demonstrated that the indications of grave immaturity of the parties were not manifest; rather, the marriage failed because of causes – particularly that of the petitioner’s infidelity – that were totally external and supervening.

1095 2°

IM 30 (2019), nr. 4, 101-122: Wojciech Góralski: Poważny brak rozeznania oceniającego (kan. 1095, n. 2 KPK) w wyroku Roty Rzymskiej c. Salvatori z 7 maja 2020 roku (Grave defect of discretion of judgement [canon 1095, n. 2° of the CIC] in the sentence of the Roman Rota c. Salvatori of 7 May 2020). (Sentence and comment)

This negative sentence *coram* Salvatori, in a case involving alleged *gravis defectus discretionis iudicii*, overturned the first instance affirmative sentence, and is an example of a reliable assessment of the collected evidence. The sentence looks in detail at the role and tasks of an expert in cases under canon 1095 1°-3°. It is to be emphasized that that an opinion prepared solely on the basis of the case file is not a true expert opinion. The *ponens* Salvatori pointed to the practice which has developed in Rotal jurisprudence, whereby a judge is to reject an expert’s conclusions if they are not in conformity with the acts of the case, violate the rules of logic, go beyond the premises on which they are based, or are inconsistent with Christian anthropology. He convincingly demonstrated in this case that the expert’s opinion with respect to the woman was grossly inconsistent with the acts, and went far beyond the premises upon which the expert purported to formulate his thesis.

1095 2°

RMDC 26/1 (2020), 139-153: Excmo. P.D. Pío Vito Pinto: Nulidad de matrimonio, Sentencia definitiva del día 5 de julio de 2013. (Sentence)

See below, canon 1101.

1095 2°

RMDC 26/2 (2020), 467-479: Excmo. P.D. Pío Vito Pinto: Sentencia definitiva del 13 de mayo de 2014. (Sentence)

See below, canon 1101.

1095 2°-3°

IM 30 (2019), nr. 3, 97-109: Kinga Szymańska: Tytuły prawne z których mogłyby być prowadzone sprawy o stwierdzenie nieważności małżeństwa, w których istotną rolę odegrała akrotomofilia (*Grounds for nullity of marriage in cases in which acrotomophilia plays an important role*). (Article)

K. reflects on the nature of acrotomophilia (a sexual disorder involving a strong interest in amputees) in the context of marriage nullity cases. The sexual disorder in question is a serious one, and may have a destructive influence on marital life, leading to its breakdown. Grounds arising out of this condition may include consensual incapacity (canon 1095 2°-3°) and deception (canon 1098).

1095 3°

Ius Comm IX (2021), 129-170: Romanae Rotae Tribunal: Sentencia definitiva coram Todisco, 12 mayo 2020. Nulidad de matrimonio. Incapacidad para asumir las obligaciones esenciales del matrimonio (Sent. 41/2020); Juan José García Failde: Comentario. (Sentence and comment)

This Rotal case involved a consideration of whether the man respondent was incapable of assuming the essential obligations of marriage. The *in iure* section of the Rota's affirmative sentence includes a very detailed analysis of the structure of the human act, the mutual interplay of intellect and will, the way in which the will moves the potencies of the soul to acts (uses), the need to understand the nature of man in its three-dimensional aspect (biological, psychological, and spiritual), and the theories of Victor Frankl on psychotherapy. The Rota concluded that in the particular case there existed in the respondent a grave psycho-affective immaturity that made it impossible for him to assume the essential obligations of marriage. In his comment on the decision, G.F., while acknowledging the erudition of the sentence, expresses a number of reservations in regard to what he considers both its *lacunae* and its "superabundances". The *lacunae* concern the failure

of the sentence to clarify what is meant by “incapacity” in canon 1095 3° (psychic incapacity? juridical incapacity?) as distinct from the “grave defect of discretion of judgement” in canon 1095 2°; the failure to make clear why an incapacity to fulfil an obligation implies an incapacity to contract that obligation; the failure to specify which obligations the respondent was unable to fulfil; and the failure to state what is to be understood by psycho-affective immaturity and why such immaturity produces an incapacity to assume or contract any particular essential obligation of marriage through making its fulfilment impossible. The “superabundances” of the sentence include the unnecessary length of its reflections on matrimonial consent, resulting from its not distinguishing between, on the one hand, inexistence of the object of consent, and, on the other, inexistence of consent caused by failures in the psychic faculties of the contracting party. In G.F.’s opinion the *in facto* section of the sentence is also rather poor in its analysis of the proofs; in fact the final affirmative decision seems to contradict what had been stated earlier in the *in iure* section.

1097-1098

Ginter Dzierżon: Z najnowszego orzecznictwa Roty Rzymskiej (*From the most recent case law of the Roman Rota*). (Book)

D. comments on 11 Rotal judgments, in four chapters dealing respectively with: 1. error and deceit (*coram* Erlebach, 13 June 2013 – error about a person / *coram* Vaccarotto, 29 October 2013 – error about a quality of the person directly and principally intended / *coram* Sciacca, 25 June 2010 – deceit and error about a quality of the person directly and principally intended / *coram* Arellano Cedillo, 18 April 2012 – deceit); 2. simulation (*coram* Caberletti, 11 June 2013 – total simulation / *coram* Caberletti, 13 January 2011 – exclusion of offspring / *coram* Salvatori, 18 November 2013 – exclusion of the good of the spouses and of the good of the sacrament); 3. condition (*coram* Caberletti, 18 December 2012 – condition as to the future / *coram* Erlebach, 14 March 2013 – condition); 4. other grounds (*coram* Bottone, 28 November 2013 – defect of canonical form / *coram* Yaacoub, 19 July 2007 – simple convalidation). He looks at the background to each case, the legal and factual considerations which form the basis of each sentence, and adds his own analysis of the approaches adopted by the Rotal auditors and the jurisprudential value of the judgements. (For bibliographical details see below, Books Received.)

1098

IM 30 (2019), nr. 2, 95-131: Wojciech Góralski: Podstępne wprowadzenie w błąd (kan. 1098 KPK) w opublikowanych orzeczeniach Roty Rzymskiej z lat 2010-2012 (*Deceit [canon 1098 of the CIC] in the published decisions of the Roman Rota, 2010-2012*). (Article)

G. studies ten published Rotal decisions between 2010 and 2012 concerning deceit (canon 1098). The cases fall into the following categories: deceit as a protective factor concerning marital consent; deceitful action; error as a result of deceit; deceit concerning the quality of a person (*in genere*, and also in relation to the specific qualities in the cases examined); proof of *deceptio dolosa*. The jurisprudence of the Roman Rota undoubtedly provides appropriate points of reference for lower tribunals in deciding marriage nullity cases involving deceit.

1098

IM 30 (2019), nr. 3, 97-109: Kinga Szymańska: Tytuły prawne z których mogłyby być prowadzone sprawy o stwierdzenie nieważności małżeństwa, w których istotną rolę odegrała akrotomofilia (*Grounds for nullity of marriage in cases in which acrotomophilia plays an important role*). (Article)

See above, canon 1095 2°-3°.

1099

IC 61/121 (2021), 289-330: Carmen Peña: Fe e intención requerida para el matrimonio sacramento. Consecuencias canónicas del documento de la Comisión Teológica Internacional. (Article)

See below, canon 1101.

1099

J 77 (2021), 103-124: Felix Menendez: *Error determinans: A Ground of Nullity? The Perspective of the Tradition*. (Article)

The error that determines the will of canon 1099 is a new ground, which has been increasingly used since its appearance in the CIC/83. Nevertheless, the late Cardinal Urbano Navarrete affirmed that it had no root in tradition. Indeed, the Catholic Church has never considered error concerning the

sacramentality, unity, or indissolubility of marriage as a diriment impediment. M. begins with a critical study of the history of the issue, including all the relevant sources. He then describes the different explanations given by authors to the unexpected appearance of the clause “*dummodo non determinet voluntatem*” in canon 1099.

1101

Canonist 12/1 (2021), 109-120: Roman Rota: Sentence *coram* Arellano Cedillo, 24 April 2014 (Lafayette, IN, USA). Exclusion of Indissolubility (can. 1101, §2). (Sentence)

The Rota was asked to judge whether the woman petitioner in this case had excluded indissolubility in contracting marriage. She was unbaptized and had been brought up in an atmosphere of laicism. The Rota was satisfied that her conviction regarding the dissolubility of the marriage bond, radically rooted in her mind, was reinforced by the constant use of civil divorce within the ambit of her family, and also achieved real application in her own behaviour in matrimonial matters. From the acts it was clear that the respondent was far from holding a correct understanding of the good of the sacrament; and the error of believing marriage to be only dissoluble determined her will at the moment when consent was pronounced.

1101

Canonist 12/1 (2021), 121-128: Roman Rota: Sentence *coram* P.V. Pinto, 13 May 2014 (Rome, Italy). Exclusion of the Indissolubility of Marriage (can. 1101, §2). Grave Defect of Discretion of Judgement (can. 1095, 2^o) (Affective Immaturity). (Sentence)

The Rota gave an affirmative sentence on the grounds of exclusion of the good of the sacrament on the part of the man petitioner, and of grave defect of discretion of judgement on the part of the same man petitioner, whose affective sphere was found to be burdened by significant traits of insecurity and underlying fragility, of which he was only partially conscious. The Rota doubted whether the petitioner was in fact capable of expressing true consent, and considered that the two grounds in question could exist simultaneously. A person with such personality traits could easily simulate as he/she is frail and remains permanently akin to an infant; “in fact, such a person does not make a decision to marry, that is, by simulating some other truth of self, distant thousands of times from his/her real existence.”

1101

RMDC 26/2 (2020), 467-479: Excmo. P.D. Pío Vito Pinto: Sentencia definitiva del 13 de mayo de 2014. (Sentence)

Spanish text of the sentence referred to in the previous entry.

1101

IC 61/121 (2021), 289-330: Carmen Peña: Fe e intención requerida para el matrimonio sacramento. Consecuencias canónicas del documento de la Comisión Teológica Internacional. (Article)

In March 2020 the International Theological Commission issued a document entitled *The Reciprocity between Faith and Sacraments in the Sacramental Economy*, which explores in depth the dialogical nature of the sacraments and the requirement of faith for their celebration, as well as the question of the sacramental dimension of marriages between baptized non-believers. After analysing the text and highlighting its main points, P. addresses the canonical effects of these theological principles, underscoring the various ways in which the document opens up the possibility of deepening and revising canonical practice. Specifically, she addresses the relevance of lack of faith in relation to error or exclusion of sacramentality and error or exclusion regarding the good of the spouses, as well as preparation for and admission to marriage or mixed marriages.

1101

IM 30 (2019), nr. 1, 93-107: Wojciech Góralski: Wykluczenie *bonum sacramenti* w wyroku Roty Rzymskiej c. Erlebach z dnia 3 lutego 2011 roku (*The exclusion of *bonum sacramenti* in the Roman Rota's sentence c. Erlebach of 3 February 2011*). (Sentence and comment)

G. comments on a negative third instance Rotal decision concerning a marriage contracted in 1973. The man petitioner was imbued with Marxist beliefs, and rejected God and religion, and even marriage; he agreed to marry under pressure from his fiancée's family, and in order to obtain some material benefits. The testimonies of the petitioner and the witnesses (the woman respondent refused to testify) did not make clear the petitioner's will; nor was there a *causa proxima* for excluding the *bonum sacramenti*, or circumstances *pro simulatione*; in fact many circumstances seemed to indicate there was no simulation. This verdict *coram* Erlebach is an example of an in-depth assessment of the evidence, which demonstrated the views

and beliefs of the petitioner, but did not show any positive act of will against marriage on his part.

1101

IM 30 (2019), nr. 4, 17-36: Grzegorz Leszczyński: Brak wiary a wykluczenie godności sakramentalnej małżeństwa (*Lack of faith and exclusion of the sacramental dignity of marriage*). (Article)

The CIC/83 places the reasons for marriage invalidity in three different categories: impediments, defects in matrimonial consent, and lack or defect of canon form. Among the defects in matrimonial consent, canon 1102 §2 deals with simulation. Simulation occurs where a person outwardly expresses marital consent, but in reality, through a positive act of the will, excludes marriage itself, or some essential element or property of marriage. L. looks at the relationship between the validity of marriage and the exclusion of the sacramental dignity, with special consideration of the faith of the person.

1101

RMDC 26/1 (2020), 139-153: Excmo. P.D. Pío Vito Pinto: Nulidad de matrimonio, Sentencia definitiva del día 5 de julio de 2013. (Sentence)

The grounds investigated in this Rotal case were lack of discretion of judgement in both parties, and determining error in both parties concerning the indissolubility of marriage. From the evidence presented the Rota concluded that there was no evidence of lack of the necessary discretion of judgement in either party, nor of error concerning indissolubility on the part of the woman respondent. However, the man petitioner, who had been brought up in the Episcopalian confession, was found to have a concept of marriage which was far removed from a true understanding of the sacrament, and this error passed to his will and determined it at the moment in which he expressed marital consent: hence the marriage was declared null on this latter ground.

1101-1102

Ginter Dzierżon: Z najnowszego orzecznictwa Roty Rzymskiej (*From the most recent case law of the Roman Rota*). (Book)

See above, canons 1097-1098.

1107

IM 30 (2019), nr. 4, 5-15: Ginter Dzierżon: Status małżeństw nieważnych z powodu zaistniałej przeszkody lub braku formy kanonicznej w kanonicznym porządku prawnym (kan. 1107 KPK) (*Canonical status of marriages that are invalid on account of an impediment or lack of canonical form – canon 1107 of the CIC*). (Article)

D. examines canon 1107 and the status of marriages that are invalid on account of an impediment or lack of canonical form. The existence of this norm results from the Church legislator's concern to protect the legal and formal dimensions of the marriage bond. The *ratio legis* of the canon is to enable the convalidation of such marriages.

1108

IM 30 (2019), nr. 2, 79-93: Ryszard Kilanowicz: Obrzędy sakramentu małżeństwa w ujęciu wymogów Kodeksu Prawa Kanonicznego z 1983 roku (*The rite of the sacrament of marriage – implementation of the 1983 Code of Canon Law*). (Article)

K. studies the rite of the sacrament of marriage as adapted to conform to the CIC/83. He looks at the various elements of the rite, and at the effects of the sacrament of marriage. The liturgy relating to the sacrament speaks of the sanctity of marriage through the beauty of its celebration.

1111

IM 30 (2019), nr. 3, 5-56: Wojciech Góralski: Uzupelnienie braku upoważnienia do asystowania przy zawieraniu małżeństwa wyrazem ochrony dobra wspólnego (*Supplying the lack of delegation to assist at marriage as an expression of protection of the common good*). (Article)

Even though marriage arises from the consent of the parties (canon 1057 §1), it is necessary to observe the canonical form (ordinary or extraordinary) for the validity of this relationship. Given that the form of marriage was established in order to eliminate secret marriages, canon 144 §1 of the current Code of Canon Law states that in the event of common error of fact or law, and in positive and probable doubt of law or of fact, the Church supplies executive power of governance for both the external and internal forum. The provision applies to, among others, canon 1111 §1, which allows a local Ordinary or parish priest to delegate (to priests and deacons) the faculty of assisting at marriages. G. studies the question of supplying such

delegation in the event of common error or positive and probable doubt of law or fact, first in historical context, and then through examples appearing in sentences of the Roman Rota between 1992 and 2006, including the important precedent established in the sentence of Stankiewicz of 15 December 1992.

1111

S 83 (2021), 152-162: Kevin Otieno Mwandha: *Supplet Ecclesia: l’Istituto giuridico della supplenza della potestà esecutiva.* (Article)

See above, canon 144.

1141-1150

EIC 61 (2021), 235-263: Jorge Castro Trapote: *Fundamentación canónica de la disolución de los matrimonios in favorem fidei.* (Article)

C.T. examines the canonical foundation of the dissolution of marriages *in favorem fidei*, approaching it not from the perspective of the *potestas vicaria* of the Roman Pontiff, but from the principles that govern the relationship between divine natural law and divine positive law. This approach helps to understand the different reforms in this matter, and avoids presenting the regulation of the dissolution of marriages as an exception to the divine natural law. Indeed, in the dissolution of marriages *in favorem fidei*, natural law could be said to reach its culminating moment in the canonical order, and its most complete application.

1141-1150

Ius 11, No. 2 (2020), 203-218: Sebastian Payyappilly: *The Juridical Competence of the Catholic Church in Annuling the Marriage of the Unbaptized.* (Article)

See above, CCEO canons 854-860.

1141-1150

IusM XV/2021, 99-130: Luigi Sabbarese: *De matrimonio infidelium*.
(Article)

S. examines various aspects of marriages of the unbaptized, especially in the light of commentaries on the CIC/17, and the decisions before and after that Code by the then Holy Office and by the Congregation *de Propaganda Fide*. In addition to the most common issues on which the Roman dicasteries were consulted by the Churches in mission territories (the concept of consent among non-Christians, the determination of a valid or a doubtful marriage, the conditions for the application of the Pauline privilege, the interpellations and their possible dispensation, the privilege of the faith in doubtful cases), from a study of the praxis and doctrine a working methodology emerges. On the basis of common criteria, this helps in elaborating resolutions, responses, and guidelines for individual cases which can also be useful for similar cases. S. looks at the main aspects where the Church is called to intervene in the area of natural marriages and the application of the *favor fidei*.

1141-1150

IusM XV/2021, 131-147: Elias Frank: *In Favorem Fidei Dissolution of Marriage Bond. Case Study*. (Article)

F. focuses on certain aspects specific to *in favorem fidei* reserved cases. First, he explains why the application of the term “Petrine privilege” to the dissolution of natural marriages reserved to the Apostolic See is misleading. He then provides a list of marriage situations that come under the purview of *in favorem fidei* Norms. The nub of the work is a critical analysis of two marriage cases presented to the Congregation for the Doctrine of the Faith for dissolution, but which were not presented to the Roman Pontiff as they lacked substantive elements even though the cases met the essential conditions set out in article 4 of the Norms. F. wishes to emphasize to those ministering in dioceses and eparchies that in processing such cases it is important to pay attention both to the substantive elements specific to this *favor* as well as to the procedural norms.

1141-1150

IusM XV/2021, 163-172: Johannes Fürnkranz: La fase dicasteriale della procedura per lo scioglimento del vincolo matrimoniale *in favorem fidei*. (Article)

In cases of dissolution of marriage *in favorem fidei*, the Congregation for the Doctrine of the Faith is competent to examine the individual cases and, if it is warranted, to submit the petition to the Supreme Pontiff, requesting the favour. The primary aim of F.'s article is to offer a step-by-step guide to the procedure of *in favorem fidei* cases at the dicasterial stage, as well as to provide statistics of cases from 2001 to 2020, according to their geographical origin.

1141-1150

QDE 34 (2021), 28-58: Paolo Bianchi: La certezza morale di qualcosa che non esiste: come provare una assenza? (Article)

B. commences with a survey of the notion of proving a negative, relating it to the usual rule that the burden of proof rests on the one asserting a fact, to the distinction between direct and indirect proofs, and to the notion of an argument from exclusion (the mode B. prefers). He then offers a detailed commentary on article 16 of the 2001 Norms of the Congregation for the Doctrine of the Faith regulating cases for the dissolution of a marriage *in favorem fidei*, offering suggestions about the practical application of the rules. He then offers a number of model questionnaires for the examination of possible witnesses, based on his own practice.

1141-1150

QDE 34 (2021), 59-81: Johannes Fürnkranz: Lo scioglimento del matrimonio *in favorem fidei*: questioni scelti a partire dalle *Normae* del 2001. (Article)

F. reviews certain specific questions that have arisen concerning the 2001 Norms for dissolving non-sacramental marriages. He begins by looking at the essential conditions for this: that the previous marriage was non-sacramental and that at least one of the parties to the proposed marriage is a Catholic. He then explains the situations in which the favour will not be granted: when the petition involves someone who was wholly or mainly responsible for the failure of the previous marriage, when either party to the proposed marriage has already benefited from this favour, and when the

proposed marriage would involve the second grant of a dispensation from disparity of cult. When considering the local phase of the process, F. offers suggestions about which route to take when other routes appear possible, and addresses issues of competence, the hearing of the other party to the first marriage, and the pre-matrimonial declarations, promises, and documentation of the subsequent marriage. He then offers indications about the *praxis curiae* of the Congregation for the Doctrine of the Faith in dealing with these cases.

1141-1150

QDE 34 (2021), 82-93: Matteo Visioli: Lo scioglimento del matrimonio in favore della fede: numeri e statistiche. (Note)

V. analyses the number of petitions for the dissolution of marriages in favour of the faith in the years 2017/8 and 2018/9, breaking them down by country and region of origin. His analysis includes the idea that the prevalence of petitions from countries which are not mission lands is probably to be explained by the greater diffusion of juridical knowledge in countries such as the USA.

1142

HPR June 2018: Lawrence J. Welch: Renewing or Imperiling our Understanding of the Sacrament of Marriage? (Article)

See above, canon 1055.

1156-1160

Ginter Dzierżon: Z najnowszych orzecznictwa Roty Rzymskiej (From the most recent case law of the Roman Rota). (Book)

See above, canons 1097-1098.

1160

AnC 16 (2020) 2, 21-35: Daniel Klimkiewicz: Uważnienie zwykle małżeństwa z powodu braku formy kanonicznej (kan. 1137 CIC 17, kan. 1160 KPK) (*The simple convalidation of marriage due to lack of canonical form: canon 1137 CIC 17, canon 1160 CIC*). (Article)

K. examines canon 1137 of the CIC/17 and canon 1160 of the CIC/83 regarding nullity of marriage due to a lack of canonical form. He distinguishes between lack of form (e.g. a registry office marriage between Catholics), where *sanatio in radice* is considered to be the method of convalidation; and defect of form (e.g. a marriage between a Catholic and a non-Catholic Christian which does not comply with the requirements of canonical form). Difficulties arise over the interpretation of the clause in canon 1160 “without prejudice to the provisions of canon 1127 §2”. Some canonists consider it inappropriate; others propose that in a mixed marriage which is invalid because of non-compliance with the provisions on canonical form, a dispensation should be granted *post factum*, producing automatic convalidation of the marriage. K. does not share this view, but argues that if it is not possible to apply the principle of *Ecclesia supplet potestatem* (canon 144), the marriage would need to be convalidated in the ordinary form if it lacks some element depriving it of its “public” character (witnesses, etc.).

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

1186

ADC 10 (abril 2021), 93-130: Juan Damián Gandía Barber: El proceso de codificación del canon 1186. (Article)

G.B. describes the process of the drafting of canon 1186, which commends to the faithful the veneration of the Blessed Virgin, and promotes the true and authentic cult of the other saints. Two separate paths were followed in the canon's *iter*: that of the *Coetus de studii de locis et temporibus sacris deque culto divino*, and that of the group that drafted the *Lex Ecclesiae Fundamentalis*.

1187

IC 61/121 (2021), 245-287: Juan Damián Gandía Barber: El culto lícito a los Santos y Beatos (canon 1187). (Article)

G.B. provides an explanatory overview of canon 1187, beginning with the process by which it was drafted. He clarifies a number of key concepts, explaining the differences between canonization and beatification, private and public devotion, licit acts of devotion to Servants of God and licit public devotion to Saints and to the Blessed.

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

1214

J 77 (2021), 197-223: Supreme Tribunal of the Apostolic Signatura: 1. Decree of the *Congresso, Execution of the May 21, 2011 Sentence of this Supreme Tribunal*, prot. n. 48568/13 CA, May 30, 2014; 2. Decree of the Secretary, *Suppression of Parish Y in the City of H-K and the Status of the Church*, prot. n. 48760/14 CA, March 24, 2014; 3. Decree of the *Congresso, Suppression of Parish Y in the City of H-K and the Status of the Church*, prot. n. 48760/14 CA, January 21, 2015; Edward Lohse: **Brief Note on the Contentious-Administrative Process and the Jurisprudence on the Status and Use of Churches. (Decrees and comment)**

See below, canon 1445.

BOOK V: THE TEMPORAL GOODS OF THE CHURCH

1222

CLSN 199/21, 4-70: Martin Whelan: How to Minimise Conflict Over the Sale of Church Property. (Article)

See below, canons 1290-1298.

1254

Canonist 12/1 (2021), 22-54: Anthony Ekpo: The “Retention” of Ecclesiastical Goods in Book V of the 1983 Code: A Merely Notional Concept? (Article)

The CIC/83 distinguishes four major aspects or elements of ownership of its temporal goods: acquisition, retention, administration, and alienation. In canonical writings little attention has been paid to “retention”. In the ownership and management of ecclesiastical goods there are administrative acts that are directly linked to the intention of retaining temporal goods that have been legitimately acquired, and E. looks at these in detail. They include establishing goods as juridical persons; approving statutes; establishing the civil status of goods; establishing the stable patrimony of juridical persons; ensuring accountability and the prevention of transactions which could threaten the ownership of goods; and establishing insurance policies.

1286

RMDC 26/2 (2020), 321-420: Antonio Verdín Delgado – Luis de Jesús Hernández Mercado: Las leyes laborales aplicables en México que tutelan los derechos de los fieles que trabajan en instituciones de la Iglesia católica. (Article)

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

1290-1298

CLSN 199/21, 4-70: Martin Whelan: How to Minimise Conflict Over the Sale of Church Property. (Article)

W. addresses the question of minimizing conflicts that arise over the sale of Church property, examining the purpose of Church property, the rights of juridical and physical persons in relation to Church property, the function of administrators, and occasions of conflict (situations in which the decisions of Church administrators over the closure and alienation of churches were challenged by members of the faithful). Although the alienation of Church property may seem to be a very mundane topic, W. points out that it touches the fundamentals of ecclesiology, and raises questions of authority, rights, and synodality.

BOOK VI: SANCTIONS IN THE CHURCH

Note: references to the new canons of Book VI are marked with an asterisk.

1319 / 1319*

IC 61/121 (2021), 99-137: Francisca Pérez-Madrid: El precepto penal, una vía para prevenir el delito y reparar el escándalo. (Article)

The penal precept may serve as a particularly apt means of repairing scandal, restoring justice, and bringing about the reform of the offender, particularly in view of its personal and temporary nature. However, it is an instrument that is little used, perhaps because of a lack of knowledge, or because of difficulty in understanding it in the context of the Code as a whole. Its use is recommended by the *Vademecum* of the Congregation for the Doctrine of Faith on certain points of procedure in dealing with cases of sexual abuse of minors committed by clerics (see *Canon Law Abstracts*, no. 126, pp. 98-99, and below, canon 1395*). According to the information currently available, the reform project of Book VI of the Code favours the use of the penal precept, proposing in fact that its application be mandatory in certain cases. [*Ed. note*: see for example the new canon 1339 §4*.]

1323-1324 / 1323*-1324*

RMDC 26/1 (2020), 7-37: Mario Medina Balam: Estado de necesidad y grave incómodo: causas eximentes o atenuantes de la pena. (Article)

M.B. enquires into factors which can bring about exemption from or attenuation of a penalty, insofar as they affect the grave imputability of a criminal action, either eliminating imputability altogether or else lessening it. At the centre of the study are *necessitas* and *grave incommodum*, and the components that cause them to be exempting or attenuating factors, depending on whether or not they are intrinsically evil acts or tend to be harmful to souls. By means of various examples M.B. explains the difference between *necessitas* and *grave incommodum*.

1333 / 1333*

Ap XCII (2019), 355-382: Supremum Signaturae Apostolicae Tribunal: Sententia definitiva (*Exercitium sacri ministerii*); Cristian Begus: Principio di proporzionalità e Diritto amministrativo canonico. Indizi giurisprudenziali. (Sentence and comment)

See below, canon 1445.

1339 / 1339*

Canonist 12/1 (2021), 55-66: Brendan Daly: Put It in Writing. (Article)

It sometimes happens that when a diocesan bishop or religious superior decides to take action against a priest or religious in a sexual abuse case, they discover that because there were no proper written warnings or precepts given in the past, they are unable to act decisively, and they have to begin at step one, giving a warning or precept in writing. In this context D. looks at penal laws and precepts; the essential elements of precepts; communication of the precepts or law; the receipt of laws; warnings; and penalties as a result of precepts. He concludes that in dealing with clergy or religious engaged in crimes or misconduct, the rule should be: put it in writing.

1342 / 1342*

Canonist 12/1 (2021), 55-66: Brendan Daly: Put It in Writing. (Article)

See above, canon 1339*.

1345 / 1345*

RMDC 26/1 (2020), 7-37: Mario Medina Balam: Estado de necesidad y grave incómodo: causas eximentes o atenuantes de la pena. (Article)

See above, canons 1323*-1324*.

1390 / 1390*

Ius Comm IX (2021), 47-67: †Antoni Stankiewicz: Denuncia calumniosa al Superior eclesiástico por algún delito y otra lesión de la buena fama. Algunos aspectos sustantivos y procesales. (Article)

The canonical penal protection of the honour and good reputation of a person or group of persons (canon 1390 §2) includes two criminal offences: the slanderous denunciation of a crime to the ecclesiastical superior (first part), and the injury to the good reputation of one's neighbour (second part). In these two cases, if the operative part of a condemnatory sentence refers to the crime of slanderous denunciation, but the controversy was defined only in terms of the crime of defamation, the sentence is irremediably null according to canon 1620, 8°, because the controversy is not even partially decided, but also according to canon 1620, 7°, because the defendant is denied the possibility of exercising the right of defence, and is convicted of something totally different from what was discussed in the course of the criminal proceeding. The crime of defamation can also apply where the one defamed is a collegial juridical person, as is evidenced by the fact that the Roman Rota brought an action for defamation, with the authorization of the Holy See.

1395 / 1395*

ADC 10 (abril 2021), 15-91: Antonio Rella Ríos: El abuso sexual en la Iglesia. Conceptualización y tratamiento canónico. (Article)

After the *motu proprio Vos estis lux mundi*, the importance of procedures and processes related to penal matters has become more evident in the Church. At the same time it has set the stage for reflection on sexually abusive behaviour, and canonists have been invited to study penal legislation more deeply. R. sets out the canonical penal doctrine and how to proceed in cases where an allegation of sexual abuse has been made against a cleric.

1395 / 1395*

Canonist 12/1 (2021), 137-151: Roman Rota: Penal Sentence *coram* Arokiaraj, 15 July 2020. Penalty for a Cleric Who Sins Against the VIth Commandment of the Decalogue (can. 1395, §2). (Sentence)

After allegations in newspaper reports and internet communications, as well as in a dossier delivered to the diocesan bishop, a priest was found guilty by

a first instance tribunal of having committed the offence in canon 1395 §2, namely that of offending against the sixth commandment of the Decalogue (in ways other than concubinage or obstinately continuing in some other external sin against the sixth commandment which causes scandal: canon 1395 §1), where the crime is committed by force, or by threats, or in public (*publice*), or with a minor under the age of sixteen years (amended to eighteen years by *Sacramentorum sanctitatis tutela*). The priest appealed against this decision and against the punishments imposed. It was clear that the priest had had sexual relations with an adult man, and that this relationship had lasted at least eight months. There was no question of force, threats, or the involvement of an underage person, so the issue revolved around whether the offence had been committed “publicly”. The Rota found that the priest had actually abhorred any publicity and had made efforts to maintain silence and conceal the relationship; and it was only through denunciations made by the accomplice – who was in fact the one who compiled the dossier given to the bishop – that the relationship was finally detected and made public. Later publicity given to a shameful fact which actually happened within a private context so that it remained entirely concealed to others, apart from the participants themselves, does not convert it into a “public” act. Thus no offence had been committed under canon 1395 §2. The Rota suggested that, with a view to helping the priest in the future, the bishop consider the precept of canon 1348 [reproduced in the new canon 1348*]: “When the person has been found not guilty of an accusation, or where no penalty has been imposed, the Ordinary may provide for the person’s welfare or for the common good by opportune warnings or other solicitous means, and even, if the case calls for it, by the use of penal remedies.”

1395 / 1395*

HPR November 2019: Michael J. Mazza: Canon Law, Civil Law, and the Current Crisis in the Church: Reflections of a Civil Lawyer Studying Canon Law in Rome. (Article)

M. explains how he left his job as a corporate lawyer to begin studying canon law, with a view to offering priests legal representation of both a civil and a canonical nature. One very significant consequence of the sexual abuse crisis – apart from the real and lasting harm caused to victims and their families and friends; the disastrous financial consequences for many dioceses and other entities; and the tremendous loss of time and energy spent on things other than the preaching of the Word of God, celebrating the sacraments, and performing works of charity – is what M. calls the

relentless assault on the due process rights of priests, as well as a shocking disregard of their right to a presumption of innocence and of their right to a good name. He attempts to offer some perspective on this question and some encouragement regarding what can be done in the very difficult days in which we find ourselves. The “weaponization” of sex abuse claims, he says, represents a gross injustice not only to those who are falsely accused, but to the real victims of sexual abuse, of whatever age. It also represents a direct attack on the Catholic Church – its assets, its moral authority, its very existence as we know it, at least in the U.S.

1395 / 1395*

IC 61/121 (2021), 139-196: Gerardo Núñez: Vademécum sobre abusos de menores de la Congregación para la Doctrina de la Fe: reflexiones jurídicas y pastorales. (Article)

On 16 July 2020, the Congregation for the Doctrine of the Faith published a *Vademecum* intended to provide all Ordinaries with a clear set of norms to ensure that processes relating to the abuse of minors be carried out in a consistent way. The text is not normative as such; it provides information about praxis at the Congregation. However, a detailed study of the text reveals that some aspects remain somewhat obscure, or require further development. N.’s commentary points out some of these issues and makes some proposals.

1395 / 1395*

Ius 11, No. 1 (2020), 85-111: Domy Thomas: Vos Estis Lux Mundi: Text and Commentary - Part II. (Article)

The first part of this article appeared in *Iustitia* vol. 10/2, and dealt with the general provisions of *Vos estis lux mundi*. Here T. looks at the procedures to be followed by cardinals, patriarchs, bishops and legates of the Roman Pontiff in handling “delicts against the sixth commandment of the Decalogue” committed by clerics or religious. (See also *Canon Law Abstracts*, nos. 123, pp. 110-111; 124, pp. 101-107; 125, pp. 94-101; 126, pp. 99-101.)

1398 / 1397*

Ap XCII (2019), 503-529: Giorgio Giovanelli: Il Delitto di Aborto. Aspetti canonistici. (Article)

Canon 221 §3 establishes the principle of *nulla poena sine lege*, meaning that offences and penalties are to be clearly and precisely defined. However, this principle does not appear sufficiently clear regarding the offence of abortion (canon 1398 [1397 §2*]). Recent medical developments in the field of gestation pose new questions and dilemmas, especially since abortion has always been linked to the voluntary expulsion of the foetus from the maternal uterus before birth in order to cause its death. At present, however, interceptive and contraceptive drugs make possible the voluntary termination of a pregnancy without causing, as a means to a lethal end, the expulsion of the foetus, which is still considered by many authors to be a necessary element to the crime of abortion. G. offers some considerations for a more correct definition of this offence, with the aim of overcoming the temptation of juridical positivism and the literal implementation of the law, which give rise to the risk of continuing to adhere to canonical opinions that are no longer sustainable in the light of medical and scientific evidence.

BOOK VII: PROCESSES

1403

ADC 10 (abril 2021), 131-175: José Antonio Calvo Gómez: El proceso remisorial apostólico para la canonización de Fernando III, El Santo (1201-1252). (Article)

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

1403

Ius Comm IX (2021), 9-25: Marcello Semeraro: Santidad y evangelización de la sociedad. (Lecture)

The Prefect of the Congregation for the Causes of Saints begins by asserting that the saints make the world fruitful (Francis, Apostolic Exhortation *Gaudete et exsultate*, no. 33) and are the true protagonists of evangelization (Benedict XVI, opening of the Synod of October 2012). Certainly, holiness is born of evangelization and generates evangelization because it shows paths of redemption. With the promulgation of the relative decrees, the Congregation for the Causes of Saints shows that the Church is valuing all categories of persons and diverse geographical origins, thus highlighting the universal vocation to holiness (*Lumen gentium*, no. 40). And in the context of Covid-19 it is worth recalling that Francis, with the *motu proprio Maiorem hac dilectionem* of 11 July 2017, instituted the possibility of the beatification of those Christians who voluntarily and freely offer their lives for others, persevering until death in this purpose, and fulfilling the requirements established therein and foreseen for these causes.

1424-1425

Kevin Otiendo Mwandha (ed.): De potestate regiminis. Il ruolo della donna nella Chiesa oggi. (Book)

See above, canon 129 (especially the article by María Victoria Hernández Rodríguez).

1427

Kevin Otiendo Mwandha (ed.): *De potestate regiminis. Il ruolo della donna nella Chiesa oggi.* (Book)

See above, canon 129 (especially the article by Tiziana Merletti).

1435

Kevin Otiendo Mwandha (ed.): *De potestate regiminis. Il ruolo della donna nella Chiesa oggi.* (Book)

See above, canon 129 (especially the article by Marisa Marcolini).

1443-1444

IE XXXIII (2021), 37-66: Felipe Heredia Esteban: *La reintroduzione del dubbio generico nel Tribunale della Rota Romana: aspetti storici e prassi attuale.* (Article)

See below, canons 1671-1691.

1445

Ap XCII (2019), 355-382: *Supremum Signaturae Apostolicae Tribunal: Sententia definitiva (Exercitium sacri ministerii)*; Cristian Begus: *Principio di proporzionalità e Diritto amministrativo canonico. Indizi giurisprudenziali.* (Sentence and comment)

In deciding a case in which a cleric had been removed from his post as chaplain to a Catholic college for inappropriate behaviour towards some adult students, following which his bishop deprived him of all faculties other than to say Mass *sine populo* (as well as to absolve in danger of death according to canon 976), the Signatura considered that the penalty imposed lacked due proportionality to the offence committed, and that the bishop's decision, which had later been upheld by a decree of the Congregation for the Clergy, was vitiated by a violation of the law *in discernendo*. Commenting on the Signatura's decision, B. notes that in a growing number of cases involving administrative sanctions against clerics – especially those imposed for precautionary purposes – the Apostolic Signatura is turning to the criterion of “proportionality” in its judgments. The administrative action must effectively be corrective, rather than simply repressive; hence there must be due proportion between the unsuitable behaviour and the purpose of

the authoritative action. B. asks whether it is possible to judge the “proportion” without entering into the merits of the case. He considers that an assessment of proportionality in the strict sense does not affect the question of what is most deserving of protection and therefore what is most appropriate to pursue, but rather seeks a balance between the expansion and limitation of protected legal situations.

1445

FCan XV/2 (2020), 7-37: Mário Rui de Oliveira: A Assinatura Apostólica e os tribunais eclesiásticos portugueses: a competência da vigilância na administração da justiça e o contencioso administrativo. II Parte: A remoção dos Párcos e a tutela dos direitos dos fiéis na Igreja: os recursos e o contencioso administrativo na Assinatura Apostólica. (Article)

See below, canons 1740-1747.

1445

IC 61/121 (2021), 431-470: Supremo Tribunal de la Signatura Apostólica: Decretos; Javier Canosa: Las distintas clases de administradores y la ponderación de bienes en la actividad administrativa de la Iglesia. (Decrees and comment)

The Latin and Spanish texts are given of two decrees (Prot. n. 47390/12 CA) by which the Apostolic Signatura refused to admit a recourse presented before it, as it was satisfied that the claim which initiated the process manifestly lacked any foundation. The origin of the controversy was a lack of clarity in the financial dealings of a parish administrator. The accounts which he submitted to the apostolic administrator of the diocese failed to cast any light on the matter, with the result that the apostolic administrator brought a civil action against the parish administrator, seeking to clarify where certain sums of money donated by the lay faithful to the parish had ended up. The parish administrator considered himself unjustly treated by the decision to have recourse to the civil courts, and presented a recourse to the Congregation for the Clergy, which on two separate occasions confirmed the decision of the apostolic administrator. The priest then initiated a contentious-administrative process before the Apostolic Signatura. On 6 February 2015 the Prefect of the Signatura, in Congress, decided negatively concerning the admissibility of the recourse; and on 15 January 2016 the College of Judges, consisting of five members, once more rejected the

recourse, declaring that the decree of the Congress of 6 February 2015 should not be modified. In his comment on the decrees, C. highlights several points of interest arising out of the decision by the ecclesiastical authority to have recourse to the civil courts, but focuses principally on two issues: the distinction between different types of administrators (parish administrator, apostolic diocesan administrator, financial administrator); and the “pondering” called for in the different areas of administrative activity to ensure the suitable use of discretion (due consideration or care in adopting a particular measure; the weighing up of the goods and of the rights and interests in question; justice and good administration in accordance with the nature and mission of the Church; seeking appropriate advice; due pondering on the part of the ecclesiastical authorities in arriving at their decisions; etc.). C. considers that the publication of these decrees is helpful both in providing examples of due “pondering”, and also in showing the difference between an administrator as an authority who guides a community, and an administrator as someone responsible for the proper financial management of goods; as well as the differences between an administrative act, considered as an act of executive power of governance, and an act of administration, as an intervention in the financial management of goods.

1445

IE XXXIII (2021), 241-274: Supremo Tribunale della Segnatura Apostolica, 2 ottobre 2018, Prot. n. 52094/16 CA, Ordinariato Militare N. Della soppressione della parrocchia X presso l'Accademia Militare Y (Rev.do Z e altri – Congregazione per il Clero), con un commento di Giovanni Parise, Soppressione di una parrocchia e impossibilità di sanare un atto amministrativo illegittimo da parte del superiore gerarchico. (Definitive sentence and comment)

A military bishop decreed the suppression of a parish attached to a military academy, and the transfer of the priest of that parish to another military parish. A hierarchical recourse to the Congregation for the Clergy was rejected, following which a contentious-administrative action was brought before the Apostolic Signatura. The Signatura found that the original decree suppressing the parish involved a violation of the law *in procedendo*, since the bishop had failed to consult the council of priests before issuing it, as required by canon 515 §2 (the Signatura clarified that to consult the members of the council individually is not the same as to consult them collectively). Furthermore, the Congregation for the Clergy, when confirming the bishop's decree of suppression, as a precaution “validated”

it, in case it had involved any violation; but the Signatura decided that such an act itself constituted a violation of the law *in procedendo*, since canon 1739, which grants to a superior authority the power “not only to confirm the decree or declare that it is invalid, but also to rescind or revoke it or, if it seems to the superior to be more expedient, to amend it, to substitute for it, or to obrogate it” does not, however, grant power to “validate” an invalid decree. The priest also claimed damages for a) the expenses of a new residence in the parish to which he had been assigned; b) the loss of his teaching job in the military academy; and c) psychological damage caused by the unlawful decree. The Signatura decided that in respect of a), this was an issue connected to the priest’s new appointment and was in no way part of the object of this recourse; in respect of b), the loss of the teaching post had not been shown to be the direct result of the suppression of the parish; and in respect of c), again this had not been proved to be directly attributable to the suppression of the parish.

1445

J 77 (2021), 197-223: Supreme Tribunal of the Apostolic Signatura: 1. Decree of the *Congresso*, Execution of the May 21, 2011 Sentence of this Supreme Tribunal, prot. n. 48568/13 CA, May 30, 2014; 2. Decree of the Secretary, Suppression of Parish Y in the City of H-K and the Status of the Church, prot. n. 48760/14 CA, March 24, 2014; 3. Decree of the *Congresso*, Suppression of Parish Y in the City of H-K and the Status of the Church, prot. n. 48760/14 CA, January 21, 2015; Edward Lohse: Brief Note on the Contentious-Administrative Process and the Jurisprudence on the Status and Use of Churches. (Decrees and comment)

The Latin text and English translation are given of three decrees of the Apostolic Signatura relating to two separate cases concerning the loss of a church’s parochial status as a result of a parish merger, and what might be considered the minimum requirement for the church to be open and accessible to the faithful. In his comment on the decrees, L. explains the differences between the different types of decree issued by the Signatura (of the Secretary, of the prefect in *Congresso*, or of the College of Judges), before looking at some of the substantive jurisprudential issues contained in the decrees in question. Of particular interest are the following considerations: the diocesan bishop is the authority competent to grant parochial status to a parish; no law enshrines the right of a church to remain parochial; when a parish ceases to exist, its church remains a church but loses its parochial status; the church in question remains open for divine

worship; it is the pastor (parish priest) who is the one competent to direct the sacred use of the church, and therefore to provide for the faithful's exercise of the right under canon 1214 to enter the church for divine worship. As long as occasional divine worship takes place within the church, even if only rarely, according to the discretion of the pastor, the threshold of canon 1214 is met.

1501-1516

Canonist 12/1 (2021), 84-108: Merlin Ambrose: The Introductory Phase of the Marriage Nullity Process and the Rights of the Parties. (Article)

The matrimonial nullity process consists of five distinct phases in the first instance: 1. introductory phase; 2. instructional phase; 3. discussion phase; 4. decision phase; 5. post-decision phase (appeal and plaint of nullity). A. reflects on the rights of the parties in the introductory phase of the process. This phase involves the admission or rejection of the *libellus*, the citation of the parties, and the *litis contestatio* (formulation of doubt or joinder of the issue). The introductory phase has significant consequences and repercussions for an orderly and efficacious instruction and discussion, and for a decision arrived at with *certitudo moralis*. Violation, denial, or misapplication of the procedural provisions concerning the exercise of the rights of the parties at this phase may affect the validity of the sentence (cf. canon 1620 4° and 7°).

1504

IE XXXIII (2021), 37-66: Felipe Heredia Esteban: La reintroduzione del dubbio generico nel Tribunale della Rota Romana: aspetti storici e prassi attuale. (Article)

See below, canons 1671-1691.

1504

IE XXXIII (2021), 67-87: Paolo Giuseppe Maria Lobiati: Qualificazione di fatto storico e *caput nullitatis* nel processo canonico. (Article)

See below, canons 1671-1691.

1526

QDE 34 (2021), 28-58: Paolo Bianchi: La certezza morale di qualcosa che non esiste: come provare una assenza? (Article)

See above, canons 1141-1150.

1574

AnC 16 (2020) 2, 7-19: Rafał Dappa: Biegły jako asesor w procesie skróconym przed biskupem (*A tribunal expert as an assessor in the brief matrimonial process before the bishop*). (Article)

See below, canons 1671-1691.

1574

CLSN 198/21, 3-65: Christine O’Riley: Moral Certainty and the Role of “Expert” Clinical Evidence. (Article)

See below, canon 1608.

1574

IM 30 (2019), nr. 1, 17-37: Tomasz Rozkrut: Zadania biegłego w zreformowanym przez papieża Franciszka procesie małżeńskim (*Duties of an expert in the marriage process reformed by Pope Francis*). (Article)

Canonical procedural law, especially the practice of the Apostolic Tribunals, constantly draws attention to the role and importance of expert opinion in the process of declaring the invalidity of marriage. The expert’s opinion is especially important in defining what is meant by “mental illness or an anomaly of a psychic nature”, as referred to in the new canon 1678 §3 introduced by *Mitis Iudex*. It should be pointed out that the amendment made by Pope Francis is in complete harmony with the teaching of his predecessors in the office of the Bishop of Rome; it is merely a transfer of the important teaching of John Paul II and Benedict XVI into a formalized procedural norm. Thus it involves an important evolution and at the same time a development of the Church’s doctrine and law.

1598

Canonist 12/1 (2021), 129-136: Roman Rota: Sentence *coram* Viscome, 6 October 2020 (Adelaide, Australia). Nullity of the Sentence (can. 1598, §1). Nullity of Marriage: Grave Defect of Discretion of Judgement (can. 1095, 2°). (Sentence)

See above, canon 1095 2°.

1601-1606

J 77 (2021), 125-196: William L. Daniel: The Discussion of the Cause (CIC cc. 1601–1606): Technical Procedural Dialectic and Interpretation of the Meaning of the Proofs. (Article)

A sometimes forgotten, distinct stage of the judicial process in canon law is the discussion of the cause. Its object – the presentation and exchange of argumentation – was envisioned and treated in the commentaries of medieval canonists, but it only came to be regulated in the general legislation of the Church in the 19th century. Its detailed regulation especially in the proper law of the Apostolic Signatura and the Roman Rota gave birth to a more explicit regulation in the general legislation brought into being in the 20th century: in the CIC/17 and the parallel Eastern law (*Sollicitudinem nostram*) and finally in the law currently in force in the CIC/83 and CCEO. The supreme legislator thus prescribes that in diocesan and interdiocesan tribunals, provision is to be made for the discussion of the cause, entailing the presentation of argumentation, the distribution or exchange of arguments, the presentation and distribution of replies, and the right of certain parties to make a final reply in certain causes. Various elements of the discussion are to be governed also by the particular regulations or statutes of individual tribunals.

1608

CLSN 198/21, 3-65: Christine O’Riley: Moral Certainty and the Role of “Expert” Clinical Evidence. (Article)

O’R. examines the canonical procedures associated with expert clinical evidence and the obligation to obtain moral certainty when rendering justice in the context of marriage nullity cases. Judges and experts must know the limits of their canonical competencies. Clinical experts must abide by the established rules and procedures which in most countries entail oversight by professional licensing and regulatory bodies. Thus, to the extent possible,

the Church should formulate common principles for the means by which evidence is adduced concerning expert clinical testimony, in order to ensure consistency and compatibility with current generally accepted professional practices. O’R. focuses in particular on the notion of moral certainty, the utility of expert clinical evidence in ascertaining moral certainty, and the probative value of expert evidence. Finally she considers what bearing, if any, such evidence has on the fairness of judgments in canonical processes.

1620

Ius Comm IX (2021), 47-67: †Antoni Stankiewicz: Denuncia calumniosa al Superior eclesiástico por algún delito y otra lesión de la buena fama. Algunos aspectos sustantivos y procesales. (Article)

See above, canon 1390*.

1643-1644

IM 30 (2019), nr. 2, 63-77: Ludovic Danto: Sentence matrimoniale *pro nullitate* erronée et secondes noces canoniques: un apex juridique à la suite de la faculté II du 11 février 2013. (Article)

D. studies the second point contained in a rescript of Benedict XVI dated 11 February 2013, which states that it is not possible to apply for a *nova causae propositio* before the Roman Rota after one of the parties has entered into a new canonical marriage. This is supplemented by a rescript of Francis dated 7 December 2015 which adds: “unless the injustice of the decision is manifestly established”. D. discusses the canonical principle concerning adjudged matter and the truth about the marriage bond, and concludes that both papal rescripts limit the application of this principle in the cases indicated, which prompts the question of the status of the second marriage as defined by these norms. D. assumes that if the norm (of the rescript) is expected to endure, it cannot be concluded that the new “canonical” spouses are in a new sacramental marriage, but rather it should be assumed that they are in a canonically recognized, but non-sacramental, relationship.

1644-1648

RMDC 26/2 (2020), 421-463: Mario Medina Balam: *Restitutio in integrum* y nueva proposición de la causa: Recursos extraordinarios de impugnación para la tutela de los derechos. (Article)

M.B. looks at the extraordinary means of challenging a judicial sentence: *restitutio in integrum*, and a new proposition of the case. He begins by describing a series of concepts that are necessary to understand the main topics, and also explains what is involved in the “appeal”. The *restitutio in integrum* is an extraordinary remedy against a formally valid decision which has become *res judicata* but is essentially unjust. The new proposition of the case is, on the other hand, an extraordinary remedy against a sentence concerning the status of persons that has become executive. M.B. explains the purpose of both modes of challenge, the conditions under which they may be admitted, and the procedures to be followed, illustrating these with some examples from jurisprudence.

1671-1691

AnC 16 (2020) 2, 7-19: Rafał Dappa: Biegły jako asesor w procesie skróconym przed biskupem (*A tribunal expert as an assessor in the briefer matrimonial process before the bishop*). (Article)

The examination of cases of nullity of marriage due to incapacity under canon 1095, using the briefer process, still raises many doubts. These are mainly related to the topic of expert witnesses. Analysing the provisions of the CIC/83 and *Dignitas connubii*, D. proposes a practical solution to this issue, consisting in the possibility of appointing a tribunal expert as an assessor.

1671-1691

Canonist 12/1 (2021), 84-108: Merlin Ambrose: The Introductory Phase of the Marriage Nullity Process and the Rights of the Parties. (Article)

See above, canons 1501-1516.

1671-1691

CLSN 198/21, 3-65: Christine O’Riley: Moral Certainty and the Role of “Expert” Clinical Evidence. (Article)

See above, canon 1608.

1671-1691

IE XXXIII (2021), 11-36: Ricardo Bazán: La fórmula de las dudas en el sistema del M.p. “Mitis Iudex Dominus Iesus”. (Article)

The motu proprio *Mitis Iudex Dominus Iesus* has introduced significant modifications to the marriage nullity process for the Latin Church, in order to declare the nullity or validity of the marriage in a more accessible and less time-consuming way. B. focuses on the new process dynamic, specifically, on the formula of the doubt to be determined by the judicial vicar (cf. the new canon 1676) for the three types of process (ordinary process, briefer process, and documentary process). This important modification raises some practical questions both at the diocesan tribunal level and at that of the Roman Rota.

1671-1691

IE XXXIII (2021), 37-66: Felipe Heredia Esteban: La reintroduzione del dubbio generico nel Tribunale della Rota Romana: aspetti storici e prassi attuale. (Article)

By means of a rescript given to the Dean of the Roman Rota on 7 December 2015, Pope Francis granted the Apostolic Tribunal the ability to make use – as had already been customary before the Code of 1983 – of a generic formulation of doubt in marriage nullity cases. Five years after its reintroduction, H.E. looks at two themes: the first, historical in nature, concerns the understanding and procedural scope of the generic formulation at the Rota *antiqua* and *restituta*; the second, practical in nature, concerns the current application of the generic formula at the Roman Rota. The question, therefore, is whether the generic formulation can be understood to be in continuity with the ancient tradition of the Roman Rota or whether it has acquired a new meaning, such that it would now encompass all the possible grounds of nullity in a specific case. The question remains an open one, since the new norms for the Rota are still awaited, and it remains to be seen how they will give specific form to its application.

1671-1691

IE XXXIII (2021), 67-87: Paolo Giuseppe Maria Lobiati: Qualificazione di fatto storico e *caput nullitatis* nel processo canonico. (Article)

The ultimate purpose of the marriage nullity process coincides with the supreme aim of the canonical order: the salvation of souls. In order to help understand the integral experience of the faithful, part of jurisprudence stresses the importance of recovering the “generic” formula of *nullitas ob defectum consensus* without further specification of the ground of nullity, which requires further investigation. In this connection it is also considered helpful to recover the distinction between the *causa petendi proxima* (indicating the *caput nullitatis*) and the *causa petendi remota* (indicating the historical facts to be examined). This is not a merely formalistic exercise but helps the judge to understand correctly the notion of the ground of nullity, thus avoiding on the one hand an excessive formalism which impedes a correct understanding of the facts in order to reach the truth, and on the other hand an exaggerated empiricism that shies away from any legal classification. This distinction makes it possible to justify doctrine and jurisprudence that allow the judge to change the ground of nullity in the decision-making phase.

1671-1691

IM 30 (2019), nr. 1, 5-16: Ginter Dzierżon: Ewolucyjny charakter reform papieża Franciszka w prawie małżeńskim (*The evolutionary nature of Pope Francis’s reforms of marriage law*). (Article)

D. reflects on the nature of the marriage law reform effected by Pope Francis. Referring to the nature of the papal power of the keys, he shows that some of the changes introduced by the three post-synodal documents *Mitis Iudex, Mitis et misericors Iesus*, and the post-synodal Apostolic Exhortation *Amoris Laetitia*, were not revolutionary but evolutionary. Some of the institutions and solutions introduced have their roots in the canon law of previous centuries. They do not violate the substantive law. In these documents there are numerous references to the essential attribute of marriage, which is indissolubility (canon 1056). D. claims that much of the controversy in this matter results from a mistaken perception of papal authority. He believes that a proper assessment of the reform requires not only knowledge of the functioning of the marriage law system, but also historical–legal knowledge.

1671-1691

IM 30 (2019), nr. 1, 17-37: Tomasz Rozkrut: Zadania biegłego w zreformowanym przez papieża Franciszka procesie małżeńskim (*Duties of an expert in the marriage process reformed by Pope Francis*). (Article)

See above, canon 1574.

1671-1691

IM 30 (2019), nr. 2, 49-62: Tomasz Galkowski: Zgoda małżonków w procesie skróconym przed biskupem (*Consent of the spouse in the briefer matrimonial process before the bishop*). (Article)

G. analyses the response of the Pontifical Council for Legislative Texts regarding the need to obtain the explicit consent of the other party as a condition *sine qua non* for the commencement of the briefer matrimonial process before the bishop. He looks at the reasons behind the answer, but also refers to situations that impede obtaining such consent. He points out that the actual grounds for the annulment of a marriage should prevail over the formal reason.

1671-1691

IM 30 (2019), nr. 3, 57-73: Tomasz Galkowski: Papież Franciszek jako sędzia w procesie o stwierdzenie nieważności małżeństwa (*Pope Francis as judge in the marriage nullity process*). (Article)

G. analyses a sentence issued personally by Pope Francis on 3 July 2017, in the briefer matrimonial process before the bishop. He discusses its various stages, paying attention to those legal and theological elements that may become useful in the application of norms by bishops.

1671-1691

IM 30 (2019), nr. 4, 81-99: Michał Poniatowski: Ochrona danych osobowych świadków w sprawach o stwierdzenie nieważności małżeństwa kanonicznego (*Protection of witnesses' personal data in marriage nullity cases*). (Article)

See above, canon 220.

1671-1707

CLSN 199/21, 84-87: Peter Kravos: British & Irish Tribunal Statistics 2018 & 2019. (Statistics)

Tables providing statistics for tribunals in Britain and Ireland in 2018 and 2019, showing the numbers of 1. ordinary trials in first instance; 2. documentary trials in first instance; 3. cases using the “briefer process” before the bishop; 4. ordinary trials in second instance; 5. other cases.

1717-1720

Canonist 12/1 (2021), 55-66: Brendan Daly: Put It in Writing. (Article)

See above, canon 1339*.

1717-1728

ADC 10 (abril 2021), 15-91: Antonio Rella Ríos: El abuso sexual en la Iglesia. Conceptualización y tratamiento canónico. (Article)

See above, canon 1395*.

1720

IC 61/121 (2021), 65-98: William L. Daniel: La normalización del proceso penal extrajudicial (c. 1720). Análisis, crítica, propuestas. (Article)

A plain reading of canon 1342 §1, albeit in its implicit sense, reveals that the judicial process is the ordinary instrument for handling a penal cause, while an extrajudicial or administrative penal process may only be employed when just causes impede a judicial process. Nevertheless, because the formulation of that canon is a result of a compromise in the Code Commission, and also because of the rarity of penal trials in the decades following the promulgation of the CIC/83, canonical doctrine has yielded much discretion to the Ordinary in selecting the form of penal process, such that the extrajudicial process has come to be considered the “normal” pathway. In any case, it is critical that the judicial nature of the decision concluding the extrajudicial process be borne carefully in mind. Moreover, ongoing profound reflection is to be devoted to considering how the extrajudicial process can be a truly just one. It may be optimal for a single penal process to be proposed to the Legislator *de iure condendo*.

1739

IE XXXIII (2021), 241-274: Supremo Tribunale della Segnatura Apostolica, 2 ottobre 2018, Prot. n. 52094/16 CA, Ordinariato Militare N. Della soppressione della parrocchia X presso l'Accademia Militare Y (Rev.do Z e altri – Congregazione per il Clero), con un commento di Giovanni Parise, Soppressione di una parrocchia e impossibilità di sanare un atto amministrativo illegittimo da parte del superiore gerarchico. (Definitive sentence and comment)

See above, canon 1445.

1740-1747

FCan XV/2 (2020), 7-37: Mário Rui de Oliveira: A Assinatura Apostólica e os tribunais eclesiásticos portugueses: a competência da vigilância na administração da justiça e o contencioso administrativo. II Parte: A remoção dos Párcos e a tutela dos direitos dos fiéis na Igreja: os recursos e o contencioso administrativo na Assinatura Apostólica. (Article)

(For Part I of this article see *Canon Law Abstracts*, no. 126, p. 107.) If in the 1970s the recourses that reached the newly established *Sectio Altera* of the Supreme Tribunal of the Apostolic Signatura were still meagre in number, today, 50 years later, the phenomenon is no longer marginal and irrelevant, either in number or in ecclesial relevance. Recourse to an authority higher than the one that issued the singular administrative act is the main way available to a member of the faithful to defend himself or herself. By presenting a recourse to the Apostolic Signatura, one enters into a judicial, jurisdictional, investigation of the administrative act; an examination conducted no longer by an administrative (superior) authority exercising the function of judge for that occasion, but by a judicial authority, a tribunal, which will proceed with strict impartiality, guaranteed by strict procedural rules that ensure equality of opportunity and treatment as between the parties. Removal of a pastor refers to the measure taken as a result of the procedure set out in canons 1740-1747; and differs from removal from office, which has a general regulation set out in canons 192-195. This general norm is subsidiary to the specific one in canons 1740-1747, in the sense that the latter prevails over the former: the general norm applies only where the specific norm fails to make provision for the particular case.

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
- Vidayajyoti

ABBREVIATIONS, PERIODICALS AND ABSTRACTORS FOR THIS ISSUE

ADC	Anuario de Derecho Canónico, Valencia – Abstracts supplied by publisher.
AnC	Annales Canonici, Krakow – Abstracts supplied by publisher.
Ap	Apollinaris, Rome – Abstracts supplied by publisher.
Canonist	The Canonist, Journal of the Canon Law Society of Australia and New Zealand, Sydney – Editor.
CLSN	Canon Law Society Newsletter, London – Editor.
EIC	Ephemerides Iuris Canonici, new series, Venice – Abstracts supplied by publisher.
ELJ	Ecclesiastical Law Journal, London – Abstracts supplied by publisher.
FCan	Forum Canonicum, Lisbon – Abstracts supplied by publisher.
FThC	Folia Theologica et Canonica, Budapest – Editor.
HPR	Homiletic and Pastoral Review (online publication: https://www.hprweb.com/?s=canon) – Editor.
IC	Ius Canonicum, Pamplona – Abstracts supplied by publisher.
IE	Ius Ecclesiae, Pisa-Rome – Abstracts supplied by publisher.
IM	Ius Matrimoniale, Uniwersytet Kardynała Stefana Wyszyńskiego, Warsaw – Abstracts supplied by publisher.
ITQ	Irish Theological Quarterly, Pontifical University, Maynooth – Abstracts supplied by publisher.
Ius	Iustitia: Dharmaram Journal of Canon Law, Bangalore – Abstracts supplied by publisher.
Ius Comm	Ius Communionis: Universidad San Dámaso, Madrid – Abstracts supplied by publisher.
IusM	Ius Missionale, Pontificia Università Urbaniana, Vatican City – Abstracts supplied by publisher.
J	The Jurist, Washington – Abstracts supplied by publisher.
MFS	Marriage, Families & Spirituality (formerly INTAMS Review), Leuven – Abstracts supplied by publisher.
NRT	Nouvelle revue théologique, Brussels – Abstracts supplied

Abbreviations, Periodicals and Abstractors

	by publisher.
QDE	Quaderni di Diritto Ecclesiale, Milan – Fr Luke Beckett OSB, Ampleforth, York.
RDC	Revue de Droit Canonique, Strasbourg – Abstracts supplied by publisher.
RGDCDEE	Revista General de Derecho Canónico y Derecho Eclesiástico del Estado (online publication: https://www.iustel.com/) – Abstracts supplied by publisher.
RMDC	Revista Mexicana de Derecho Canónico, Pontifical University of Mexico – Abstracts supplied by publisher.
RTL	Revue théologique de Louvain – Editor.
S	Salesianum, Rome – Abstracts supplied by publisher.

ENGLISH-LANGUAGE BOOKS REVIEWED IN THE ABOVE PERIODICALS

- Patrick M. COONEY (ed.): *CLSA Advisory Opinions on Institutes of Consecrated Life and Societies of Apostolic Life*, Canon Law Society of America, Washington, DC, 2017, iii + 278pp., ISBN 978-1-932208-46-7 (reviewed by Nancy Bauer, *OSB*, in *J 77* [2021], 227-228)
- Stephen S. DOKTORCZYK: *Persistent Disobedience to Church Authority: History, Analysis and Application of Canon 1371*, 2^o, Editrice Pontificia Università Gregoriana, Serie Diritto Canonico 105, Rome, 2016, 335pp., ISBN 978-8878393448 (reviewed by Edward N. Peters in *J 77* [2021], 241-243)
- John D. FARIS – Jobe ABBASS (eds.): *A Practical Commentary on the Code of Canons of the Eastern Churches*, Gratianus Series, Wilson & Lafleur, Montreal, 2019, 2 vols., cliv + 3209pp., ISBN 978-2-924974-03-2 (reviewed by Varghese Poothavelithara and Sebastian [Sebin] Kanjirathingal in *Ius 11*, No. 1 [2020], 139-141)
- Judith HAHN: *Church Law in Modernity: Toward a Theory of Canon Law Between Nature and Culture*, Cambridge University Press, Cambridge, 2019, Studies in Law and Christianity, xiii + 270pp., ISBN 978-1-108-48325-4 (reviewed by †Mark Langham in *ELJ 23* [2021], pp. 109-111)
- Wilfried HARTMANN – Kenneth PENNINGTON (eds): *The History of Courts and Procedures in Medieval Canon Law*, Catholic University of America, Washington, DC, 2016, xiv + 506pp., ISBN 978-0813229041 (reviewed by William L. Daniel in *J 77* [2021], 230-231)
- R. H. HELMHOLZ: *The Profession of Ecclesiastical Lawyers: An Historical Introduction* (electronic book), Cambridge University Press, 2019, 232pp., online ISBN 9781108614887 (reviewed by Christopher Siuzdak at <https://www.hprweb.com/2021/07/book-reviews-july-2021/#lawyers>)
- Javier HERVADA: *Critical Introduction to Natural Right*, 2nd English edition supervised by Carlos José Errázuriz and Petar Popović with

Boks Reviewed

linguistic consultant Dawn Eden Goldstein, Gratianus Series, Wilson & Lafleur, Montreal, 2020, x + 135pp., ISBN 978-2-924974-06-3 (reviewed by *Thierry Sol* in *IE XXXIII* [2021], 360-362; also by *Eduardo Baura* in *IC 61/121* (2021), 520-522)

- Alice DE LA ROCHEFOUCAULD – Carlo M. MARENGHI (eds.): *Education as a Driver to Integral Growth and Peace – Ethical Reflections on the Right to Education*, The Caritas in Veritate Foundation, Geneva, 2019, 442pp., ISBN 978-2-8399-2781-9 (reviewed by *Fernando Chica Arellano* in *IE XXXIII* [2021], 362-366)
- George NEDUNGATT (1st edition) – Georges RUYSSSEN (2nd revised edition) (eds): *Kanonika 10. A Guide to the Eastern Code. A Commentary on the Code of Canons of the Eastern Churches*, Pontificio Istituto Orientale, Rome, 2020, 1181pp., ISBN 978-88-97789-74-1 (reviewed by *Benny Tharakkunnel* in *Ius 11*, No. 2 [2020], 239-241)
- Kevin SCHEMBRI: *Oikonomia, Divorce and Remarriage in the Eastern Orthodox Tradition*, Kanonika 23, Pontificio Istituto Orientale, Rome, 2017, 327pp., ISBN 978-88-97789-39-0 (reviewed by *Francesco Catozzella* in *IE XXXIII* [2021], 376-379)
- John C. WEI: *Gratian the Theologian*, Studies in Medieval and Early Modern Canon Law 13, Catholic University of America, Washington, DC, 2016, viii + 353pp., ISBN 978-0813228037 (reviewed by *John Chrysostom Kozłowski*, *OP*, in *J 77* [2021], 228-229)

BOOKS RECEIVED

- Ginter DZIERŻON: *Z najnowszego orzecznictwa Roty Rzymskiej*, Warsaw, 2021, 164pp. [see above, canons 1097-1098]
- Kevin Otiendo MWANDHA (ed.): *De potestate regiminis. Il ruolo della donna nella Chiesa oggi*, Libreria Ateneo Salesiano, Rome, 2021, 277pp., ISBN 978-88-213-1522-0 [see above, canon 129]