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Every effort is made to report the views of authors objectively and accurately, without attempting to comment on them. 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 62 (2022), 5-17: Paola Lambrini: Ipotesi di responsabilità per fatto altrui nel diritto penale romano. (Article)

In Roman law the *patres familias* were liable for delicts committed by their subjects, but they could choose whether to pay the penalty or to abandon the offender to the injured party; a similar mechanism governed the liability of owners of animals that had caused damage. In relation to particular situations in which it was difficult to hold the true author of the unlawful act liable or even to identify him, the praetor introduced some *actiones in factum*, in which the search for a person responsible was independent not only of a subjective criterion of imputation, but also of physical causality. Some jurists describe this liability for the actions of others by means of the criterion of *culpa in eligendo*, a kind of presumed fault, which does not have to be proved and which is configured as an *a posteriori* justification for the attribution of risk.

EIC 62 (2022), 19-61: Stefano Troiano: La decorrenza della prescrizione nella responsabilità extracontrattuale. (Article)

T. examines jurisprudential trends in the question of prescription in civil legal cases.

EIC 62 (2022), 63-93: Daniele Velo Dalbrenta: Il tempo come giudice. Una riflessione filosofico-giuridica su prescrizione e dintorni. (Article)

V.D. studies the legal and philosophical basis for the institute of prescription in civil legal systems.

ELJ 24 (2022), 192-208: John Witte Jr: Law at the Backbone: The Christian Legal Ecumenism of Norman Doe. (Article)

Welsh jurist and Anglican theologian Norman Doe has pioneered the modern study of comparative “Christian law”, analysing the wide variety of internal religious legal systems governing Catholic, Orthodox and Protestant churches worldwide. For Doe, religious law is the backbone of Christian

ecclesiology and ecumenism. Despite the deep theological differences that have long divided Christian Churches and denominations, he argues, every Church – whether an individual congregation or a global denomination – uses law to balance its spiritual and structural dimensions and to keep it straight and strong, especially in times of crisis. This makes Church law a fundamental but underutilized instrument of Christian identity and denominationalism, but also of unity and collaboration on many matters of public and private spiritual life, both clerical and lay. Doe has developed this thesis in a series of impressive scholarly projects and books – first on Anglican law, then comparative Anglican-Catholic canon law, then all Christian laws and other Abrahamic laws, and their interaction with secular legal systems. W. offers an appreciative analysis of the development of Professor Doe’s scholarship, and situates his work within the broader global field of law and religion studies.

IC 62/123 (2022), 219-248: Andrea Zappulla: El «derecho disciplinar» en la Curia Romana y en el Estado de la Ciudad del Vaticano. Análisis comparado de los Reglamentos de las respectivas Comisiones disciplinarias, convergencias y divergencias. (Article)

See below, canon 360.

IE XXXIV (2022), 111-139: Pietro Lo Iacono: Applicazione della sanzione penale ed equità sostanziale: considerazioni canonistiche sul «giusto processo». (Article)

Lo I. analyses the canonical legislation regarding the penal process and the administrative penal procedure in order to verify whether they constitute “due process”. He compares them with international legislation, especially the European Convention on Human Rights. The result of his analysis is highly positive, but he identifies some flaws regarding the administrative procedure.

IM 32 (2021), nr 2, 49-72: Elżbieta Szczot: Separacja małżeńska – fikcja nierozzerwalności czy szansa trwałości związku? (*Marital separation – fiction of indissolubility or the chance of permanence of a relationship?*) (Article)

See below, canons 1151-1155.

IM 32 (2021), nr 2, 95-109: Andrzej Kuźma: Przeszkody do zawarcia związku małżeńskiego w dokumencie o małżeństwie Wielkiego Soboru Kościoła Prawosławnego, Kreta 2016 (*Impediments to marriage in the document of the Grand Council of the Orthodox Church, Crete 2016*). (Article)

K. provides a short history of a text adopted at the Council of the Orthodox Church in Crete in 2016, which lists the factors that constitute impediments to marriage: kinship by blood and affinity, previous undissolved marriage, monastic tonsure, priesthood, mixed marriages. He also refers to the controversy related to certain divergences among the Orthodox regarding the perception of the priesthood as an obstacle to marriage, as well as the perception of mixed marriages involving non-Orthodox Christians.

Verg 14 (2022), 77-107: Matteo Pastorelli: Le mariage dans le contexte du dialogue islamo-chrétien. (Article)

P. deals with Islamo-Christian marriage from a theological, juridical and sociological perspective. He sets out a theoretical framework, mentioning the principal aspects of marriage in Islam, before focusing on the conception of marriage with “the other” and the respective impediments that communities impose on those wanting to marry someone from a different religion. He aims to offer an objective and interdisciplinary look at the topic of Islamo-Christian marriage, which is still much debated in Eastern as well as in Western societies, but at the same time is becoming an increasingly widespread phenomenon.

Compilations

FThC X (2021), 231-281: Presentazione del volume “Il Diritto Canonico tra salvezza e realtà sociale” di S. Em.za il Card. Péter Erdö (Roma, 24 novembre 2021 – Venezia, 26 novembre 2021). (Compilation)

Collected here are several articles written on the occasion of the presentation of a book by Cardinal Péter Erdö, Archbishop of Esztergom-Budapest, which brings together exclusively Italian-language studies of canon law that represent his activity as a canonist (teaching and pastoral ministry) over the last 25 years. The book itself covers the fundamental topics of canon law and the hierarchical organization of the Church, as well as liturgical issues and topics of procedural law. Those contributing are **Patrick Valdini**,

Gianfranco Ghirlanda, Brian Edwin Ferme, Frans Daneels, Francesco Moraglia, Federico Bertotto, and Pierpaolo Dal Corso. These are followed by a short review of the book by **Helmuth Pree.**

IC 62/123 (2022), 433-458: Joaquín Sedano: Crónica de Derecho Canónico 2021. (Compilation)

In this review of the more significant canonical developments in 2021, S. mentions the writings, decisions, and discourses of the Roman Pontiff, including the modification of canon 230 §1 opening the ministries of lector and acolyte to women (10 January 2021: see *Canon Law Abstracts*, no. 128, pp. 38-40); his address to the Roman Rota on the impact of nullity proceedings on an abandoned spouse and the children of a marriage declared null (29 January 2021: see *Canon Law Abstracts*, no. 128, p. 73, and below, canons 1671-1691); the motu proprio *Antiquum ministerium* establishing the role of catechist as a lay ministry (10 May 2021: see *Canon Law Abstracts*, no. 128, p. 38, and below, canon 838); the Apostolic Constitution *Pascite gregem Dei* reforming Book VI of the Code (23 May 2021; see *Canon Law Abstracts*, no. 128, pp. 86-103, and below, canons 1311*-1399*); the motu proprio *Traditionis Custodes* on the rite to be followed in celebrating Mass (16 July 2021: see *Canon Law Abstracts*, no. 128, pp. 62-63, and below, canon 838); and two decrees of erection and reorganization of ecclesiastical circumscriptions.

The review goes on to mention the more significant documents and activities of the Roman Curia in 2021, including a *responsum* of the Congregation for the Doctrine of the Faith concerning the blessing of same-sex unions (22 February 2021: see *Canon Law Abstracts*, no. 128, p. 74); a *rescriptum ex audientia Sanctissimi* reforming the Norms on offences reserved to the Congregation for the Doctrine of the Faith (11 October 2021; made public on 7 December 2021: see below, canon 1405); two Notes of the Congregation for Divine Worship modifying the Ash Wednesday rite in the context of the Covid-19 pandemic and offering guidance on the celebration of Holy Week (12 January 2021; 17 February 2021); decrees of the same Congregation adding the memorials of St Gregory of Narek, St John of Ávila, St Hildegard of Bingen, and that of Martha, Mary and Lazarus, in the General Roman Calendar (25-26 January 2021); a decree of the same Congregation erecting the Shrine of the Christ of Urda (Toledo) as a major basilica (February 2021); a decree of the same Congregation implementing the changes made by the motu proprio *Magnum principium* in the adaptation and translation of liturgical texts (22 October 2021: see below, canon 838);

an Instruction of the Congregation for Catholic Education providing guidelines on distance learning for ecclesiastical faculties and universities (13 May 2021: see below, canons 815-821); the canonical erection of the Ecclesial Conference of Amazonia (9 October 2021); appointments to the Pontifical Council for Legislative Texts (22 January 2021); the creation within the Dicastery for Integral Human Development of a commission for the excommunication of mafias (9 May 2021); a decree of the Dicastery for Laity, the Family and Life on the governance of international associations of the faithful (11 June 2021: see below, canon 305); a *motu proprio* creating a pontifical commission within the Roman Rota for the application of the reform of the matrimonial nullity process in Italian dioceses (17 November 2021); appointments to the Apostolic Signatura (21 June 2021); and a decree of the Apostolic Penitentiary (13 May 2021) granting a plenary indulgence for the first World Day for Grandparents and the Elderly which took place on 25 May 2021.

The following section of the review is dedicated to the diplomatic activity of the Holy See during 2021, including relations with China; the ratification of an additional accord to the Convention with Austria; the Holy See's participation in the World Health Organization; and ratification of a UNESCO convention.

Details are also provided of documentation and activity of the Spanish Episcopal Conference in 2021.

Ecclesiology

AC 61 (2020-2021), 137-146: Mario Grech: *Sensus fidei et consensus dans une Église synodale: un programme pour la théologie catholique dans le troisième millénaire.* (Lecture)

The ecclesiology of the first millennium was “horizontal” (Congar); the second was pyramidal; the third millennium will be synodal. Synodality is a wider concept than collegiality and includes it. Pope Francis stresses the importance of dialogue in the Church (cf. *Gaudium et spes*, no. 92) and synodality, a Church that listens. A listening Church is a witness to a fractured world (*Fratelli tutti*, no. 15); in dialogue with the world, it gives and receives (*Gaudium et spes*, nos. 40, 44). Central to synodality is the Spirit who “speaks to the Churches”. By means of the *sensus fidelium*, the Spirit guides and enlightens the Church (*Lumen gentium*, no. 12). To reconcile the tension between the sense of faith of a believer and the sense

of faith of the community a process of discernment is needed, what Vatican II called “the living tradition” (*Dei Verbum*, nos. 12, 8). It has three inter-related elements: theological reflection, the *sensus fidelium*, and the episcopacy. In the Synod of Bishops these engage together and reach a *consensus ecclesiae* (*Episcopalis communio*, no. 6). Vatican II refers to “a remarkable harmony (*conspiratio*) between bishops and the faithful” (*Dei Verbum*, no. 10). This *conspiratio* develops in a synodal, listening Church where the Spirit breathes, leading to a *consensus ecclesiae*.

EE 97 (2022), 555-589: Elisa Estévez López – Nurya Martínez-Gayol Fernández: «Escuchar, dialogar y discernir» con las mujeres. Retos de una Iglesia sinodal. (Article)

The authors point out some of the challenges faced by a Church called to and involved in a synodal journey. It demands from the Church a much more demanding exercise of “listening, dialogue and discernment”, particular with women: “listening and dialogue” with women in the diversity of contexts and cultures (challenge 1) and in the emerging issues that affect their lives (challenge 2); “discernment” of their contribution in the decision-making areas and processes within the Church (challenge 3); and a review of the question of ministries (challenge 4).

EE 97 (2022), 801-839: Alphonse Borras: ¿Qué caminos nos abre «Episcopalis communio» de cara a una reforma sinodal de la Iglesia católica? (Article)

Starting from (not only) semantic considerations on the concepts of reform and conversion whose content is determined by synodality, B. presents the contribution of the Apostolic Constitution *Episcopalis communio* (EC) of 2018 insofar as it can generate a greater «synodalization» of the Catholic Church through an articulation between communion, participation and mission – the motto of the current synodal process towards 2023 – moving from listening to consultation of the People of God and emphasizing both the double mission of the episcopal ministry in the framework of an ecclesiology of all Churches and a wider participation of all the faithful. Perhaps one of the fruits of EC is to rethink (and put into practice) episcopal collegiality, including the pontifical primacy, within ecclesial synodality.

FThC X (2021), 61-70: Péter Erdő: Synodality as a form of theocracy in the constitution of the Church. (Article)

The term “synodality” has been in use in ecclesiastical terminology for only a few decades. Its meaning also varies in Eastern and Western theological documents; moreover it carries differing meanings within the writings of the various authors. It is not to be confused with collegiality, which refers to the body of bishops in the Church, which, together with its head, the Pope, constitutes the supreme authority of the Church, according to the documents of the Second Vatican Council and the current canon law. More recently, emphasis has been given to the fact that synodality is not synonymous with democracy but has a unique theological meaning within the Church. The literature distinguishes three main interpretations of synodality. The first coincides with episcopal collegiality; the second refers to the institutional forms of collaboration between priests and the faithful within the practice of the bishops’ pastoral ministry; and the third is an organizational principle which is the opposite of the hierarchical principle. With regard to the Church, only the second of these three meanings can be applied in a particular sense.

FThC X (2021), 231-281: Presentazione del volume “Il Diritto Canonico tra salvezza e realtà sociale” di S. Em.za il Card. Péter Erdő (Roma, 24 novembre 2021 – Venezia, 26 novembre 2021). (Compilation)

See above, General Subjects (*Compilations*).

Ius 12, No. 2 (2021), 209-226: Joy Philip Kakkanattu: Synodality in the Church from a Biblical Perspective. (Article)

Synodality has solid roots in the Bible. Both creation and history, the medium of Biblical revelation documented in the Bible, can be analysed to understand aspects of synodality in the Church. One such important aspect is the journeying together of God and human beings. The Exodus, the Covenant, the Christ Event, the Jerusalem Council, etc., are important moments of this journeying together. When the synodality expected of the covenant community was missing, prophets intervened to restore it. In the New Testament, this divine-human journeying together becomes a more tangible reality in the person of Jesus Christ and his mission. The early Christian community drew inspiration from the compassionate approach of Jesus to lay the foundational principles of ecclesial journeying together,

basically as inclusive and non-partisan. Thus, a study of the Biblical vision of synodality is important for implementing synodality in the Church.

Ius 12, No. 2 (2021), 227-246: Thomas Kollamparmpil: The People of God and the Synodal Journey. (Article)

The Synod on synodality is for a deeper reception of the communion ecclesiology of the Second Vatican Council into the experiential modes and styles of Christian life in the world. The synodal mode has to be the essential style and structure of the Church in the third millennium. Hence, a rediscovery and relaunching of the synodal way has to be infused more into the ecclesial life at all levels and spheres for deeper communion, participation and successful mission. The People of God, on their pilgrim journey through history, have to be co-responsible in the evangelizing mission of the Church, through a Trinitarian communion, for the fuller life and building up of the body of Christ, the Church, in the world.

Ius 12, No. 2 (2021), 247-268: John D. Faris: The Role of Consultation in a Synodal Church. (Article)

Focusing on a term included in the theme of the 2023 Synod, “participation”, F. examines an institution already extant in the Eastern Catholic Churches, “consultation”. Beyond the narrow understanding of consultation for the purpose of consent or counsel, consultation can also serve to coordinate and build consensus. F. examines the forms, requirements, and the role of consultation at the level of the Church *sui iuris* in the patriarchal, major archiepiscopal and metropolitan Churches.

Ius 12, No. 2 (2021), 269-297: Benny Sebastian Tharakunnel: Synodality and the Exercise of Judicial Power in a Patriarchal/Major Archbishopal Church *Sui Iuris*. (Article)

Synodality in the Church implies walking together in the path of the Lord with a prompt heart to listen to the voice of the Holy Spirit revealed through the fellow brethren so as to fulfil the mission the Lord has entrusted to her. Though there have been minor aberrations, the Church of Christ, especially that of the East, has been synodal in its functioning from the very beginning. This is all true in the administration of justice through tribunals, where issues and conflicts are to be resolved and rights are to be vindicated. Functioning synodally with the rightful autonomy they possess, the superior

tribunal and ordinary tribunal of a patriarchal and major archiepiscopal Church stand out as epitomes of collegial ministry in the Church.

LW 128/1-2 (2022), 8-20: Joseph Pamplany: Walking Together on the Way – Understanding the Ecclesiology of Pope Francis. (Article)

P., Archbishop of Tellicherry and member of the Doctrinal Commission of the Catholic Bishops' Conference of India, sets out the ecclesiology of Pope Francis, which he argues gives a fundamental and practical theology of a synodal Church. He starts with exploratory reflections on the guiding principles of synodality, and then explains the synodal way of being the Church with explicit reference to the temptations to be overcome on a synodal path and the questions to be addressed by the participants in the synodal meetings at various levels.

LW 128/1-2 (2022), 21-44: Jacob Prasad: The Prospects and Challenges of “A Synodal Church” Envisioned in the Preparatory Document of the Synod of Bishops 2021-2023. (Article)

P. gives a theological clarification of the concept of synodality, showing its foundation in Scripture and Tradition. He then explains the notion of *sensus fidei*, and how synodality works through conversation and conversion. Finally he highlights the organic relationship between synodality and the mission of the Church.

LW 128/1-2 (2022), 45-59: Varghese Poothavelithara: The Call of the Local Churches to become the Catalyst of Synodal Process in the Church. (Article)

P. reflects on the promises and challenges of the first phase of the synodal process in the local Churches and other ecclesial realities. He emphasizes that the synodal process is not a mere academic exercise, but rather a living experience for each and every one in the People of God.

SC 56 (2022), 5-39: Myriam Wijlens: «L'Église de Dieu est convoquée en synode»: Les défis théologiques et canoniques du Synode 2021-2023. (Article)

The 2021-2023 Synod is entitled “For a Synodal Church: Communion, Participation, Mission”. It poses a number of theological and canonical

challenges which W. addresses. The change from a mere synod of bishops to a synod of the whole Church finds its origin in Vatican II's ecclesiological reconfiguration of the hierarchy within the People of God as expressed in *Lumen gentium*. This is based on revaluing baptism and the understanding of revelation as an encounter of God with all people directly (*Dei Verbum*). This in combination with the change in focus from a Christological to a pneumatological understanding leads to the doctrine of *sensus fidei fidelium*. The synod gives expression to the interaction of the local Church and the Church universal (“*in quibus et ex quibus*”, *Lumen gentium*, no. 23). A synod does not follow the rules of democracy or a parliament, but searches for the truth for which consensus is of relevance. Questions arise as to who speaks and decides on behalf of whom in a synodal Church. The notion of representation needs attention. Participation of all in a synodal Church requires attention to the meaning of and relation between *sacra potestas* and the threefold ministry of Christ (*tria munera*). A synodal Church needs to go beyond listening: how does accountability in a synodal Church unfold? W. concludes by urging canon lawyers to adopt an evolving understanding of the law so that through interpretation new developments in insights can impact the community.

SC 56 (2022), 147-165: Andrea Ponzzone: *Norma missionis*: Mission as the Foundation and the Core of Canon Law. (Article)

Some canonists have forged the term *norma missionis* to highlight the fact that Church mission is the foundation of the essential dynamic that gives life to the law of the Church and animates its ability to respond to the needs of the times. P. reviews the place of “mission” in the life and history of the Church, discusses the ecclesiological premises of the term *norma missionis*, provides a brief history of its development and, by examining its practical implications for certain key canonical norms, demonstrates why mission must be the necessary foundation and core of canon law.

Human rights

Comm 53 (2021), 398-399: Ex Actis Francisci Pp.: Allocutio Sociis Unionis iurisperitorum catholicorum Italiae, ob LXX nationalem Conventum Romae coadunatis, die 10 decembris 2021. (Address)

In addressing a gathering of Catholic jurists, Pope Francis refers to his experience of visiting refugee camps in the Greek islands and the Advent

message of Isaiah. Catholic jurists are called to uphold the rights of those who are weakest, whatever the area of their activity. The Pope cites a phrase of Cardinal Tettamanzi, that the rights of the weak are not weak rights!

FCan XVI/2 (2021), 83-81: Papa Francisco: Discurso aos membros da União dos Juristas Católicos Italianos. (Address)

Portuguese text of the address referred to in the previous entry.

Comm 53 (2021), 416-424: Secretaria Status: “Gli ultimi. La tutela giuridica dei soggetti deboli”, Allocutio introductiva Em.mi D. Petri Parolin, Secretarii Status Socii Unionis iurisperitorum catholicorum Italiae, ob LXX nationalem Conventum Romae coadunatis, die 9 decembris 2021. (Address)

Speaking to a group of Italian jurists, the Secretary of State reminds them of the roots of their organization, founded in 1948. He focuses on four points: attention to the natural law as a rebuttal of any concept of right as force; rights/law as a relationship between subjects who are weak; safeguarding the weakest not simply as a duty but also as solidarity; attention to the “new weak”, such as migrants.

PS LVII 173 (2022), 215-246: Lester E. Mendonsa: Exercising the Ecclesial Right in the Defense of Fundamental Human Rights (Canon 747 §2). (Article)

See below, canon 747.

Law reform

IC 62/123 (2022), 249-277: Przemyslaw Michowicz: La función nomofiláctica a través del precedente jurisprudencial de la Signatura Apostólica. (Article)

See below, canon 19.

Legal theory

FCan XVI/2 (2021), 61-74: Micael Teixeira: A Sagrada Escritura e o direito de acordo com Villey “Homem, quem me nomeou juiz ou encarregado das vossas partilhas?” (Lucas 12, 14). (Article)

One of the most interesting aspects of Michel Villey’s work is the quest to ascertain whether it is adequate to consider the existence of legal precepts in Sacred Scripture. The need to establish order in any society implies the statement of rights and duties between man and neighbour. These exist in the Old Testament but not in the New. Exploring Villey’s take, T. discusses the reasons behind such difference, which allow us to understand Christ’s bold answer to the man who asked Him to order his brother to divide the inheritance (a specifically legal request): “Man, who made me a judge or arbitrator over you?” (Luke 12:14). T. explores whether and in what way the legal precepts of the Old Testament may still be relevant.

FCan XVI/2 (2021), 111-120: Miguel Falção: Direito e Moral: A fundamentação do Direito. (Article)

F. condenses and comments on an article by Prof. Rafael Domingo which summarizes the debate on the relationship between law and morals over the last century. Domingo situates the beginning of the debate in Kelsen’s publication of his “Pure Theory of Law” (1934), which defends an absolute separation between both disciplines, considered autonomous, along the lines of classical positivism. This position was criticized by other authors, including positivists, such as Radbruch, Hart, and Raz. Rawls and Habermas intervened in this debate from the perspective of Western democracies. Faced with the difficulty of establishing the foundations of law in the positivist sphere, there has been a resurgence of natural law, as the foundation of all law that wishes to serve justice, with the likes of Maritain, Villey, and Finnis. Domingo concludes by proposing a theistic conception of law, restoring the need for God as the foundation of law. F. acknowledges that if God is set aside it is difficult or impossible to settle the matter. However, based on the experience of the ancients who, while not believing in a personal God, nevertheless attained a high knowledge of the moral good, he suggests that it is possible to establish a just law if the human nature common to all human beings, immutable in time and governed by the natural law, is recognized.

FCan XVII/1 (2022), 87-99: Alberto de la Hera: Derecho Canónico y Pastoral. (Article)

There is an intense relationship between pastoral activity and canon law, since the *raison d'être* of the law lies in facilitating the ecclesiastical organization's carrying out of the evangelizing work to which all Catholics are called. This entails the proper functioning of the exercise of authority; the recognition and establishment of the rights and duties of consecrated persons and lay people; cultural support for the faith and its dissemination; the correct administration of ecclesiastical goods; married and family life and respect for the *nasciturus*; and the proper functioning of the administration of justice. Many other topics could be selected, equally related to pastoral care and the juridical order; those mentioned here open the door to a clearer understanding of the breadth of the fields in which the Church's law gives rise to its pastoral action – "*Praedicate Evangelium*".

IC 62/123 (2022), 9-31: Carlos José Errázuriz: La noción de derecho como presupuesto del diálogo interdisciplinar entre teólogos y canonistas. (Article)

In order to show to what extent the notion of law is an indispensable basis for fruitful interdisciplinary dialogue between theologians and canonists, E. presents three models of understanding law in its application to canon law, drawn from texts by both theologians and canonists. These are the model of law yielded by the power of jurisdiction or as a discipline to be obeyed; the model of law as institution, order, structure or system; and the model of justice and the law as establishing what is just. Having acknowledged the legitimacy of these models, E. highlights the advantages of the third model as the basis and driver of interdisciplinarity between theology and canon law: justice and law must be of interest to theologians, and the mystery of the Church must be of interest to canonists.

IC 62/123 (2022), 33-59: Rafael Ramis-Barceló: El derecho canónico y los demás saberes: una síntesis histórica en cinco paradigmas y una propuesta para el futuro. (Article)

R.B. provides an overview of the development of canon law in relation to other branches of knowledge, from its institution in the university to the present day. To this end he sets out five historical paradigms; he also offers a paradigm proposal for the future, based on the unity of the fields of sacred knowledge and their dialogue with branches of secular knowledge.

IC 62/123 (2022), 121-142: Rafael Domingo: Hacia un derecho canónico global centrado en la persona humana. (Article)

D. analyses the similarities between public international law and canon law as regards the treatment of the human person. International and canon law have endowed the legal concept of person with an overly technical and reductionist meaning. This reductionist conception of the person has prevented the proper development of both canon law and international law. However, just as international law today has rectified its course and is gradually becoming a global law, increasingly focused on the human person, so too canon law, to fulfil its evangelizing purpose, needs to be globalized. The globalization of canon law subordinates the centrality of the already baptized Christian and instead prioritizes the centrality of every human person created in the image of God and called to be regenerated in the baptismal waters.

IE XXXIV (2022), 47-66: Juan Ignacio Arrieta: La funzione pastorale del diritto penale. (Article)

A. presents the relevant perspectives for the correct understanding of the pastoral role of penal law, while taking into consideration the recent penal legislative reform. After describing recent historical experiences in this area, he analyses the new normative situation and the ways in which it is to be understood in connection with the pastoral role of penal law in the Church.

IE XXXIV (2022), 179-210: Federico Bertotto: Giustizia distributiva e analogia nel diritto della Chiesa. (Article)

B. sets out the essential attributes of distributive justice according to Aristotelian-Thomistic doctrine, highlighting two aspects that are particularly relevant to ecclesial law. He first demonstrates how the structure of distributive justice corresponds with the analogy of proportionality. He then shows how distributive justice can constitute an area of particular importance for administrative canon law.

Ius Comm X (2022), 67-113: Juan José García Faílde: De las ideologías que los poderes públicos de un Estado tengan depende en gran medida el cariz de un signo o de otro signo de las leyes positivas que sin embargo serán verdaderas u solo aparentes leyes según que se ajusten o se desajusten a la ley moral natural. (Article)

The positive laws of a State depend on the ideology that sustains them, being true laws or only apparent laws depending on whether or not they respect the demands of the natural moral law. When positive laws contradict the natural law, the Catholic ecclesiastical hierarchy has the right to denounce them publicly, warning that there is no moral obligation to abide by them and to disobey them if they are imposed. The right of every person to refuse to obey an order of the authority which his conscience forbids him to obey must be affirmed.

QDE 34 (2021), 392-412: Matteo Visiolo: Il diritto della Chiesa nella reciprocità tra fede e sacramenti. (Article)

The reciprocity between faith and sacraments, the topic of an important 2020 document of the International Theological Commission (ITC), offers the canonist an opportunity to place ecclesial law in the particular framework of sacramentality. The dialogical nature of faith, in fact, reveals the sacramental nature of the Church in all its dimensions. Even the law, as a set of norms and institutions and as the realization of the *iustum*, is legitimized by reason of this sacramental nature. V. examines the main points of the reciprocity between faith and sacraments as set forth in the ITC document, and then develops some considerations about the sacramental nature of ecclesial law.

M.^a Teresa Cerdá Donat: La certeza del derecho vinculada a la verdad y la justicia. Reflexión *utriusque iuris* sobre su manifestación en el derecho procesal canónico. (Doctoral thesis)

Certainty in law or juridical security has been studied by numerous authors in both the secular and canonical spheres. This principle takes on special importance in the face of legal positivism as a consequence of a new way of thinking which gives rise to a “new law” and a new juridical language. It is important therefore to examine Western legal thought from its origins to the present day, in order to know the philosophical and ideological bases which lie behind the different currents of thought, and thus acquire a better understanding of the notion of certainty in law. Knowledge of juridical

thought and its evolution also allows a critical reception of principles and institutions as well as juridical contributions and proposals from the secular world to the canonical. As regards certainty in law, the new proposals put forward by authors coincide, in general terms, in sustaining that it is the reasoning of the judge – which must be set out in the sentence – that is the best place for showing the certainty of the law. C.D. examines the dialogue between canon law and secular law and argues that canonical procedural law can make its own contribution within that dialogue based on its conception of law, justice and methodology in conformity with the truth of the human person and the world. (For bibliographical details see below, Books Received.)

Relations between Church and State

Comm 53 (2021), 599-615: Status Civitatis Vaticanae: “N. CDLXII. Legge recante norme contro le frodi e le falsificazioni di mezzi di pagamento diversi dai contanti”, die 16 decembris 2021; “N. CDLXIII. Decreto della Pontifica Commissione dello Stato della Città del Vaticano recante modifiche al Regolamento in materia monetaria, adottato con Decreto n. CLXXXVI, del 14 dicembre 2012”, die 16 decembris 2021; “N. CDLXVI. Decreto del Presidente del Governatorato relative ai controlli sul denaro contante in entrata o in uscita dallo Stato della Città del Vaticano”, die 23 decembris 2021; “Regolamento relative ai controllo sul denaro contante in entrata o in uscita dallo Stato della Città del Vaticano”. (Documents)

Given here are: 1. a law setting out various fraud prevention measures for the Vatican City State with regard to falsified documents or instruments, abuse of information systems, and the duty to take action against malefactors; 2. a decree modifying provisions concerning the circulation of Euro banknotes in the Vatican City State; 3. a decree introducing new regulations about taking money across the borders into or out of the Vatican City State; 4. regulations setting out in detail the requirements for the transfer of money into or out of the Vatican City State whatever the format (cash, cheques, bullion whether accompanied or unaccompanied), and the passing on of information to the relative bodies.

EIC 62 (2022), 119-142: Matteo Carnì: Enti ecclesiastici e costituzione di parte civile. (Article)

C. looks at the question of ecclesiastical entities as a civil party in criminal proceedings before the Italian State.

EIC 62 (2022), 233-256: Pasquale Lillo: Riflessioni preliminari su alcune peculiarità del diritto ecclesiastico statale. (Article)

L. looks at some of the particular characteristics of State ecclesiastical law.

FThC X (2021), 71-86: Goran Jovicic: Mandatory reporting legislation and the seal of confession in light of the prevention of child abuse and religious freedom. (Article)

See below, canon 983.

IC 62/123 (2022), 89-118: Paolo Cavana: La responsabilidad administrativa derivada de delito de las personas jurídicas en el derecho del Estado de la Ciudad del Vaticano. (Article)

C. focuses on the nature and discipline of administrative liability arising from crimes committed by legal entities in the Vatican legal system, in conformity with the commitments assumed by the Holy See on the occasion of its Monetary Agreement with the European Union (2010) for the fight against financial malfeasance at the international level. He considers that this has limited significance in the Vatican legal order on account of its particular characteristics as a small State devoid of a free market and private entities running financial operations. He considers the argument that the introduction of this institution in the legal system of the Vatican would constitute a reaffirmation of the criminal responsibility of juridical entities in the canonical system, making some critical observations and examining the institution within the context of the principle of the “canonization” of civil laws (cf. canon 22).

IC 62/123 (2022), 179-218: Montserrat Gas-Aixendri: La aplicación del principio de igualdad de género a las entidades asociativas de la Iglesia católica. Conflictos reales y falsos conflictos. (Article)

G.-A. focuses on the application of the principle of gender equality to the Catholic Church in the field of non-labour associative relationships, in the context of a recent decision of the Spanish Supreme Court. The ruling recognizes the right of a Catholic association to admit only males as its members. This controversy raises a number of important issues, both from the point of view of possible conflicting rights (equality and organizational autonomy), and from that of public opinion, in relation to a hypothetical discrimination against women in religious institutions in general, and in the Catholic Church in particular. G.-A. analyses the various elements of the problem, trying to distinguish real conflicts, at a legal level, from merely apparent contradictions. She also provides some criteria to assess cases of this kind.

IC 62/123 (2022), 279-316: Marcos González Sánchez: La realización de actos religiosos con efectos civiles. Especial referencia a las mujeres ministras de culto. (Article)

G.S. examines the situation of women ministers of religion in Spain who carry out religious functions having civil effects.

IC 62/123 (2022), 399-429: María J. Roca Fernández: Investigación de los abusos de menores por clérigos en España a través de una Comisión Parlamentaria de Investigación, un Informe del Defensor del Pueblo y la actuación de la Fiscalía General del Estado. (Article)

R.F. explores whether the creation of a parliamentary investigation commission on the abuse of minors by members of the clergy or in the context of activities organized by the Catholic Church is consistent with the nature and purposes of such commissions. She also examines whether or not the creation of an Ombudsman-led commission for the same purpose complies with the constitutional precepts that regulate that office and the relationships between religious confessions and the State. Finally, she discusses whether the current legal procedures and rules justify the number of cases of abuse by members of the clergy brought by the State Attorney-General's Office.

RMDC 27/2 (2021), 247-290: Mario Medina Balam: El matrimonio canónico con reconocimiento civil. Una propuesta para México. (Article)

M.B studies the possibility of canonical marriages receiving civil recognition in Mexico, a mostly Catholic country that prides itself on being democratic.

Religious freedom

FCan XVI/2 (2021), 9-36: Dominique Le Tourneau: Les Droits fondamentaux du canon 213 CIC (c. 16 CCEO) à l'épreuve de la Covid-19. (Article)

See below, canon 213.

FCan XVI/2 (2021), 37-59: Fabio Vecchi: O Acordo-quadro entre a Santa Sé e a República de Angola, de 13 de Setembro de 2019, sinal de reconciliação e de uma transição democrática completa. (Article)

The Republic of Angola is moving towards democratic stabilization. This 2019 Framework Agreement is the main legal instrument guaranteeing the religious freedom of the Catholic Church. A peculiarity of the agreement is the recognition of the contribution of the national episcopate and missionary activity to the material and spiritual progress of the Angolan people, to the point of transforming the classic model of cooperation between the parties to the agreement into a dynamic institutional “partnership”, with positive repercussions for religious freedom.

Social issues

Comm 53 (2021), 408-415: Secretaria Status: “Building resilience through hope: to recover from COVID 19, rebuild sustainably, respond to the needs of the planet, respect the rights of people, and revitalize the United Nations”, Allocutio Em.mi D. Petri Parolin, Secretarii Status, et delegatorum Sanctae Sedis ducis, occasione LXXVI Foederatarum Nationum Consilii Coetus generalis, die 25 septembris 2021. (Address)

The Secretary of State addressed the General Assembly of the United Nations on the theme of their debate, “Building resilience through hope”. In

General Subjects (Social issues)

his 2020 address Pope Francis had spoken of how the Covid pandemic had taught us the interconnectedness of the world and the need to build on a new sense of fraternal solidarity. The Secretary of State identifies a number of points: examining how and why health systems were overwhelmed; rebuilding sustainably, rethinking the relationships between individuals and the economy; responding to the needs of the planet and environment; respecting the rights of people, particularly in the light of novel and partial interpretations that depart from underlying universal values; and revitalizing the United Nations, not just structurally but safeguarding the mandates of UN entities and upholding the principle of consensus.

IC 62/123 (2022), 143-177: Jorge Salinas Mengual: COVID19, aborto y objeción de conciencia a la luz de la Resolución 2020/2215(INI) del Parlamento Europeo: ¿hacia una nueva configuración de los derechos? (Article)

S.M. discusses European Parliament Resolution 2020/2215(INI) on the situation of sexual and reproductive health and rights in the European Union in the context of Covid-19. He focuses on issues such as abortion and conscientious objection, examining whether the new parliamentary resolution implies a change of direction in European law and jurisprudence, as well as the influence that the definition of abortion as a fundamental right may entail in relation to the future jurisprudence of the European Court of Human Rights, and the scope for action available to member States.

HISTORICAL SUBJECTS

1st millennium

D. L. d'Avray: Papal Jurisprudence, 385-1234. Social Origins and Medieval Reception of Canon Law. (Book)

Why did bishops turn to the papacy for advice in late antiquity? And what does the reception of these decretals reveal about the legal and religious culture of the mid-thirteenth century? This interpretative volume seeks to explain the first decretal age of late antiquity, placing the increased demand for papal jurisprudence within its social broad context. D'A. traces the reception of this jurisprudence through to the mid-thirteenth century, and the post-Gratian decretal age. Along the way he explores the role of Charlemagne and "Pseudo-Isidore", which included many genuine early decretals alongside forged ones. Similarities between the Latin world c. 400 and c. 1200 thus help explain parallels between the two decretal ages. D'A. also analyses decretals from both ages in chapters on pagan marriages, clerics in minor orders, and episcopal elections. For both ages the relation between canon law and other religious genres is elucidated, demonstrating many fascinating parallels and connections. (For bibliographical details see below, Books Received.)

Classical period

FThC X (2021), 137-146: Elemér Balogh: Criminal jurisdiction of medieval Holy Sees. (Article)

Ecclesiastical criminal justice was very widespread in the Middle Ages. It dealt in particular with torts related to the violation of the Christian faith: simony, sacrilege, bigamy, incest, etc. There were a good number of offences of mixed classification, such as usury, blasphemy, duelling, etc., for which a secular forum could be used. In the Middle Ages the jurisdiction of secular and ecclesiastical courts differed only approximately and usually only on the basis of customary law. This is also relevant in relation to the principle of *nullum crimen sine lege*, insofar as there was no exhaustive list in the modern sense of individual offences, and no clear definition of which authority was entitled or obliged to act on a given occasion. In general, at

the height of the power of the medieval Church, it took responsibility for the moral and criminal judgement of essentially all kinds of human conduct. The most controversial institution of ecclesiastical criminal law was excommunication, because it had the widest impact on the socio-juridical situation of those affected. The interdict was less frequently used but was a more frightening punishment. In connection with this sanction, the aspect that has been most emphasized (especially in the late Middle Ages) is that it involves an injustice, since the punishment also affects the masses of those who are personally innocent

FThC X (2021), 147-154: Szabolcs Anzelm Szuromi: Subtle distinction between ‘anathema’ and ‘excommunication’. Development of disciplinary meaning up to the 9th century. (Article)

The specific content of the term “anathema” and its distinction from “excommunication” had been defined in the second half of the 9th century. This gradual process of clarification would lead to the ecclesiastical meaning of anathema by the middle of 12th century (*Decretum Gratiani*) and its final precision in the 13th century.

FThC X (2021), 155-185: José Miguel Viejo-Ximénez: ¿Teología o derecho canónico? Cánones, decretos y sagradas escrituras: Hugo de San Victor y la Escuela de *Paucapalea*. (Article)

Canonical jurisprudence started out as a synthesis of liberal arts, theological sentences, *decreta sanctorum patrum*, and *conciliorum statuta*. The data offered by the writings of the school of *Paucapalea* and the theological sentences of Paris clarify the intellectual *humus* in which decretist studies took root, and allow us to know what those who imparted the first lessons of *ius canonicum* declared about their art or science.

IE XXXIV (2022), 211-231: Marc Teixidor: Genesi e sviluppo del principio *nunquam transeunt in rem iudicatam causae de statu personarum*. Considerazioni storico-critiche. (Article)

The origin of the principle according to which cases concerning the status of persons never become an adjudged matter has been identified in the decretal *Lator* (X.2.27.7), although the institution does not seem to derive from the decretal but from its *summarius*. The justification *ob periculum animae* traditionally given by the doctrine of the decretalists presented some notable

weak points and critical aspects. The 1917 codification and subsequent doctrine saw the decline of this justification and impelled doctrine to seek new lines of justification.

D. L. d'Avray: Papal Jurisprudence, 385-1234. Social Origins and Medieval Reception of Canon Law. (Book)

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

16th-19th centuries

EIC 62 (2022), 283-295: Szabolcs Anzelm Szuromi: The Most Important Authors and Scientific Works in Canon Law Between 1545 and 1773. (A Brief Overview). (Article)

There are several significant periods and authors within the history of canonical science and literature. Medieval classical authors, prominent representatives of the *Glossa* and *Summa* literature, are crucial for the contemporary interpretation of specific canon law sources and even for the current understanding of their meaning. However, we cannot forget an equally lively intellectual period, which dates from roughly 1545 to 1773. This time saw a radical change, with the birth of national ecclesial communities, reflected in the intellectual movements of Gallicanism and Josephinism. However, in the same period we also see the appearance of a new way of explaining, interpreting and applying the law of the Catholic Church and, in particular, the development of educational manuals throughout Europe. This resulted in a number of new methodological initiatives and scientific genres, linked to different academic schools. At the basis of all this was the scientific tendency of the new so-called legal humanism, in which the use of the institutional system played a fundamental role. This made the most significant influence on the teaching and application of canon law between the 16th and 18th centuries.

QDE 35 (2022), 185-201: Claudio Centa – Gianni Trevisan: La diocesi di Belluno-Feltre: un lungo cammino verso la piena unione. (Article)

See below, canon 369.

Joanne Begiato: ‘So Now You Are Wed Enough’: Clandestine Unions in the North West of England in the First Half of the Eighteenth Century. (Chapter in **Michael Lobban – Joanne Begiato – Adrian Green [eds.]**, *Law, Lawyers and Litigants in Early Modern England*, pp. 207-228)

B. explores a lengthy “jactitation of marriage” action from the mid-eighteenth century to consider how far couples conformed to English marriage law in the period prior to Hardwicke’s Marriage Act 1753. She suggests that people engaged with religious and legal practices when establishing families, but did so in ways that sought to prioritize their own needs and were shaped by local conditions. Clandestine marriage facilitated easier unions that side-stepped some of the hurdles of regular marriage, and offered a convenient way of entering matrimony. The fundamental problem of such marriages was proving their existence and the legal rights that marriage afforded spouses and heirs, when the parties were in dispute. (For bibliographical details see below, Books Received.)

1917 Code

IM 32 (2021), nr 1, 21-47: Tomasz Jakubiak: Przeszkody małżeńskie tajne i publiczne według Codex Iuris Canonici z 1917 (*Public and occult impediments to marriage according to the Codex Iuris Canonici of 1917*). (Article)

The ability to distinguish between occult marital impediments (*impedimenta occulta*) and public marital impediments (*impedimenta publica*) proves to be necessary for the application of the norms of canon law in the Catholic Church. This distinction is referred to in the provisions of the CIC/83 and CCEO in relation to dispensation from marital impediments (canon 1079 §3 CIC/83; canon 796 §2 CCEO; for recording such dispensation see canon 1082 CIC/83; canon 799 CCEO), and the convalidation of marriage (canons 1158-1159 CIC/83; canons 845-846 CCEO). Noting the lack of unanimity among today’s canonists as regards interpretation of the statutory definition of public and occult impediments provided for in canon 1074 CIC/83 and canon 791 CCEO, J. analyses the development of the doctrine and discipline of the Catholic Church in this matter in the years 1917-1983, i.e. the period when the norms of the Pio-Benedictine Code were in force. He shows the reasons for the ambiguous definition of the scope of public and occult impediments in the doctrine and discipline of the Church during that period.

José Fernández San Román: Ammissione al matrimonio di chi ha notoriamente abbandonato la fede e di chi è irretito da censura. Presentazione di una ricerca storico-canonica. (Book)

This book provides a research itinerary of the historical and canonical study of sources and the editorial *iter* of canons 1065 and 1066 of the CIC/17, which dealt with the so-called marriage *cum indignis* (those who had notoriously given up the faith, members of condemned societies, those who had been censured, and public sinners). (For bibliographical details see below, Books Received.)

José Fernández San Román: Ammissione al matrimonio e la questione della fede. Sintesi di una ricerca storico canonica alla luce delle fonti fino al Concilio Vaticano II. (Book)

Like the work referred to in the previous entry, this book studies the *iter* of canons 1065 and 1066 of the CIC/17, and provides documentation relating to the 1917 codification itself and to two authentic interpretations (1918 and 1934), found in the Vatican Apostolic Archives, the Archives of the Pontifical Council for Legislative Texts, and the Historical Archives of the Pontifical Gregorian University. (For bibliographical details see below, Books Received.)

20th century

AC 61 (2020-2021), 105-132: Jean-Eudes Coulomb: Le cas de l'abbé de Nantes. Une analyse de droit pénal canonique. (Article)

The “abbé de Nantes” (1924-2010) was a controversial figure after Vatican II. An inveterate controversialist, bishop Le Couëdic asked him in 1963 to leave the parishes where he was administrator, and the diocese in 1963. His appeal to the Sacred Congregation of the Council was turned down. He continued to publish writings against Vatican II. In July 1966 he sought a declaration from the Sacred Congregation for the Doctrine of the Faith (SCDF) that his writings were orthodox. The bishop suspended him *a divinis*; however he continued to celebrate public Mass. In 1969 the SCDF held that his refusal of *obsequium religiosum* amounted to revolt; it described his writings as “disqualified”. On 27 July 1996 the bishop of Troyes issued a warning concerning three issues: teachings contrary to Catholic faith; non-compliance with the suspension *a divinis*; and the

direction of souls and two communities. The bishop asked the *abbé* to leave the diocese; he initially complied, but returned on 3 January 1997. On 10 March the bishop issued a canonical warning, which the *abbé* rejected; on 9 May the bishop issued a penal precept, against which the *abbé* appealed; on 1 July the bishop issued a decree of interdict; and the *abbé* appealed to the Congregation for the Doctrine of the Faith. C. questions the legality of how the appeal was handled in Rome.

FCan XVI/2 (2021), 143-149: Papa Bento XV: Constituição Apostólica *Incruentum Altaris* (10.08.1915). (Document)

See below, canon 905.

IE XXXIV (2022), 67-91: Sebastián Terráneo: Il processo di elaborazione dell’Istruzione *Crimen Sollicitationis* del 1922. (Article)

T. traces the evolutionary stages of the 1922 Instruction *Crimen Sollicitationis*, which was a response from the Holy Office to a growing number of cases of solicitation. He highlights how the Instruction tried to solve the problem of the covering up of the crime of solicitation, suggesting the necessary tools to draw up accusations and present them to the ecclesiastical authority. The Holy Office aimed to facilitate the formulation of complaints, eliminating formalities that imposed further suffering on the victim of crime, whilst preserving certain protections for the accused. The defects in this regard that had marked the previous procedure were eliminated, and the judicial nature of the process was reconfirmed.

Per 111 (2022), 3-31: William L. Daniel: Commemorative notes on Father Ignacio Gordon S.J.’s contribution to Canonical Procedural Law. (Article)

On 5 December 2002, the death occurred of Fr Ignacio Gordon S.J., formerly professor of canon law at the Pontifical Gregorian University in Rome. In this article, written to commemorate the twentieth anniversary of his death, D. considers some of the most important aspects of Fr Gordon’s contribution to the development of procedural law in the Church. Among these are his promotion of ongoing formation of judges and other ministers of the tribunal (by means of the courses for renewal for judges and the specialization in ecclesiastical jurisprudence), his particular attention to the best methods of teaching procedural law, his emphasis on the truly ecclesial

character of procedural law, his concerns about the time taken in dealing with matrimonial cases in the Church (excessive delays on the one hand, and excessive speed on the other), and the need for judges in their role to protect the integrity of marriage. The final part of the article focuses on Fr Gordon's work as a *votans* of the Supreme Tribunal of the Apostolic Signatura, a tribunal about which he often wrote. D. notes that this article is a foretaste of a lengthier study soon to be published by Catholic University of America Press, Washington.

Second Vatican Council and revision of the CIC and CCEO

Comm 53 (2021), 616-653: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Recognoscendo: Coetus Studiorum “De Normis Generalibus”: Vota et modi consultorum in II sessione, diebus 13-17 mensis novembris anno 1966 [sic] prolata – Votum Consultoris Klaus Mörsdorf. (Report)

A preliminary letter dated 8 November 1967 establishes that the correct date is 1967 not 1966 as listed in the table of contents. Mörsdorf comments first on administrative acts in the Church under two headings: the notion of an administrative act (618-628) and the kinds of administrative act (629-635). He then comments under three headings on the relationship between administrative and judicial power in canon law (636-637): the conceptual distinction between judging and administration (638-642); the conceptual distinction between judging and administration in canon law (643-650); the exercise of both powers through different organs (651-653).

Comm 53 (2021), 654-666: Ex Actis Pontificiae Commissionis Codici Iuris Canonici Orientali Recognoscendo: Coetus “De Clericis et de magisterio ecclesiastico” – Coetus Specialis “De Magisterio”: Sessio diebus 22 martii-2 aprilis 1982: “Decisioni prese e mozioni emerse nel Coetus Specialis per la denua revisio dello schema *De evangelizatione, De Magisterio ecclesiastico et oecumenismo*” Prot. N. 1209/82/2; “Verbali della Riunione, 22 marzo-2 aprile 1982”, Prot. N. 1209/82/3. (Reports)

The sessions 22 March – 2 April 1982 reviewed the draft canons on the Teaching Office of the Church, 101 in all, with minor revisions to the text. The final day saw further revisions to the same texts. An accompanying report provides a detailed day-by-day account of the discussions that led to

the proposals, listing the persons present at each morning and afternoon session. Each session has a précis of about three pages. The material covered is the same as that covered in Book III of the CIC.

TyV LXII (2021), 389-423: Jorge Costodoat: Contribución de los obispos latinoamericanos y caribeños a la confección de *Optatam totius*. (Article)

C. focuses on the contribution of the Latin American and Caribbean bishops to the preparation of *Optatam totius*, the conciliar decree dedicated to the formation of priests. He first studies the time before the Council, covering the pre-preparatory and preparatory phases. Here he mainly gives an account of the answers (*consilia et vota*) that the bishops gave to the questions asked by John XXIII at the time of the convocation of the Council, and the discussions that were held concerning it. He then deals with the contribution of Latin Americans during Vatican II itself. Finally, he examines the influence that the Latin American and Caribbean contributions may have had on the final document approved by the conciliar assembly

CODE OF CANONS OF THE EASTERN CHURCHES

General

Ius 12, No. 2 (2021), 247-268: John D. Faris: The Role of Consultation in a Synodal Church. (Article)

See above, General Subjects (*Ecclesiology*).

Ius 12, No. 2 (2021), 269-297: Benny Sebastian Tharakunnel: Synodality and the Exercise of Judicial Power in a Patriarchal/Major Archiepiscopal Church *Sui Iuris*. (Article)

See above, General Subjects (*Ecclesiology*).

CCEO 16

FCan XVI/2 (2021), 9-36: Dominique Le Tourneau: Les Droits fondamentaux du canon 213 CIC (c. 16 CCEO) à l'épreuve de la Covid-19. (Article)

See below, CIC canon 213.

CCEO 211

Ius 12, No. 2 (2021), 319-335: Francis Carvalho: The Right of Bishops-Emeriti for a Place of Residence in the Diocese. (Article)

See below, CIC canon 402.

CCEO 1061

Comm 53 (2021), 427-445: Congregatio pro Doctrina Fidei: Rescriptum ex Audientia Ss.mi “con cui approva le Norme sui delitti riservati della Congregazione per la Dottrina della Fede”, die 7 decembris 2021. (Documents)

See below, CIC canon 1405.

CCEO 1062-1066

Ius 12, No. 2 (2021), 269-297: Benny Sebastian Tharakunnel: Synodality and the Exercise of Judicial Power in a Patriarchal/Major Archiepiscopal Church *Sui Iuris*. (Article)

See above, General Subjects (*Ecclesiology*).

CODE OF CANON LAW
BOOK I: GENERAL NORMS

8

J 78 (2022), 203-229: James Bradley: *Postquam Summus Pontifex: Further Observations and Questions.* (Article)

See below, canon 838.

10

J 78 (2022), 327-354: Tribunal of the Roman Rota: Decree *coram Erlebach, Nullitatis matrimonii; Prael.: De iure appellandi*, B. 78/2021, June 17, 2021; Mario Ferrante: *Expiration of Time Limits and the Ius appellationis.* (Decree and comment)

See below, canon 1630.

17

VR 133 4 (2022), 39-42: Manuel J. Arroba Conde: *Contexto y alcance eclesial del «Motu Proprio» Competentias quasdam decernere.* (Article)

The motu proprio *Competentias quasdam decernere* of 11 February 2022 made changes to canons 237 §2 CIC (on the erection of an interdiocesan seminary and its statutes, replacing the term “approval” with the term “confirmation”); 242 §1 CIC (concerning the programme of priestly formation established by the episcopal conference, replacing the term “approved” with the term “confirmed”); 265 CIC (on incardination, adding, to the structures that can incardinate clerics, public clerical associations which have received that faculty from the Holy See, thereby harmonizing this canon with canon 357 §1 CCEO); 604 CIC (on the order of virgins and their right to associate, including a new paragraph); canons 686 §1 CIC and 489 §2 CCEO (on the grant of an indult of exlaustration, for a grave cause, to a member professed by perpetual vows, extending the time limit for five years, after which competence for an extension or grant is reserved to the Holy See or to the diocesan bishop); canons 688 §2 CIC and 496 §§1-2 and 546 §2 CCEO (on individuals temporarily professed who ask, for a grave cause, to leave the institute, assigning competence for the relevant indult to the supreme moderator, with the consent of the council); canons 699 and

700 CIC and 499, 501 §2 and 552 §1 CCEO (a decree of dismissal from an institute, for a grave cause, of a temporarily or perpetually professed member, now takes effect from the time that the decree issued by the supreme moderator with the consent of his or her council is communicated to that member, who retains the right to appeal); canon 775 §2 CIC (on the publication of catechisms by an episcopal conference for its own territory, replacing the term “approval” with the term “confirmation”); canons 1308 CIC and 1052 CCEO (on reducing the obligations of Masses, modifying competence); and canons 1310 CIC and 1054 CCEO (on the obligations connected to pious causes and pious foundations, modifying competence). A.C. explains what is meant by the “context” of a norm, before setting out the scope of these changes, especially insofar as they refer to consecrated life.

19

IC 62/123 (2022), 249-277: Przemysław Michowicz: La función nomofiláctica a través del precedente jurisprudencial de la Signatura Apostólica. (Article)

Against the background of a broader discussion of the role of legal precedent in the jurisdiction of the Supreme Tribunal of the Apostolic Signatura, M. examines certain aspects of its jurisprudence in terms of legitimacy and the exact observance and uniform interpretation of the law. Focusing on the specificity of certain definitive sentences in which, hypothetically speaking, the *ratio decidendi* may be identified as an indispensable assumption of precedent, he emphasizes some advantages of judgments based on precedent. He concludes that judgment via precedent is, for the time being, a principle *de lege ferenda*.

100-107

AC 61 (2020-2021), 161-176: Augustin Mbazoa: Le domicile et le quasi-domicile comme repères canoniques pour la détermination de la condition socio-canonique du *christifidelis*. (Article)

Domicile, originating in Roman law, and quasi-domicile, originating in canon law, have two elements: actual residence (objective) and a person’s intention (subjective). An *incola* and an *advena* have domicile or quasi-domicile; a *peregrinus* is a person away from his or her place of domicile or quasi-domicile; a *vagus*, by contrast, has neither (canon 100). M. argues that

these terms can be used only with difficulty in the case of migrants and undocumented refugees.

127

José Fernández San Román: La interpretación auténtica de 14 de mayo de 1985 sobre el voto del superior junto a su consejo (can. 127 §1). Documentación preparatoria y estudio sobre el caso específico del superior religioso (can. 627 §1). (Article in J. Miñambres – B. N. Ejeñ – F. Puig (eds.), *Studi sul diritto del governo e dell'organizzazione della Chiesa in onore di Mons. Juan Ignacio Arrieta*, Marcianum Press, vol. II, Venice, 2021, pp. 1003-1023)

This article offers unpublished documentation on the genesis of the authentic interpretation of 14 May 1985, which clarified that where a superior needs the consent of a council or body of persons under canon 127 §1, the superior is not entitled to vote with the others, even to break a tie. The article also reflects on the necessary distinction of roles between the superior and the superior's advisers, who are not themselves superiors, and who therefore offer a service to the discernment of the ecclesial authority.

145

IC 62/123 (2022), 63-87: Antonio Viana: Peculiaridades canónicas sobre la responsabilidad penal de las personas jurídicas. La posible aplicación de la figura del «compliance officer». (Lecture)

V. looks at the canonical legal framework of governance and organization to be evaluated by judges in the event of criminal responsibility on the part of ecclesiastical bodies, especially dioceses and parishes. He then explores the advantages and disadvantages of applying the figure of the compliance officer to ecclesiastical entities.

149

RMDC 27/2 (2021), 337-364: Luis de Jesús Hernández M.: La formación intelectual de los ministros sagrados y su relación con los diversos oficios eclesiásticos. (Article)

See below, canons 232-264.

201

J 78 (2022), 327-354: Tribunal of the Roman Rota: Decree *coram Erlebach, Nullitatis matrimonii; Prael.: De iure appellandi*, B. 78/2021, June 17, 2021; Mario Ferrante: Expiration of Time Limits and the *Ius appellationis*. (Decree and comment)

See below, canon 1630.

BOOK II, PART I: CHRIST'S FAITHFUL

204

RMDC 27/2 (2021), 291-314: María del Socorro Becerra M.: El quehacer de la mujer en la Iglesia y su capacidad jurídica para ejercer oficios eclesiales o eclesiásticos. (Article)

S.B. presents the different forms of participation of women in the work of the Church at the juridical level, according to the CIC/83. She points out that the law makes no distinction at the fundamental level between men and women: all the baptized are part of the Christian faithful, they are integrated into the People of God, and they participate in the priestly, prophetic and royal function of Christ, each according to their own condition. She then notes how little was the participation that women had in the *Decretum Gratiani* and in the CIC/17. She describes the ways in which the lay Christian faithful, men or women, cooperate or supply functions, offices or ministries in the life and mission of the Church, from the foundation of ecclesial legality. She also sets out the ways of collaborating in the functions of teaching, sanctifying, and governing.

205

HPR February 2022: Brian Mullady: What Makes a Member of the Church? (Reply)

M. explains that the fullness of communion as a member of the Church must involve all the articles of faith, affirmation of all the sacraments, and the affirmation of papal authority not just of honour but also of jurisdiction according to the traditions of each rite, Eastern or Roman. It also demands moral conformity to the law of God.

205

Kevin Otieno Mwandha: Disaffiliation from the Catholic Church. (Book)

This book is divided into four chapters. The first deals with membership in the Catholic Church, taking into consideration the theological and juridical teachings on the sacrament of baptism and its effects, especially the bond of communion. The second chapter looks at the abandoning of full

communion, focusing on persons who break the bonds of unity with the Catholic Church or opt to abandon the Catholic faith, and presenting some ecclesiological and juridical doctrine on the meaning of notorious and public disaffiliation through acts such as heresy, apostasy and schism. The third chapter looks at the “formal act of defection”, describing the formal legal act of abandoning the Catholic Church, its consequences, and the reasons for its abrogation from the Code of Canon Law. The fourth chapter contains proposals for the restoration of communion with the Catholic Church. (For bibliographical details see below, Books Received.)

208

EE 97 (2022), 555-589: Elisa Estévez López – Nurya Martínez-Gayol Fernández: «Escuchar, dialogar y discernir» con las mujeres. Retos de una Iglesia sinodal. (Article)

See above, General Subjects (*Ecclesiology*).

208

RMDC 27/2 (2021), 291-314: María del Socorro Becerra M.: El quehacer de la mujer en la Iglesia y su capacidad jurídica para ejercer oficios eclesiales o eclesiásticos. (Article)

See above, canon 204.

212

IC 62/123 (2022), 317-356: Andrea Miccichè: La sinodalidad en la Iglesia: dinámicas de participación a la luz del reciente magisterio pontificio y de la fase preparatoria de la XVI Asamblea General del Sínodo de los Obispos. (Article)

See below, canons 342-348.

213

FCan XVI/2 (2021), 9-36: Dominique Le Tourneau: Les Droits fondamentaux du canon 213 CIC (c. 16 CCEO) à l'épreuve de la Covid-19. (Article)

The sudden onset of the coronavirus epidemic took political and ecclesiastical leaders by surprise. Because of the panic generated, these leaders enacted, without consulting one another, extravagant common law and illegal measures that restricted fundamental freedoms to an unprecedented extent. Le T. recalls first of all the principle of the free organization of the Church and the existence of fundamental rights of the faithful, which were undermined by the measures taken both by States and by episcopates. Second, he studies the measures taken in Europe by governmental authorities, and the responses given by the courts in cases where they were brought to trial, which was not often the case. In the third part he analyses the situation in the Americas and the rest of the world, and the measures taken by governments and religious authorities, as well as the effects of any appeals to the courts. From this in-depth study there emerges a generalized impression of abuse of authority, a secular view of society and a certain weakness on the part of religious authorities.

213

IE XXXIV (2022), 179-210: Federico Bertotto: Giustizia distributiva e analogia nel diritto della Chiesa. (Article)

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

219

QDE 35 (2022), 25-53: Francesco Grazian: Seminario minore: diritto-dovere di educare e immunità da coercizione. (Article)

See below, canons 793-796.

220

Canonist 13/1 (2022), 36-48: Elizabeth Kim Meng Ong: The Revised Canons 1390 & 1391: the Impact on the Rights to Good Reputation and Privacy. (Article)

See below, canons 1390-1391 / 1390*-1391*.

221

Canonist 13/1 (2022), 15-35: Merlin Rengith Ambrose: *Contradictorium* and the Right of Defence: Conceptual Clarifications and Canonical Glimpses. (Article)

It is a principle of fundamental justice or equity, and the principle of natural justice in most legal systems, to have due process. It is guaranteed through the faculties granted to the parties in order to exercise their right of defence. The right of defence is grounded on the natural law and expressed concretely in procedures in positive law, and thus diligent application of the procedures helps ensure the right of defence. One realises the right of defence mainly through the *contradictorium*, which has two facets of rights: *ius ad informationem* and *ius ad auditionem iudicalem*. Therefore, the *contradictorium* is important in the procedural law of the Church, especially in the matrimonial nullity process. The right of defence is also closely linked to the *contradictorium*, i.e. the concrete possibility granted to each party in the case to be heard and to be able to know and contradict the requests, the proofs and the deductions adopted by the opposing party and *ex officio*. There thus exists a close link between the right of defence and the *contradictorium*. The Church, called upon to be the *speculum iustitiae*, ought to respect and uphold these rights of the people in its mission towards justice.

221

M.^a Teresa Cerdá Donat: La certeza del derecho vinculada a la verdad y la justicia. Reflexión *utriusque iuris* sobre su manifestación en el derecho procesal canónico. (Doctoral thesis)

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

225

Ius Comm X (2022), 9-27: Antonio M^a Rouco Varela: Exigencias para una presencia significativa del laicado en la sociedad actual. (Article)

Vatican II defined the laity positively by means of secularity as a proper element that typifies the vocation of the laity and demands of them availability to be at the frontier of the Church's mission. The lay person is witness and actively responsible first of all for the sanctification and evangelization of the realities of this world. The Church cannot reach the world evangelically and evangelizing except through the vocation of the laity within her communion and as apostolically active and living witnesses of her mission in the world. The option of the laity for the public witness of Christ's love will also be exercised by making full use of the right of association in the Church, in areas such as culture, marriage and the family, politics and economics, with the option for the poor being the Church's preferential choice.

226

QDE 35 (2022), 25-53: Francesco Grazian: Seminario minore: diritto-dovere di educare e immunità da coercizione. (Article)

See below, canons 793-796.

230

Comm 53 (2021), 499-505: Congregatio de Cultu Divino et Disciplina Sacramentorum: Ritus de Institutione Catechistarum, a Congregatione de Culto Divino et Disciplina Sacramentorum promotus, die 13 decembris 2021. (Document)

See below, canon 838.

230

Comm 53 (2021), 506-514: Congregatio de Cultu Divino et Disciplina Sacramentorum: Epistula de Ritu de Institutione Catechistarum praesidis Episcoporum Conferentiarum, die 13 decembris 2021. (Document)

See below, canon 838.

232-264

RMDC 27/2 (2021), 337-364: Luis de Jesús Hernández M.: La formación intelectual de los ministros sagrados y su relación con los diversos oficios eclesiásticos. (Article)

The *Ratio Fundamentalis Institutionis Sacerdotalis* of 2016 insists on the balance of priestly formation, according to the four dimensions: human, spiritual, intellectual and pastoral. H. ponders the intellectual dimension as the holistic key that gives dynamism to the other areas, not only as regards the here and now of the initial training of candidates for holy orders, but also for their future ministry and their suitability for assuming positions, ministries and ecclesiastical offices. He sets out what he considers should be taken into account to ensure – as a matter of principle – that the intellectual formation in the seminaries be entrusted to teachers with a doctorate or licentiate in the relevant disciplines (canon 253 §1), and the promotion of specialized studies in the sacred sciences, especially those related to management, administrative and governance positions and offices.

232-264

TyV LXII (2021), 389-423: Jorge Costodoat: Contribución de los obispos latinoamericanos y caribeños a la confección de *Optatam totius*. (Article)

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

233

QDE 35 (2022), 54-81: Daniele Mombelli: Le altre forme di accompagnamento vocazionale degli adolescenti: elementi fondamentali e figure di riferimento nella Chiesa particolare. (Article)

M. begins an examination of the alternative possibilities for cultivating vocations in the young, which are alternatives to the minor seminary, by looking at post-conciliar magisterial teaching on the topic. He sees the vital element to retain in the present experimental period as being that of attention to the voice of the Spirit which might be calling a young man to the priestly life; hence the heart of any proposal is the discernment of the action of the Spirit. Also indispensable is some kind of experience of community life. M. looks at the role of all those involved in any such proposal: the diocesan bishop, the diocesan vocations office, the priest

responsible for accompaniment, the parish priest of the parish to which a young man belongs, the family, and the educative team of the minor seminary. He concludes with a detailed examination of the vocational community established in the diocese of Brescia in 2021.

234

QDE 35 (2022), 11-24: Giuliano Brugnotto: Il seminario minore: comunità cristiana per “coltivare i germi della vocazione” presbiterale di ragazzi e adolescenti. (Article)

B. observes that the aim of the minor seminary is the nurturing of the seeds of vocations, and that despite the crisis of recent years minor seminaries are still formally encouraged. He then reviews the key elements of the minor seminary: the community of students, those responsible for educating, the curriculum of studies, and the formal structures.

271

LW 127/2 (2021), 98-116: Shaji Jerman: Dependence to Transcendence: A Diocese of Mission to a Missionary Diocese. (Article)

See below, canon 781-792.

276

HPR May 2022: Brian Mullady: A Priest's Spiritual Obligations. (Reply)

M. addresses the question of why the recitation of the Liturgy of the Hours is an obligation under the Code, but the daily celebration of Mass is not. Clerics have a strict duty to pray for the whole Church. From “ancient tradition and immemorial custom” the recitation of the Liturgy of the Hours was the manner in which clerics carried out the general duty to pray for the whole Church. The present trend is to see the obligation as a discipline for introducing a climate of prayer in the whole course of the day and not just trying to reduce it to a determined minimum binding under pain of grave sin. The introduction to the revised *Liturgy of the Hours* makes this clear. The lack of strict obligation for the celebration of Mass is perhaps best explained by the fact that, unlike the breviary which can be said alone, it is a communal act and ideally must involve at least one of the faithful in attendance. (The present dispensation does require a just and reasonable

cause to celebrate Mass without any of the faithful present, but commentaries on the Code indicate that this can mean merely the devotion of the priest.)

279

RMDC 27/2 (2021), 337-364: Luis de Jesús Hernández M.: La formación intelectual de los ministros sagrados y su relación con los diversos oficios eclesíasticos. (Article)

See above, canons 232-264.

286

SC 56 (2022), 279-298: Merlin Rengith Ambrose: Clerics Practicing Commerce and Trade: The Canonical Implications of Canon 286. (Article)

A. considers the meaning and practical application of canon 286 of the CIC/83 which prohibits clergy from engaging in commerce or trade without the permission of legitimate authority. He reviews the history of ecclesiastical legislation on this prohibition from the early Church onwards, focusing in particular on developments from the CIC/17 to the CIC/83, especially the 1950 Decree *Pluribus ex documentis*, pertinent texts of Vatican II, and the *iter* of canon 286 in the Code revision process. He then analyses the text of canon 286 and discusses its implications for clergy and religious. Finally he examines the practice of commerce or trade as an impediment to ordination, and the violation of the prohibition of canon 286 as a delict subject to penalty.

298-329

Comm 53 (2021), 390-397: Ex Actis Francisci Pp.: Allocutio ad participes conventui “Incontro dei moderatori delle associazioni di fedeli, dei movimenti ecclesiali e delle nuove comunità” a Dicasterio pro laicis familia et vita promoti, die 16 septembris 2021. (Address)

Pope Francis addresses a gathering of moderators of associations of the faithful, ecclesial movements and new communities. While encouraging and thanking them, he reminds them that life is a work in progress and that their movements have not arrived but are on a journey. He then addresses the Decree on international associations of the faithful promulgated on 11 June

2021, and sees it as a step forward in the light of recent experience. A number of challenges had been identified: a “will to power”, and disloyalty – or rather, loyalty to things other than Christ. We are not the owners of the gifts God gives us for the good of the Church. We need to trust the Holy Spirit as we continue to discern the charisms entrusted to the Church.

298-329

FCan XVI/2 (2021), 75-81: Papa Francisco: Saudação aos participantes no encontro dos moderadores das associações de fiéis, dos movimentos eclesiais e das novas comunidades. (Address)

Portuguese text of the address referred to in the previous entry.

298-329

IC 62/123 (2022), 179-218: Montserrat Gas-Aixendri: La aplicación del principio de igualdad de género a las entidades asociativas de la Iglesia católica. Conflictos reales y falsos conflictos. (Article)

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

305

IC 62/123 (2022), 359-397: Supremo Tribunal de la Signatura Apostólica: 1. Decreto por el que se admite la suspensión parcial del Decreto del Pontificio consejo para los Laicos, de 24 de mayo de 2011; 2. Decreto por el que se admite el recurso contra parte del Decreto del Pontificio consejo para los Laicos, de 20 de enero de 2012; 3. Sentencia sobre el recurso admitido contra parte del Decreto del Pontificio consejo para los Laicos, de 20 de junio de 2013: Jesús Bogarín Díaz: Cuestiones conflictivas de Derecho cofrade. Comentario a tres resoluciones del Supremo Tribunal de la Signatura Apostólica. (Documents and comment)

Three decisions of the Apostolic Signatura are given here: a decree of the suspension of the act being challenged; a decree of the admissibility of the cause; and the definitive sentence of the Signatura. The act being challenged was a decree of the Pontifical Council for the Laity, which in its turn decided a hierarchical recourse against a presumed act (by silence or omission) of a diocesan bishop, who was the one who, being in disagreement with the Pontifical Council for the Laity, brought the

contentious-administrative recourse before the Signatura. The central points of conflict were membership of a confraternity, the appointment of a commissioner, and the holding of elections. B.D. offers a commentary on the main issues involved.

305

Ius Comm X (2022), 29-46: Antonio Ciudad Albertos: *Debita cum auctoritate ecclesiastica relatione servata. Apunte histórico para entender la nueva normativa sobre asociaciones de fieles (II)*. (Article)

For the first part of this article see *Canon Law Abstracts*, no. 128, p. 45. After presenting a brief historical itinerary of the relationship between ecclesiastical authority and the autonomy of the faithful as regards associations, as well as the juridical configuration of this phenomenon in the CIC/83 and the CCEO, C.A. analyses the Congregation for the Doctrine of the Faith's Letter *Iuvenescit Ecclesia* (15 May 2016) on the relationship between the hierarchical and charismatic gifts for the life and mission of the Church. He then comments on the General Decree of the Dicastery for the Laity, Family and Life *Associations of the Faithful* of 11 June 2021, which regulates the exercise of governance in international associations of the faithful, both private and public, and in other entities with juridical personality subject to the direct supervision of that Dicastery.

318

IE XXXIV (2022), 233-256: Raffaele Santoro – Federico Gravino: *Associazioni di fedeli, commissariamento e rimozione del moderatore*. (Article)

The CIC/83 regulates associations of the Christian faithful, and sets out a complex system of supervision, direction and control by the competent ecclesiastical authority. Control over the governance of public associations includes the appointment of a special commissioner (canon 318 §1) and the removal of the moderator (canon 318 §2). The application of this canon has been extended to private associations of the faithful, as emerges from jurisprudence.

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

331

Ius 12, No. 2 (2021), 299-318: Alan Modrić: The Interaction Between Diocesan Bishops and the Roman Pontiff. (Article)

See below, canon 381.

333-334

Ius 12, No. 2 (2021), 299-318: Alan Modrić: The Interaction Between Diocesan Bishops and the Roman Pontiff. (Article)

See below, canon 381.

342-348

EE 97 (2022), 801-839: Alphonse Borras: ¿Qué caminos nos abre «Episcopalis communio» de cara a una reforma sinodal de la Iglesia católica? (Article)

See above, General Subjects (*Ecclesiology*).

342-348

IC 62/123 (2022), 317-356: Andrea Micciché: La sinodalidad en la Iglesia: dinámicas de participación a la luz del reciente magisterio pontificio y de la fase preparatoria de la XVI Asamblea General del Sínodo de los Obispos. (Article)

The recent synodal process is an opportunity to reflect on the role of the baptized faithful in the life of the Church and especially in its dynamics of mission and evangelization. Through his teaching and reforms, Pope Francis has converted the Synod of Bishops into a place open to the petitions of the entire Christian world and to offer solutions that may enable the Pope to govern the universal Church more efficiently. M. examines the initial phase of the synodal process, that is, the stage in which the particular Churches are called upon to offering their proposals and suggestions by listening to the faithful. In addition, he analyses some questions concerning the juridical

status of synodal consultation and the relationship between this process and the rights of the faithful, in particular the right of petition.

342-348

LW 128/1-2 (2022), 8-20: Joseph Pamplany: Walking Together on the Way – Understanding the Ecclesiology of Pope Francis. (Article)

See above, General Subjects (*Ecclesiology*).

360

Comm 53 (2021), 372-381: Ex Actis Francisci Pp.: Chirographum “sull’istituzione della Fondazione per la Sanità Cattolica” die 29 septembris 2021; “Statuto, Fondazione per la Sanità Cattolica”. (Documents)

Pope Francis establishes a Catholic Health Foundation as an entity linked with the Holy See, an adjunct to the Patrimony of the Apostolic See, to provide financial and moral support to other canonical entities that support the sick and suffering. The statutes governing the new Catholic Health Foundation set out the structure; article 10 provides for funds to be drawn from the Patrimony of the Holy See, investments or other activities, but makes clear that it is a “not for profit” entity.

360

Comm 53 (2021), 382: Ex Actis Francisci Pp.: Normae “transitorie relative al Capitolo di San Pietro in Vaticano”, die 28 augusti 2021. (Document)

Pope Francis introduces temporary norms, in effect for one year, to take forward the reform of the Chapter of St Peter’s Basilica. Members are to be nominated by the Holy Father. Their role and that of those who assist them are outlined. Henceforth, the management of the Museum of the Treasury and the sale of religious items is entrusted to the “Fabric of St Peter’s”, which will provide for their remuneration, but the Chapter will retain responsibility for the existing financial patrimony.

360

Comm 53 (2021), 578-583: P. Iannone: “Il diritto come esercizio di carità. Il Pontificio Consiglio per i testi legislativi”. *Alloquium cum Exc.mo D.no Filippo Iannone, die 13 decembris 2021.* (Interview)

I. explains the role of the Pontifical Council for Legislative Texts in assisting the Pope as universal legislator by offering authentic interpretations of texts. He addresses the question of how this relates to the changing needs of canon law in a world of changing circumstances. He then explains how they carry out their work.

360

IC 62/123 (2022), 219-248: Andrea Zappulla: El «derecho disciplinar» en la Curia Romana y en el Estado de la Ciudad del Vaticano. Análisis comparado de los Reglamentos de las respectivas Comisiones disciplinarias, convergencias y divergencias. (Article)

Although the disciplinary law of the Roman Curia and of the Vatican City State has not been thoroughly studied, it does need to be further explored on account of its particular nature and field of application. With a certain frequency, confusion arises among experts concerning the procedures to be followed in imposing disciplinary sanctions. Z. addresses the disciplinary law relating to work *sub umbra Petri*, with particular reference to the two Regulations of the Disciplinary Commissions of the Roman Curia and of the Vatican City State. He compares the two Regulations to highlight where they agree and differ, their shared features and their limitations, in the hope that the latter may be overcome in the future by the canonical and Vatican legislator.

360

Sergio F. Aumenta – Roberto Interlandi: *La Curia Romana secondo Praedicate Evangelium.* Tra storia e riforma. (Book)

This book is a commentary on the Apostolic Constitution *Praedicate Evangelium* of 19 March 2022, read in the light of the history of the Roman Curia. (For bibliographical details see below, Books Received).

369

QDE 35 (2022), 136-158: Carlo Redaelli: L'unificazione di più diocesi: considerazioni ecclesologiche e canonistiche in riferimento alla natura della Chiesa particolare. (Article)

Starting from the ideas in *Christus Dominus*, nos. 22-23, R. considers the territorial Church as an incarnation of the Church, and examines the elements which go to make up a particular Church, taking the establishment of a new diocese as his starting point. He goes on to look at what other motives might lead to alterations in the existing situation of dioceses, and considers whether forms of interdiocesan cooperation might be an alternative to territorial modification of smaller dioceses. He clarifies that unification is not suppression of the smaller diocese. Finally, he reviews the role of the Holy See in any such modifications.

369

QDE 35 (2022), 159-184: Alessandro Giraud: Le diocesi unite *in persona episcopi*: ruoli e possibili attuazioni tra autonomia e percorsi unitari. (Article)

G. examines the legal effects of the decision to unite two dioceses *in persona episcopi*. He pays particular attention to the role of the bishop, looking at his personal obligations, the way in which he has to ensure attention to autonomy if structures are united, the means of pastoral care, and the promotion of the role of the laity. He then looks at how this decision has effects on priests and deacons, on the diocesan curia, and on structures of consultation, concluding by relating the whole experience to a possible unification of the two dioceses.

369

QDE 35 (2022), 185-201: Claudio Centa – Gianni Trevisan: La diocesi di Belluno-Feltre: un lungo cammino verso la piena unione. (Article)

C. and T. trace the history of the union of the dioceses of Belluno and Feltre, beginning in the early 19th century, and looking at the way in which the two dioceses cooperated after that date, leading to their formal unification in 1986. They go on to describe how that unification has operated in practice since then.

369

QDE 35 (2022), 202-220: Carlo Redaelli: Il percorso di unificazione delle diocesi italiane nel dopo Concilio. (Article)

R. offers a theological and canonical reflection on the unification of dioceses in Italy since the Second Vatican Council. This process was given a stimulus, first by St Paul VI, and more recently by Pope Francis. R. examines the work of commissions of the Italian Bishops' Conference which have studied the matter, and the response of the Italian Church to the renegotiation of the Concordat in 1986. He considers the arguments for and against unification which have been offered at every level, and looks at the increasing use of the legal structure of union *in persona episcopi* in recent years. In a concluding overview he looks at the way in which initiatives from above and below have to be balanced in this process.

373

QDE 35 (2022), 185-201: Claudio Centa – Gianni Trevisan: La diocesi di Belluno-Feltre: un lungo cammino verso la piena unione. (Article)

See above, canon 369.

373

QDE 35 (2022), 202-220: Carlo Redaelli: Il percorso di unificazione delle diocesi italiane nel dopo Concilio. (Article)

See above, canon 369.

381

Ius 12, No. 2 (2021), 299-318: Alan Modrić: The Interaction Between Diocesan Bishops and the Roman Pontiff. (Article)

M. examines the role of the Roman Pontiff in maintaining communion with the diocesan bishops in the Church, commenting on the interaction between diocesan bishops and the Roman Pontiff in the CIC/83. He compares the diocesan bishop's ordinary, proper and immediate power with the Pope's supreme, full, immediate, and universal ordinary power. The Roman Pontiff not only has power over the universal Church but also has pre-eminent ordinary power over all dioceses and their groupings. This reinforces and defends the proper, ordinary, and immediate power which the bishops have

in the dioceses entrusted to their care. The bishops are available to the Roman Pontiff in the exercise of his office, to cooperate with him in various ways, among which is the synod of bishops.

393

EIC 62 (2022), 95-118: Giuseppe Comotti: Atti del Vescovo diocesano e legale rappresentanza della diocesi. (Article)

Starting from an examination of the questions posed by the legal representation of juridical persons in general and specifically in canon law, C. deals with the issue of the legal representation of the diocese. He highlights the need to distinguish, among the acts of the diocesan bishop, between those concerning the administration of the temporal goods of the diocese and those concerning the governance of the faithful. It is only in respect of acts of administration of temporal goods that the bishop acts as the legal representative of the diocese, to which as a consequence are imputed the acts he has performed. Acts of governance over the faithful are not acts of the diocese, but rather of the diocesan bishop, in the exercise of the power attributed only to him.

397

Canonist 13/1 (2022), 49-76: Brendan Daly: The Authority and Obligations of a Diocesan Bishop/Local Ordinary and a Religious Institute in his Diocese. (Article)

It is a grave scandal that in the past religious institutes have not been sufficiently transparent and accountable. It is now a crime if members of institutes and religious superiors fail to report sexual abuse complaints to the local Ordinary and to the Dicastery for the Doctrine of the Faith (DDF) when the complaints concern clerics. Complaints about lay religious have to be reported to the local Ordinary, but mandatory dismissals are to be dealt with by their major superiors according to canon 695. Failures to act by Ordinaries or religious superiors must also be reported to the DDF. Abuse of authority was a crime according to the CIC/17. Abuse of vulnerable people has been a crime since *Vos estis lux mundi* became law in 2019. Tribunals established by diocesan bishops are now to judge allegations of crimes of religious against vulnerable people or by abuse of authority. Too often in the past, many of those cases have been rationalized as concerning adult situations which do not involve a crime. Bishops and religious superiors have failed to implement canon law, and have caused the sexual abuse

scandal to become a grave crisis in the Church. If canon law had been implemented, the situation would not be as notorious as it is. It is incumbent on Church leaders now to change and fully implement the revised legislation. This requires trust between bishops and religious, as well as the creation of a culture of a safe Church committed to repairing the harm done to victims in a victim-centred approach that provides justice for all and the reform of the offender.

402

Ius 12, No. 2 (2021), 319-335: Francis Carvalho: The Right of Bishops-Emeriti for a Place of Residence in the Diocese. (Article)

It is natural for most human beings to experience a kind of vacuum of power upon retiring from a position of authority. It is also true with a bishop emeritus as a human being. He may still undergo an experience of loss of his pastoral office. This psychological state of a bishop emeritus could be accentuated if he – on the acceptance of his resignation from his pastoral office – has no suitable place of residence in his last diocese. M. argues that it is high time for episcopal conferences – as indicated in *Christus Dominus*, no. 21, *Ecclesiae Sanctae* I, 11, and canon 402 of the CIC/83 and canon 211 of the CCEO – to study the issue of appropriate support for a bishop emeritus.

515

FThC X (2021), 189-204: Filippo Iannone: La parrocchia nella nuova istruzione della Congregazione per il Clero: alcuni rilievi canonistici. (Article)

Commenting on the Instruction *The pastoral conversion of the parish community in the service of the evangelizing mission of the Church* of the Congregation for the Clergy (20 July 2020), I. focuses on the juridical nature, contents and sources of the document; the parish as a “community of the faithful”; groupings of parishes; parish councils; and the parish priest’s “pastoral care”, carried out in collaboration with other priests and laity.

515

FThC X (2021), 205-219: Alphonse Borras: La parrocchia come mezzo della missione oggi. (Article)

B. looks at the parish as a missionary instrument. Its missionary capacity should be understood within the diocese and in relation to the other ecclesial realities. He calls attention to the distinction between the parish institution as it appears in canon law and the multiple forms it takes in practice. From an institutional point of view the parish should be “in one place the Church of all and for all”, offering what is essential for becoming a Christian, from the birth to faith through baptism to the entry into life through the funeral. The parish does not offer everything, but it offers what is essential, knowing that other communities have other things to offer for accepting the Gospel and living by it.

517

FThC X (2021), 189-204: Filippo Iannone: La parrocchia nella nuova istruzione della Congregazione per il Clero: alcuni rilievi canonistici. (Article)

See above, canon 515.

519

FThC X (2021), 189-204: Filippo Iannone: La parrocchia nella nuova istruzione della Congregazione per il Clero: alcuni rilievi canonistici. (Article)

See above, canon 515.

519

FThC X (2021), 221-229: Martin Grichting: Il ruolo del sacerdote nella vita della parrocchia. (Article)

G. examines the thinking of Alexis de Tocqueville, a 19th-century French statesman, historian and political writer, on the role of the priest in a democracy, before looking at the mission of the priest according to the Church’s Magisterium. If the teaching of Vatican II on modern society and the role of the laity were properly understood and implemented, it would diminish the pressure exerted by not a few laity to have a share in the so-

called power of the Church. The priest could then more easily occupy himself with his truly priestly tasks and from there help the laity who work in the middle of the world.

526

FThC X (2021), 189-204: Filippo Iannone: La parrocchia nella nuova istruzione della Congregazione per il Clero: alcuni rilievi canonistici.
(Article)

See above, canon 515.

528-530

FThC X (2021), 189-204: Filippo Iannone: La parrocchia nella nuova istruzione della Congregazione per il Clero: alcuni rilievi canonistici.
(Article)

See above, canon 515.

545

FThC X (2021), 189-204: Filippo Iannone: La parrocchia nella nuova istruzione della Congregazione per il Clero: alcuni rilievi canonistici.
(Article)

See above, canon 515.

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

579

Canonist 13/1 (2022), 49-76: Brendan Daly: The Authority and Obligations of a Diocesan Bishop/Local Ordinary and a Religious Institute in his Diocese. (Article)

See above, canon 397.

587

QDE 35 (2022), 82-90: Daniel Tibi: L'adeguata armonizzazione degli elementi spirituali e giuridici nelle costituzioni (can. 587, §3). (Article)

T. begins by analysing the genesis of canon 587 §3 in the post-conciliar *Ecclesiae Sanctae*, and goes on to draw out the notions of spiritual and legal elements. He seeks to illustrate how these might be different for different religious institutes. He then proposes the notion of values as the bridge which can link these two elements in the text of constitutions, so that the values can be both protected and applied.

589

Canonist 13/1 (2022), 49-76: Brendan Daly: The Authority and Obligations of a Diocesan Bishop/Local Ordinary and a Religious Institute in his Diocese. (Article)

See above, canon 397.

594-595

Canonist 13/1 (2022), 49-76: Brendan Daly: The Authority and Obligations of a Diocesan Bishop/Local Ordinary and a Religious Institute in his Diocese. (Article)

See above, canon 397.

601

TyV LXII (2021), 357-388: Ianire Angulo: La presencia innombrada. Abuso de poder en la Vida Consagrada. (Article)

See below, canon 618.

601

VR 132 2/2022 (monográfico): Gemma Morató i Sendra: Caminos para sanar toda situación de abuso. Vida Consagrada del siglo XXI. (Monograph)

See below, canon 618.

608-645

Canonist 13/1 (2022), 49-76: Brendan Daly: The Authority and Obligations of a Diocesan Bishop/Local Ordinary and a Religious Institute in his Diocese. (Article)

See above, canon 397.

618

TyV LXII (2021), 357-388: Ianire Angulo: La presencia innombrada. Abuso de poder en la Vida Consagrada. (Article)

The global scandal of sexual abuse in ecclesial settings is generating a reflection on the reasons why it is a structural problem of the Church. Despite the widespread reporting of offences against minors, still in the background are abuses whose victims are adults, especially women; abusive behaviours that do not affect the sexual dimension; and those that take place within ecclesial institutions. A. seeks to bring together these three aspects that are still silenced, to bring to light the problem of the abuse of power especially in feminine institutes of consecrated life. To this end she analyses certain elements that can easily lead to an abusive use of power in this Christian vocation.

618

VR 132 2/2022 (monográfico): Gemma Morató i Sendra: Caminos para sanar toda situación de abuso. Vida Consagrada del siglo XXI. (Monograph)

This work addresses the question of abuse of power (by which power is turned into domination) and abuse of conscience (by which the abuser usurps the place of God), examining the relation of such abuses to the vow of obedience (setting out the anthropology of the vow of obedience and the conditions for mature obedience), and offering ways of avoiding abuses especially in the religious life.

618-619

FThC X (2021), 87-116: Jesu Pudumai Doss: Sfide odierne al servizio dell'autorità nella vita religiosa: alcune considerazioni canoniche. (Article)

See following entry.

618-619

SC 56 (2022), 117-145: Jesu Pudumai Doss: Challenges to Leadership in Religious Life Today: Some Canonical Considerations. (Article)

D. examines the challenges faced by religious superiors in the light of major cultural changes and current crises affecting consecrated life. He draws on canon law and documents of the Apostolic See to explore possible canonical responses to issues in four main areas: styles of governance in religious life, problems of administration, responsibility towards formation, and learning the “art of accompaniment” of individual members.

627

José Fernández San Román: La interpretación auténtica de 14 de mayo de 1985 sobre el voto del superior junto a su consejo (can. 127 §1). Documentación preparatoria y estudio sobre el caso específico del superior religioso (can. 627 §1). (Article in J. Miñambres – B. N. Ejeh – F. Puig (eds.), *Studi sul diritto del governo e dell'organizzazione della Chiesa in onore di Mons. Juan Ignacio Arrieta*, Marcianum Press, vol. II, Venice, 2021, pp. 1003-1023)

See above, canon 127.

631-633

EIC 62 (2022), 257-282: Davide Dimodugno: Dal capitolo monastico a forme di gestione partecipata per la rigenerazione del patrimonio culturale delle comunità di vita consacrata. (Article)

D. looks for elements of democracy in the origins of the monastic chapter. These elements should be preserved and repropounded when seeking appropriate legal instruments for the management and reuse of decommissioned monasteries and convents. By means of various forms of pacts, foundations and trusts, the assets could be returned to the community as an opportunity for participation and democracy on the part of the whole of civil society.

667

SC 56 (2022), 65-84: Réginald-Marie Rivoire: New Norms on Contemplative Nuns: A Critical Analysis of *Cor orans*. (Article)

R. comments on the Instruction *Cor orans*, published in 2018 by the Congregation for Institutes of Consecrated Life and Societies of Apostolic Life, complementing the Apostolic Constitution *Vultum Dei quaerere* on the contemplative life of women. This Instruction, which in many ways is akin to a true papal law, profoundly subverts the norms that until then governed cloistered nuns, whether it be the autonomy of the monasteries, the Cloister, or formation. R. seeks to discover *the mens legislatoris*, which inspires only a partial vision of the contemplative life.

678-701

Canonist 13/1 (2022), 49-76: Brendan Daly: The Authority and Obligations of a Diocesan Bishop/Local Ordinary and a Religious Institute in his Diocese. (Article)

See above, canon 397.

686-687

SC 56 (2022), 299-321: Mayong Andreas Acin: The Exclaustation of Religious: Law and Praxis. (Article)

An indult of exclaustation is the competent authority's permission given for a grave reason to a member of a religious institute to live outside the religious house for a temporary period. A. addresses several aspects of the topic: the different types of exclaustation; special norms on cloistered nuns; the practical procedures and formalities to be observed in exclaustation cases; the canonical status of the exclaustated member; mitigations in the observance of the evangelical counsels of obedience and poverty while a member is on exclaustation; the termination or extension of the indult; and some issues of the civil (secular) law regarding the exclaustated member's relation to the institute.

696

IE XXXIV (2022), 257-306: Supremo Tribunale della Signatura Apostolica: Prot. n. 30265/99 C.A. Dimissione, 15 dicembre 2001 (sentenza); 30 ottobre 2003 (decreto); 11 marzo 2014 (decreto); 17 novembre 2004 (decreto); Giovanni Parise: *Dimissione dall'istituto religioso ob alias graves causas (can. 696 §1) ed istanza di restitutio in integrum. Commento alla giurisprudenza del caso di cui al Prot. n. 30265/99 CA.* (Documents and comment)

The case involved the dismissal from a religious institute of a sister who failed to observe obedience by insisting on maintaining a personal bank account. The decree of dismissal was confirmed by the Congregation for Institutes of Religious Life and Societies of Apostolic Life, and a contentious-administrative recourse was brought before the Apostolic Signatura. By a definitive sentence of 15 December 2001 the Signatura confirmed the Congregation's decision. On 14 June 2002 the sister in question requested a *restitutio in integrum*, which was rejected by a decree of the Signatura dated 30 October 2003. On 11 March 2004 the Signatura

decreed that the judgment against the sister should be executed. A further recourse by the sister against the rejection of the request for *restitutio in integrum* was also rejected, by a decree of 17 November 2002. P. provides a comment on the nature of administrative judgments in the Church; on pertinacious disobedience as one of the “other grave causes” in canon 696 §1; and on the non-suspensive effect in this particular case of the request for *restitutio in integrum* (cf. canon 1647 §§1-2).

BOOK III: THE TEACHING OFFICE OF THE CHURCH

747

PS LVII 173 (2022), 215-246: Lester E. Mendonsa: Exercising the Ecclesial Right in the Defense of Fundamental Human Rights (Canon 747 §2). (Article)

M. examines the social and ecclesial implications that are inherent in the exercise of the ecclesial right to proclaim moral principles even in the social order and to define fundamental human rights at all times (canon 747 §2). This includes the participatory role of every level of ecclesial governance from the papal Magisterium to the lay faithful to promote and defend fundamental human rights, and to denounce violations of human dignity and values. M. presents three pastoral indications in accordance with the norm of law and magisterial teachings, to promote the ecclesial right to protect human rights.

751

Kevin Otieno Mwandha: Disaffiliation from the Catholic Church. (Book)

See above, canon 205.

753

J 78 (2022), 231-273: Matthew A. Glover: To Submit or Not to Submit: *Obsequium* to a Diocesan Bishop's Authoritative Magisterium (c. 753). (Article)

Secular society is quick to denigrate, if not altogether dismiss, any argument based on the authority of another. Yet, as St. Thomas Aquinas notes, the argument from authority that is based on mere human reason may be the weakest, but the argument from authority that is based on divine revelation is the strongest. But what happens when the authority's teaching is based partly on human reason and partly on divine revelation? Canon 753 codifies what it means for the Christian faithful to adhere *religioso animi obsequio* ("with religious submission of mind") to the teaching authority of their diocesan bishops, However, the notion of *obsequium* is highly nuanced and requires a more involved explanation. G. attempts to provide just such an

explanation. He considers the Second Vatican Council's development of the notion of *obsequium* vis-à-vis a bishop's teaching authority. He then examines the evolution from Vatican II's theological understanding into the juridical norm of canon 753. Finally he examines the practical implications of *obsequium* for the Christian faithful – i.e., what it means to adhere *religioso animi obsequio* to a bishop's teachings on Church doctrine or Church praxis, how to render *obsequium* when a bishop's teachings venture into areas of prudential judgement, and the impact of *obsequium* on the universal call to holiness.

781-792

EIC 62 (2022), 171-198: Giacomo Incitti: Il diritto missionario tra continuità e trasformazione. (Article)

By means of the prerogatives and competences of *Propaganda Fide* the Popes have sought to alleviate the negative consequences of missionary action excessively connected to colonialism. Hence the Congregation created missionary law for the mission territories, those particular territories where the implanted Church is yet to be firmly rooted and fully constituted. The revisited missiology initiated by Vatican II in the light of today's understanding that every church exists within a missionary dimension calls for a revisitation of traditional missionary law. I. seeks to suggest elements for reflection within the current debate.

781-792

LW 127/2 (2021), 98-116: Shaji Jerman: Dependence to Transcendence: A Diocese of Mission to a Missionary Diocese. (Article)

J. explains the difference between a “diocese of mission” and a “missionary diocese”, and proposes measures for transforming the former into the latter. The bishops of dioceses of mission have the duty of coordinating the missionary activities of the diocese, including the promotion of missionary vocations and of pontifical missionary societies. The clergy of the diocese need to have a missionary consciousness and to formulate a missionary pastoral programme. The religious in the diocese through their mission-oriented life become a sign of the great mission of Jesus. They fulfil the missionary vocation by serving the diocese to realize the missionary pastoral programme. Catechists or lay missionaries are evangelizers who make a unique contribution to the propagation of the faith in the Church and cannot be substituted by anyone else.

781-792

SC 56 (2022), 147-165: Andrea Ponzzone: *Norma missionis: Mission as the Foundation and the Core of Canon Law.* (Article)

See above, General Subjects (*Ecclesiology*).

790

AC 61 (2020-2021), 147-159: Athé Victor Miankian: *Territoires de mission. Une expression caduque?* (Article)

From 1622 *Propadanda Fide* was responsible for the spread of the Catholic faith among schismatics in Europe and among pagans in recently discovered lands, then designated “mission territories”. Such territories had four defining features: 1. geography, i.e., a place where the Gospel was not preached; 2. making Christ known; 3. a community of faith and Church structures; 4. autonomy in finance and personnel. Given the decline of faith in France and Belgium, the question of re-evangelization arises: hence the Pontifical Council for the New Evangelization. In this new context, the term “mission territories” seems redundant.

793-796

QDE 35 (2022), 25-53: Francesco Grazian: *Seminario minore: diritto-dovere di educare e immunità da coercizione.* (Article)

G. presents the role and aims of the minor seminary, especially for the cultivation of priestly vocations. He then outlines the teaching of Vatican II on rights and duties with respect to education, and extends this analysis into the presentation of the right and duty to educate contained in the Code, as it touches parents and pastors. This view is widened to consider the legal immunity from compulsion concerning vocational choices. With this in mind he offers concluding reflections on the vocational dimension of education, considering this as a community enterprise, and attributing the various responsibilities this entails with special reference to the role of the minor seminary, while ensuring that there is no compulsion brought to bear.

815-821

Comm 53 (2021), 546-563: *Congregatio de Institutione Catholica (de Studiorum Institutis): Instructio* “per l’applicazione della modalità

**dell'insegnamento a distanza nelle Università/Facoltà ecclesiastiche",
die 13 maii 2021. (Document)**

Over the last 20 years the use of distance learning and teaching has grown greatly. The purpose of this Instruction is to provide guidelines for ecclesiastical faculties and universities. It sets out a number of principles and general guidelines, based on *Veritatis gaudium*, clarifying terminology, and the understanding of present, remote and blended learning, the academic relationship between teacher, tutor, director and students, libraries, data bases and assessments. This is followed by detailed norms covering these areas.

BOOK IV: THE SANCTIFYING OFFICE OF THE CHURCH

838

Comm 53 (2021), 361-368: Ex Actis Francisci Pp.: Litterae Apostolicae Motu Proprio Datae *Traditionis Custodes* de usu librorum liturgicorum instaurationem Concilii Vaticani II antecedentium, die 16 iulii 2021. (Document)

In this motu proprio Pope Francis issues new norms replacing those contained in the motu proprio *Summorum Pontificum* of Pope Benedict XVI. The stated motive is to return to a unitary form of liturgical celebration using the revised liturgical books issued in the wake of Vatican II. The norms greatly curtail the use of the previous liturgical books, particularly in parish churches; they also require priests to obtain permission from the diocesan bishop, or in the case of those ordained after the date of the motu proprio, from the Holy See. The text is given in Latin and Italian.

838

Comm 53 (2021), 383-389: Ex Actis Francisci Pp.: Epistula ad Ecclesiae Catholicae episcopos “per presentare il Motu proprio *Traditionis Custodes* sull’uso della Liturgia Romana anteriore alla Riforma del 1970”, die 16 iulii 2021. (Document)

Pope Francis sets out the rationale for his motu proprio *Traditionis Custodes*. He explains the historical background to Pope Benedict XVI’s motu proprio *Summorum Pontificum*. He regrets that some have used the concessions granted in such a way as to create division. Reform of the liturgy was clearly desired by the bishops gathered at Vatican II. The reformed books should be seen as the only expression of the *lex orandi* of the Roman Church. The intention of the motu proprio is to provide for those attached to the older forms but who need time to adjust to the use of the reformed books.

838

Comm 53 (2021), 446-498: Congregatio de Cultu Divino et Disciplina Sacramentorum: Decretum ad dispositiones can. 838 Codicis Iuris Canonici efficiendas, die 22 octobris 2021. (Document)

This decree gives effect to the changes made in canon 838 by the motu proprio *Magnum principium* of 2017 and sets out amended procedures to clarify the relative responsibilities of the Congregation for Divine Worship and the episcopal conference when liturgical translations are prepared. In the case of adaptations to the liturgy the episcopal conference is to entrust the study of these to its commissions for liturgy and doctrine. A report will be submitted to the Congregation for recognition. The decree then sets out guidance on the preparation and approval of translations and the need for consultation when several different conferences use the same language before seeking confirmation from the Congregation. A second part spells out the role of the Congregation and specifically the significance of “recognition” and “confirmation”. The former is a matter of assuring conformity with the Roman rite and Catholic faith, whereas the latter is for ensuring that the correct procedures were followed, and in the case of the Lectionary that the *pericopes* conform with those in the typical editions. The document then addresses a question not covered in canon 838, that of diocesan and religious propers. A second part of the decree sets out “Variations” or changes made to the typical edition of the various liturgical books to ensure that these are taken into account when translations are prepared. There follows a version of the decree in Italian, although the section on “Variations” remains in Latin.

838

Comm 53 (2021), 499-505: Congregatio de Cultu Divino et Disciplina Sacramentorum: Ritus de Institutione Catechistarum, a Congregatione de Culto Divino et Disciplina Sacramentorum promotus, die 13 decembris 2021. (Document)

Following the introduction of the role of catechist as an instituted ministry similar to that of reader or acolyte, the Congregation here publishes the addition to the Pontifical, setting out the rite for the institution of a catechist.

838

Comm 53 (2021), 506-514: Congregatio de Cultu Divino et Disciplina Sacramentorum: Epistula de Ritu de Institutione Catechistarum praesidis Episcoporum Conferentiarum, die 13 decembris 2021. (Document)

Following the opening of the lectorate and acolytate to females on 10 January 2021, Pope Francis established the role of catechist on a similar basis with the *motu proprio Antiquum ministerium* of 10 May 2021. The Prefect of the Congregation here writes to the presidents of episcopal conferences explaining the history and the role envisaged, given that there are different ways of being catechists. Not everyone who teaches catechism should be instituted, e.g. those on the way to ordained ministry, religious, those with a role limited to a particular ecclesial movement, or those teaching religion in schools. He then explains the role in a positive way, the requisites for institution, and the rite itself.

838

Comm 53 (2021), 515-526: Congregatio de Cultu Divino et Disciplina Sacramentorum: “Responsa ad dubia su alcune disposizioni della Lettera Apostolica in forma Motu Proprio Traditionis Custodes del Sommo Pontifice Francesco”, die 18 decembris 2021. (Reply)

Following the promulgation of *Traditionis Custodes* the Congregation for Divine Worship had received various requests for clarification. Clarifications are provided on a number of points: permission to use a parish church; use of the Pontifical or Ritual; willingness to concelebrate the Chrism Mass as a test; use of a Bible for vernacular readings; permission from the Holy See for the newly ordained; permission from the diocesan bishop; bination.

838

Comm 53 (2021), 575-577: A. Roche: “Libri liturgici: edizione traduzione e adattamento”, Articulus explanans decretum Congregationis de Cultu Divino et Disciplina Sacramentorum ab Exc.mo mons. Arthur Roche conscriptus, die 22 octobris 2021. (Article)

In this article, published in *L’Osservatore Romano* on 22 October 2021, p. 7, Archbishop Roche outlines the content of the recent decree implementing

the changes made by the motu proprio *Magnum principium* in the adaptation and translation of liturgical texts.

838

IE XXXIV (2022), 307-320, 375-388: Massimo del Pozzo: Una lettura assiologica del decreto sugli adattamenti e sulle traduzioni dei libri liturgici. (Document and comment)

See preceding entry. In commenting on the decree implementing the changes made by the motu proprio *Magnum principium*, del P. focuses on the determining of competences and the rules of procedure; the form and substance of central-local cooperation; and the constant attention to the quality of the liturgy. The Italian text of the decree is given on pp. 375-388.

838

FThC X (2021), 117-135: Alberto Soria Jiménez: Exegesis on motu proprio *Summorum Pontificum* by Benedict XVI. (Article)

S.J. draws attention to the content, and in particular the nucleus of the theological, liturgical and canonical issues, in the motu proprio *Summorum Pontificum* of Benedict XVI (7 July 2007), seeing it as a true and mature “point of arrival” for the renewal of liturgical life.

838

J 78 (2022), 203-229: James Bradley: *Postquam Summus Pontifex: Further Observations and Questions.* (Article)

Following the 2017 motu proprio *Magnum principium* amending canon 838 §§2-3 of the CIC/83, with the provisions of *Postquam Summus Pontifex*, the Congregation for Divine Worship and the Discipline of the Sacraments updated its procedures for granting the *confirmatio* and *recognitio* to liturgical translations and adaptations, and also issued revised norms for the General Instruction of the Roman Missal and other liturgical books of the post-conciliar Roman Rite. B. reviews and considers these revised protocols in the light of *Sacrosanctum Concilium* and *Varietates legitimae*. He also examines the form and mode of promulgation of *Postquam Summus Pontifex* alongside the universal norms for promulgation set out in the Code.

838

SC 56 (2022), 223-243: Pierre-Marie Berthe: Le Motu Proprio *Traditionis Custodes*: l'avenir du rite romain ancien en question.
(Article)

The motu proprio *Traditionis Custodes* (16 July 2021) severely restricts the use of the 1962 Missal. Noting that the pre-conciliar liturgy is employed by some groups which criticize Vatican II and threaten ecclesial unity, Pope Francis declared that the Missal resulting from the reform of 1970 is the unique expression of the *lex orandi* in the Latin Church. Bishops have the power to authorize celebrations according to the former Missal outside parish churches for groups already constituted, but they cannot set up personal parishes on the basis of this liturgy. These measures require clarification. B. offers some reflections on the motu proprio, looking at the return to the regime of the indult, adherence to the teachings of the Second Vatican Council, the canonical framework for the old Missal, the future of the institutes erected by the Pontifical Commission *Ecclesia Dei*, and the maintenance of earlier norms that are compatible with the new discipline.

BOOK IV, PART I, TITLE I: BAPTISM

861

FCan XVII/1 (2022), 101-144: Miguel Falcão: Relevancia de la fe en el sacramento del bautismo. A propósito del reciente documento de la Comisión Teológica Internacional. (Article)

In the light of the recent document of the International Theological Commission, *The Reciprocity between Faith and Sacraments in the Sacramental Economy*, F. studies the relevance of faith in the sacrament of baptism, with the perspective that it may contribute to the sacrament of marriage. Through the Magisterium of the Church and the theological contribution mainly of St Augustine and St Thomas Aquinas, he examines the tradition of the Church in three chapters: relevance of faith in adult baptism; relevance of faith in infant baptism; relevance of faith in the administration of baptism. He considers that lack of faith in itself – as well as moral unworthiness – affects the fruit of baptism, which is grace, and can even prevent it completely, but the sacrament is validly performed, because the character is imprinted; when the baptized person repents and sincerely adheres to the faith, he or she receives grace, without needing to be baptized again.

861-874

QDE 34 (2021), 413-424: Enrico Massignani: Fede e battesimo: quale relazione? (Article)

M. compares the provisions of the CIC/83 on the relationship between faith and baptism with the position of the International Theological Commission (ITC), expressed in the document *The Reciprocity between Faith and Sacraments in the Sacramental Economy* of 3 March 2020. First of all, there is a common basic idea, namely the recognition of the existing reciprocity between faith and sacraments. From four different perspectives (faith and the baptized adult; faith and the baptized child; faith and the minister; faith and the godparents), it is clear that the Code intends above all to indicate the minimum elements for a valid and licit celebration of baptism, while the ITC refers to the need to ensure the conditions for its fruitfulness.

865

FCan XVII/1 (2022), 101-144: Miguel Falcão: Relevancia de la fe en el sacramento del bautismo. A propósito del reciente documento de la Comisión Teológica Internacional. (Article)

See above, canon 861.

868

FCan XVII/1 (2022), 101-144: Miguel Falcão: Relevancia de la fe en el sacramento del bautismo. A propósito del reciente documento de la Comisión Teológica Internacional. (Article)

See above, canon 861.

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

889-891

QDE 34 (2021), 425-443: Fabio Franchetto: «Ricevi il sigillo dello Spirito... Amen»: fede e confermazione. (Article)

What kind of faith is required in one who receives the sacrament of confirmation? Starting from this question, F. examines both the canonical norms and what they require from the person being confirmed for the lawful reception of confirmation, and the considerations offered in this regard by the International Theological Commission's document *The Reciprocity between Faith and Sacraments in the Sacramental Economy* of 3 March 2020. In receiving the sacrament of confirmation, the baptized person is called to undertake a journey of maturation of his or her faith, in particular in the ecclesial dimension and from the perspective of being a witness. However, the question remains open as to whether and to what extent this journey must be the fruit of a prior preparation for receiving the sacrament itself or the fruit of the grace which derives from it.

895

QDE 34 (2021), 487-500: Gianluca Marchetti: Annotazione dell'avvenuta confermazione: can. 895. (Article)

The obligation imposed by the Code to record confirmation originates both from the fact that this sacrament, by imprinting character, cannot be repeated, as well as from the very close link with the sacrament of baptism and the Eucharist towards a full Christian initiation, which has a significant impact, among other things, on the juridical status of the faithful. M. therefore examines in depth issues such as who is responsible for recording a confirmation, and how and where this must be done, especially for adults.

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

903

QDE 35 (2022), 221-254: Enrico Massignani: L'Eucaristia: aspetti giuridici. (Article)

M. examines a number of topics relating to the Eucharist, paying special attention to the work of the diocesan curia in their respect. He examines the minister of the Eucharistic celebration, the minister of Holy Communion, the place of the Eucharistic celebration, bination and trination, the material for the Eucharist (with reference to the problems of coeliacs and alcoholics), and how the Eucharistic host is to be reserved. He also offers a full description of the laws on Mass offerings.

905

FCan XVI/2 (2021), 143-149: Papa Bento XV: Constituição Apostólica *Incruentum Altaris* (10.08.1915). (Document)

The norm that provides for a single daily celebration of the Eucharist by each priest, according to canon 905 §1, admits of some exceptions, which are indicated in no. 204 of the General Instruction of the Roman Missal (3rd ed.). One of these exceptions concerns the day of the Commemoration of All the Faithful Departed, on which “all Priests may celebrate or concelebrate three Masses, provided that the celebrations take place at different times, and with due regard for what has been laid down regarding the application of second and third Masses”. This last item refers, in a footnote, to the Apostolic Constitution *Incruentum Altaris* (1915), of Pope Benedict XV, which was issued in the very specific context of the Great War (1914-1918), which devastated Europe at the beginning of the 20th century. It follows that any priest who wants to benefit lawfully from this exception to the general norm must adhere to what Benedict XV has determined, which remains in force, both in terms of the application of Masses and the discipline of offerings. The Latin text and Portuguese translation of the Apostolic Constitution are given here, together with the observation that ecclesial praxis tends to distance itself from what is canonically laid down.

905

QDE 35 (2022), 221-254: Enrico Massignani: L'Eucaristia: aspetti giuridici. (Article)

See above, canon 903.

910

QDE 35 (2022), 221-254: Enrico Massignani: L'Eucaristia: aspetti giuridici. (Article)

See above, canon 903.

915

Canonist 13/1 (2022), 89-97: Judith Hahn: *Amoris Laetitia*: Developments in Canon Law and Pastoral Practices. (Article)

H. argues that *Amoris laetitia* does not change the law but does correct what she describes as an unlawful interpretation of canon 915 by the Congregation for the Doctrine of the Faith in 1994, confirmed by the Pontifical Council for Legislative Texts in 2000, concerning the reception of Holy Communion by divorced and remarried Catholics. *Amoris laetitia* directs the reading of canon 915 back to a lawful interpretation in accordance with canon 18, which demands a strict interpretation of norms restricting the free exercise of rights.

915

J 78 (2022), 107-135: Thomas John Paprocki: Doctrine, Law, and Practice in Light of *Mitis Iudex* and *Amoris laetitia*. (Article)

There are many points pertaining to justice and mercy in relation to doctrine, canon law, and pastoral practices regarding marriage and divorce that have arisen from two documents issued by His Holiness Pope Francis: first, his *motu proprio Mitis Iudex Dominus Iesus*, by which the canons of the Code of Canon Law pertaining to cases regarding the nullity of marriage were reformed; second, his post-synodal Apostolic Exhortation *Amoris laetitia*, on love in the family. Among the questions addressed in this article are: how can God be just and merciful at the same time? Can there be mercy without judgement? May those who have divorced and remarried without a

declaration of nullity receive Holy Communion? P. describes how a well-formed conscience enables us to experience God's mercy and looks at how the moral law, canon or Church law, and civil law, bind us and how they free us.

924

QDE 35 (2022), 221-254: Enrico Massignani: L'Eucaristia: aspetti giuridici. (Article)

See above, canon 903.

932

QDE 35 (2022), 221-254: Enrico Massignani: L'Eucaristia: aspetti giuridici. (Article)

See above, canon 903.

934-939

QDE 35 (2022), 221-254: Enrico Massignani: L'Eucaristia: aspetti giuridici. (Article)

See above, canon 903.

945-958

QDE 35 (2022), 221-254: Enrico Massignani: L'Eucaristia: aspetti giuridici. (Article)

See above, canon 903.

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

983

FThC X (2021), 71-86: Goran Jovicic: Mandatory reporting legislation and the seal of confession in light of the prevention of child abuse and religious freedom. (Article)

In the first part of a two-part article J. investigates the mandatory reporting legislations in the United States, Australia and Europe as a response to the discoveries of abuse of minors in the Church. Not only Church officials but also various sectors of civil society failed to address the abuse crisis adequately. Fortunately, in recent years there has been significant progress regarding awareness and prevention. The problem, however, arises when civil legislations include priests alongside other professionals – doctors, social workers, etc. – as mandatory reporters, without permitting any exception whatsoever, even if priests are made aware of abuse within the sacrament of confession. These new developments in the civil law legislations are a violation of religious freedom, since the seal of confession is absolutely inviolable.

983-984

LJ 188 (2022), 28-37: Gordon Read: The Seal of Confession. (Article)

R. explores the origin and understanding of the seal of confession in the Church's sacramental practice and canon law. For most of the first millennium there was no clear distinction between the sacramental forgiveness of sins and the external discipline of excommunication. By the 13th century the discipline had developed into its current form. The Fourth Lateran Council regulated this and set out the level of confidentiality to be observed in canon 21, *Omnis utriusque sexus*. Failure to observe confidentiality leads to excommunication of the priest hearing the confession. The primary rationale is that he hears the confession as “God’s ears” and has no “human” knowledge of what has been said. There is also a more general argument for confidentiality so that the penitent can speak freely. R. then explores the questions of the obligation of those overhearing a confession, whether use can be made of information gained in the course of confession, and whether the penitent can permit the confessor to disclose what has been said.

BOOK IV, PART I, TITLE VII: MARRIAGE

1055

QDE 34 (2021), 444-468: Massimo Mingardi: Si richiede la fede per la valida celebrazione del matrimonio sacramentale? (Article)

M. explores the configuration of the relationship between faith and the sacrament of marriage as set forth in the International Theological Commission's document *The Reciprocity between Faith and Sacraments in the Sacramental Economy* of 3 March 2020, and compares it with what emerges on the same subject from current canonical norms and ecclesial practice. Noting that the two perspectives do not fully coincide, he expresses the hope, for which he gives reasons, that it will not be the Church's norms and practices that adapt to what appears to be the document's proposals, but rather that such proposals will be remodelled on the basis of current norms and practices.

1057

QDE 35 (2022), 91-102: Giuseppe Quaranta: Quale "libertà" per un valido consenso? Lo sguardo della teologia morale. (Article)

Q. looks at two recent responses to the questions raised by some trends in modern thought which seem to deny the possibility of freedom and to assert that all human action is determined. He first outlines the "transcendental" approach of Klaus Demmer who sees freedom as being the capacity to choose between good and evil, and who goes on to analyse the limitations on any individual's exercise of that choice – asserting that the limitations do not remove the choice. He then looks at the "phenomenological" approach of Giuseppe Angelini who saw freedom not as immunity from any form of duty but rather as the ability to accept responsibility and to grow both in self-knowledge and human fullness so as to engage in relationships characterized by self-gift.

1057

QDE 35 (2022), 103-116: Tiziano Vanzetto: Quale “libertà” per un valido consenso? Lo sguardo del diritto canonico. (Article)

V. uses the insights of Demmer and Angelini to reflect on the question of freedom to marry, suggesting that this involves the ability not merely to choose between alternatives but also to make a gift of one’s self. Looking at the effects on freedom of the unconscious mind and the influence of personal and community history, V, suggests that a valid matrimonial consent should both express and make real the freedom of both parties.

1059

RMDC 27/2 (2021), 247-290: Mario Medina Balam: El matrimonio canónico con reconocimiento civil. Una propuesta para México. (Article)

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

1063

AC 61 (2020-2021), 193-206: Cédric Burgun: Prévenir la nullité de mariage par la préparation au mariage. Quelques repères. (Article)

Pope John Paul II presents three phases of marriage preparation: remote, proximate, and immediate (*Familiaris consortio*, no. 66). Many couples approaching marriage today lack an understanding of sacraments or Church. Preparation should comprise three elements: an intellectual understanding of marriage, a personal sense of what marriage will require of the person, and the freedom to commit oneself. B. analyses the concept of maturity in the Code.

1063

IM 32 (2021), nr 2, 73-94: Emmanuela Sikorska: Aplikacja wskazań *Amoris laetitia* o przygotowaniu do małżeństwa – dylemat prawny i społeczny. Krótki zarys problemu w kontekście aktualnych wyzwań (*The application of the indications of “Amoris laetitia” on preparation for marriage – a legal and social dilemma. A brief outline of the problem in the context of current challenges the Church in Poland*). (Article)

S. examines the extent to which the voice of Pope Francis concerning the urgent need for renewed pastoral care of marriage and the family finds

application in the decisions and activities of pastors of souls and church communities in Poland.

1071

José Fernández San Román: Ammissione al matrimonio di chi ha notoriamente abbandonato la fede e di chi è irretito da censura. Presentazione di una ricerca storico-canonica. (Book)

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

1071

José Fernández San Román: Ammissione al matrimonio e la questione della fede. Sintesi di una ricerca storico canonica alla luce delle fonti fino al Concilio Vaticano II. (Book)

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

1077

AC 61 (2020-2021), 179-191: Ludovic Danto: Limiter le droit au mariage. La tentation de faire des canons 1077 et 1095 un empêchement dirimant. (Article)

D. thinks it wrong to refer for a civil marriage couples judged unprepared for a canonical marriage. In his discussion of those suffering from psychological difficulties, he cites *Amoris laetitia*: “The Church’s pastors ... must also help them to treat the weak with compassion, avoiding aggravation or unduly harsh or hasty judgements” (no. 308).

1079

IM 32 (2021), nr 1, 21-47: Tomasz Jakubiak: Przeszkody małżeńskie tajne i publiczne według Codex Iuris Canonici z 1917 (*Public and occult impediments to marriage according to the Codex Iuris Canonici of 1917*). (Article)

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

1082

IM 32 (2021), nr 1, 21-47: Tomasz Jakubiak: Przeszkody małżeńskie tajne i publiczne według Codex Iuris Canonici z 1917 (*Public and occult impediments to marriage according to the Codex Iuris Canonici of 1917*). (Article)

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

1083-1094

IM 32 (2021), nr 2, 95-109: Andrzej Kuźma: Przeszkody do zawarcia związku małżeńskiego w dokumencie o małżeństwie Wielkiego Soboru Kościoła Prawosławnego, Kreta 2016 (*Impediments to marriage in the document of the Grand Council of the Orthodox Church, Crete 2016*). (Article)

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

1085

IM 32 (2021), nr 1, 153-170: Tomasz Białobrzeski: Komentarz do sprawy S-J o stwierdzenie nieważności małżeństwa z tytułu przeszkody węzła małżeńskiego (*Commentary on the case S-J for declaration of marriage nullity for the impediment of bond*). (Sentence and comment)

B. comments on a case where the man deliberately misled his fiancée and the priests, concealing the fact of a previous marriage. Because of various objective difficulties he did not provide his baptism certificate, and in 1976 contracted a marriage that was invalid because of an existing bond. Cases of this nature are rare in judicial practice. In analysing it, B. makes reference to the norms in force before the promulgation of the 1983 Code. The case is also an opportunity to emphasize the important role played by the canonical prenuptial investigation in preparing for marriage.

1086

Kevin Otieno Mwandha: Disaffiliation from the Catholic Church. (Book)

See above, canon 205.

1095

AC 61 (2020-2021), 179-191: Ludovic Danto: Limiter le droit au mariage. La tentation de faire des canons 1077 et 1095 un empêchement dirimant. (Article)

See above, canon 1077.

1095 1°

Per 111 (2022), 89-138: Paolo Bianchi: L'uso insufficiente di ragione (can. 1095 1°) come motivo di nullità matrimoniale. Una rassegna. (Note)

This Note consists of a review of how tribunals have used canon 1095 1° in the consideration of cases of matrimonial nullity. B. first examines the sentences indicated as *fontes* of the current first part of the canon before considering how the ground of nullity known as incapacity due to a lack of sufficient use of reason has been treated in canonical literature. He moves on to examine how this particular ground was treated in the jurisprudence of the Roman Rota in the years after the promulgation of the CIC/83, noting that it appears as a ground of nullity only rarely in the jurisprudence of local tribunals and in that of the Rota. Out of this study, he begins to sketch out more precisely the proper content of the canon and of the concept of “lack of sufficient use of reason”; in doing so, he considers the proper relationship between this ground of nullity and the two others contained in canon 1095, i.e., incapacity due to a grave defect of discretion of judgement concerning the rights and obligations of marriage to be mutually given and accepted (2°), and incapacity due to the inability of a party to assume the essential obligations of marriage for reasons of a psychological nature (3°). Finally, he offers some thoughts on the elements of proof relevant to a claim of nullity on the ground of a lack of sufficient use of reason and how such a case might be handled using the *processus brevior*, citing *Mitis Iudex Dominus Iesus*, art. 14 §1.

1095 2°

RMDC 27/2 (2021), 367-379: Roman Rota: Exc.mo P.D. Pio Vito Pinto, sentencia definitiva del 13 de mayo de 2014. (Sentence)

Although the Rota would normally deal with cases of partial simulation and grave defect of discretion of judgement separately, there are situations in which, as here, it is appropriate to deal with them together. The immaturity

of a party may be such that there is neither sufficient discretion of judgement concerning the essential rights and obligations of marriage, nor correspondence between the words and signs used in the celebration of marriage and the internal consent of the will. An abnormal (oedipal) relationship between a son and his mother may imply not only an incapacity on the part of the son to give valid consent, but may also coincide with simulation of his true intention when expressing that consent.

1095 2°-3°

Canonist 13/1 (2022), 109-118: Roman Rota: Sentence *coram* Abdou Yaacoub, 14 July 2016. Grave Defect of Discretion of Judgement & Incapacity to Assume Essential Obligations (can. 1095, 2°-3°). (Sentence)

The Rota examined on appeal whether there was proof of nullity of marriage due to grave defect of discretion of judgement on the part of one or both of the parties, and due to incapacity to assume the essential obligations of marriage on the part of one or both of the parties (other grounds were also alleged but were considered not provable, or probable). A supplementary instruction was carried out by the Rota, and a psychological expert report was obtained and reviewed. The sentence sets out the law on grave defect of discretion of judgement and incapacity to assume the essential obligations of marriage, and includes an analysis of the expert's report on both of those grounds, in relation to both parties. The decision was stated quite simply in the following terms: "Affirmative, that is, there is proof of nullity of marriage in the case." The Rota did not think it necessary to impose a *vetitum*, and stated that the parties should be reminded of an offering of justice for causes of the poor.

1095 3°

IM 32 (2021), nr 1, 49-70: Bartosz Nowakowski: Zaburzenia nastroju jako przyczyna niezdolności osoby do podjęcia istotnych obowiązków małżeńskich (*Mood disorders as the cause of the inability of a person to assume the essential obligations of marriage*). (Article)

N. discusses the influence of mood disorders on the inability of a person to assume the essential obligations of marriage. First, he presents two basic types of the phenomenon: the depressive type and the manic type. Then he applies them to the canonical matrimonial law in the matter of declaring marriage nullity.

1095 3°

IM 32 (2021), nr 1, 71-86: Kinga Szymańska: Parafilia a nieważność małżeństwa kanonicznego w wybranych publikacjach (*Paraphilia and canonical marriage nullity in selected publications*). (Article)

Paraphilias may prevent a valid marriage covenant, owing to the paraphiliac's incapacity to undertake and fulfil important marital duties such as establishing a conjugal marital community of life, establishing an interpersonal relationship between the spouses, maintaining a permanent, faithful, mutual and long-lasting relationship, maintaining a heterosexual partnership, giving birth and raising offspring, or engaging in intimacy *humano modo*. However, the mere presence of paraphilia does not automatically mean a person is incapable of entering into marriage. In this regard, canonists recommend taking into account the degree of intensity of a given anomaly, referring in particular to the studies of Urbano Navarrete and the Italian psychiatrist Gianfrancesco Zuanazzi. At the same time, it is necessary to avoid rash judgements as to the severity of the paraphilia, and to evaluate each case carefully, taking into account the type of deviation, its characteristics, and also the personality of the contracting party.

1095 3°

IM 32 (2021), nr 1, 87-105: Emilia Zyskowska: Osobowość niedojrzała a zdolność do wyrażenia zgody małżeńskiej. Wpływ rodziny pochodzenia na kształtowanie dojrzałości osoby (*Immature personality and ability to express marital consent. The influence of the family of origin on shaping the maturity of a person*). (Article)

Many cases of marriage nullity result from an inability to undertake the essential obligations of marriage on account of some mental incapacity. In a significant proportion of cases, this involves the immature personality of one or both of the parties. However, each case should be considered very carefully because the formation of a personality lasts a lifetime. Z. discusses possible determinants of an immature personality shaped by the family of origin. The family shapes the basic frameworks of the child's personality, including a system of attitudes and needs, the way of satisfying them and an extremely important mechanism of self-esteem. Children who are raised in dysfunctional families are influenced by stressogenic and pathogenic factors, which are the source of psychological trauma, causing changes in the personality structure as well as emotional and behavioural problems.

1101

AnC 18 (2022) 1, 49-83: Wojciech Góralski: Problem rozróżnienia pomiędzy wykluczeniem *ipsum ius* i wykluczeniem *usus iuris* w odniesieniu do *bonum prolis* w doktrynie i w orzecznictwie rotalnym (*The problem of distinguishing between ipsum ius exclusion and the exclusion of usus iuris with regard to bonum prolis in doctrine and jurisprudence*). (Article)

In the area of canonical marital consent, one of the most sensitive issues is that of exclusion – by a positive act of will – of the *bonum prolis*, which is an essential part of marriage. By entering into marriage, the parties undertake the mutual right and obligation to perform marital acts: unitive and open to procreation. G. looks at the question of whether the exclusion of this good, resulting in the nullity of the marriage, relates only to the right to marital acts open to procreation (*ipsum ius*) or also to the exercise of this right (*usus iuris*). Referring to the doctrine and jurisprudence of the Roman Rota, he shares the overwhelming view that only the exclusion of the right (*ipsum ius*) to matrimonial acts open to procreation invalidates the marriage, not the exclusion of *usus iuris*.

1101

Canonist 13/1 (2022), 98-108: Roman Rota: Sentence *coram Arellano Cedillo*, 14 July 2016. Exclusion of Good of Fidelity. (Sentence)

In deciding that the man respondent in this case had excluded the good of fidelity, the Rota took into account the following proofs: the explicit declarations of the woman petitioner, who was found to be credible; extrajudicial declarations of the respondent contrary to fidelity, received from trustworthy witnesses; the inadequate religious education of the respondent, particularly in regard to the ethical principles concerning sexuality; his excessive proclivity towards sex; his lack of genuine conjugal love; his persistence in fostering love relationships with other women, which were begun before the wedding and continued afterwards; his uncontrollable infidelities which were the principal cause of the dissolution of the marriage. All these issues provided a very strong indication that the man – whom the Rota described as being endowed with no moral principles and destitute of all religious piety – excluded the good of fidelity at the moment of formulating his conjugal consent.

1101

IM 32 (2021), nr 1, 125-151: Rafał Kamiński: Wykluczenie dobra potomstwa oraz bojaźń szacunkowa w wyroku c. Ferreira Pena z dnia 18 kwietnia 2012 roku (*Exclusion of the good of offspring and perceived fear in the judgment of c. Ferreira Pena of 18 April 2012*). (Sentence and comment)

At the Roman Rota this case was considered on the grounds of partial simulation (*exclusio boni prolis*) and grave fear (*metus reverentialis*). The sentence considers the relationship between the circumstances of premarital life and the reason for simulating marital consent, for which a positive act of will is needed. The incompatibility of the grounds of simulation and fear was noted; hence the second ground was not considered. The Rota considered that the nullity of the marriage had been proved through both direct and indirect proofs. What prompted the petitioner to simulate was a lack of love for the respondent, added to submission to the circumstances of family life and social pressure. It had also been shown that the exclusion of offspring by the petitioner was closely related to the constant practice of taking contraceptives.

1101

IM 32 (2021), nr 2, 5-20: Grzegorz Leszczyński: *Causa simulandi* a wykluczenie dobra wierności małżeńskiej ("*Causa simulandi*" and the good of faithfulness of marriage). (Article)

Both doctrine and jurisprudence indicate that exclusion of the good of faithfulness requires a positive act of will, but it seems useful in determining the true will of the simulator to define the relationship between the will to marry and the will to exclude the good of faithfulness. A significant factor, apart from psychosexual disorders or anomalies, is the mentality of modern people promoting the idea of sexual freedom, which in some cases can become a depraved personality. The reasons are very different depending on the case, although the most common is the desire to maintain an extramarital relationship with the person with whom the party in question was in a relationship prior to entering into marriage.

1101

IM 32 (2021), nr 2, 21-48: Jan Krajczyński: Badanie okoliczności, które pomagają ustalić myślenie i wolę domniemanego symulanta w sprawach

o nieważność małżeństwa *ob exclusionem indissolubilitatis* (Examination of circumstances to assist in determination of the method of thinking and the will of the alleged simulator in cases concerning nullity of marriage “*ob exclusionem indissolubilitatis*”). (Article)

K. addresses the issue of circumstances as special evidence in nullity cases involving exclusion of indissolubility. Careful examination and consideration of all the circumstances of the case – the marriage, person, place and time – make it possible to establish indirectly the thinking and intention of the alleged simulator of marital consent. On the basis of various Rotal decisions K. addresses the need to examine the many different objective and subjective, personal and material circumstances that help determine whether the alleged simulator excluded the indissolubility of the marriage.

1101

RMDC 27/2 (2021), 367-379: Roman Rota: Exc.mo P.D. Pio Vito Pinto, sentencia definitiva del 13 de mayo de 2014. (Sentence)

See above, canon 1095 2°.

1103

IM 32 (2021), nr 2, 145-160: Ginter Dzierżon: Bojaźń szacunkowa w wyroku c. Ferreira Pena z 30 października 2013 roku (*Reverential fear in the judgment c. Ferreira Pena of 30 October 2013*). (Sentence and comment)

D. comments on the affirmative Rotal judgment *coram* Ferreira Pena of 30 October 2013, decided on the ground of reverential fear. The decision was reached on the basis of direct and indirect proofs. The petitioner’s statements were supported by the testimony of witnesses and the circumstances of the case. It was also proved that the petitioner had a serious aversion to entering into marriage.

1117

Kevin Otieno Mwandha: Disaffiliation from the Catholic Church. (Book)

See above, canon 205.

1118

AnC 18 (2022) 1, 85-99: Marek Story: Koloseum, stadion olimpijski czy kościół – miejsce zawarcia małżeństwa w Rzymie (*Colosseum, Olympic Stadium or a church – place of marriage in Rome*). (Article)

S. looks at the places in Rome in which marriage can be contracted in a legally binding way in the light of current Italian civil law and canon law, especially particular law. In the capital of Italy as well as across the country, marriage ceremonies are no longer exclusively celebrated in churches: in 2018 the percentage of civil marriages without any religious elements was for the first time higher than that of those in a religious form. There is also a worldwide trend which can also be observed in Italy for contracting marriages outside the registry office or church, for example, outdoors, in a palace or a castle which are in the vicinity of restaurants, or in restaurants themselves. However, in the light of both civil and canon law regulations, in Rome it is not currently possible to contract marriage at the Olympic Stadium or in the Colosseum.

1124

Kevin Otieno Mwandha: Disaffiliation from the Catholic Church. (Book)

See above, canon 205.

1136

QDE 35 (2022), 25-53: Francesco Grazian: Seminario minore: diritto-dovere di educare e immunità da coercizione. (Article)

See above, canons 793-796.

1151-1155

IM 32 (2021), nr 2, 49-72: Elżbieta Szczot: Separacja małżeńska – fikcja nierozzerwalności czy szansa trwałości związku? (*Marital separation – fiction of indissolubility or the chance of permanence of a relationship?*). (Article)

S. examines the institution of separation in canon law with reference to separation in Polish law. Church tribunals in Poland do not rule on the separation of spouses, and in Polish law this possibility was abolished after

1945. Part of Polish society hoped to protect marriage through the institute of separation, but the statistical data reveal little interest in it. Separation can resolve a conflict of conscience among Catholics proceeding from divorce.

1158-1159

IM 32 (2021), nr 1, 21-47: Tomasz Jakubiak: Przeszkody małżeńskie tajne i publiczne według Codex Iuris Canonici z 1917 (*Public and occult impediments to marriage according to the Codex Iuris Canonici of 1917*). (Article)

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

1161-1165

QDE 34 (2021), 469-486: G. Paolo Montini: La sanazione in radice del matrimonio: significato e condizioni. (Article)

M. takes up a 1994 conference paper on convalidation, brings it up to date with the social developments that the institution of matrimony has undergone (civil marriages, civil partnerships, cohabitation), but retains the original paper's approach of dealing with the topic in three chronological and logical stages: the "starting point", (the prerequisites for a *sanatio*); the "intermediate point" (the moment of the *sanatio* itself); the "point of arrival" (the effect of the *sanatio*). For each of these moments, the main problems are identified, listed, and answered according to doctrine, case law, and practice.

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

1222

J 78 (2022), 1-25: Raymond Leo Burke: Some Developments in the Jurisprudence of the Apostolic Signatura in the Matter of the Reduction of Churches to Profane, but Not Sordid Use. (Article)

One complex administrative controversy raised before the Supreme Tribunal of the Apostolic Signatura concerns the reduction of a church to profane but not sordid use. Its jurisprudence in this matter offers much useful guidance to bishops in understanding what they can do and also what they ought to consider before decreeing such a reduction. Whether a bishop explicitly addresses the fate of a church or not (such as on the occasion of the suppression of a parish), the definitive decision that a church will no longer be used is equivalent to its reduction to profane but not sordid use. In regard to the procedure to be followed, among the matters that arise is the rule according to which the bishop must consult the presbyteral council prior to making his decision, not merely notify the council about a decision made. When carrying out this and other consultations, the question concerns not which churches should be retained and which discarded but whether there are grave reasons for no longer using a church for sacred worship. While the Apostolic Signatura cannot enter into questions of the fittingness of reducing a church to profane use, it examines whether there are grave reasons for doing so – that is, objective, factual, and proportionate reasons. Its jurisprudence has identified some such reasons, as well as some recurring reasons that are not grave and thus do not justify such a decision.

BOOK V: THE TEMPORAL GOODS OF THE CHURCH

1277

Canonist 13/1 (2022), 119: Australian Catholic Bishops Conference: Complementary Legislation for Australia Pertaining to Acts of Extraordinary Administration and Alienation. (Document)

The Australian Catholic Bishops Conference sets limits for acts of extraordinary administration at A\$ 1.70 per capita or A\$ 339,214 (annual repayment), and A\$ 0.68 per capita or A\$ 135,686 (sum forgone), as from June 2022.

1290-1296

RGDCDEE 59 (2022): María Ascensión Andreu Martínez: Delimitación y aplicación de la legislación civil, canónica y de protección del patrimonio histórico en la venta de bienes eclesiásticos. A propósito de la STS 1/2021, de 13 de enero. (RI §424964). (Article)

The purchase and sale of ecclesiastical assets belonging to the historical heritage and sold to Catalan institutions by the Community of Religious Sisters of the Order of Valldoreix, whose ownership they did not hold, has given rise to one of the most controversial disputes, with pronouncements in different jurisdictional orders, which has finally been resolved by Supreme Court Ruling 1/2021, of 13 January 2001. The sales and purchases in question were formalized in 1983, 1992 and 1994, which has led to the application of different rules for the protection of historical heritage. The Supreme Court settled the controversy on the basis that the document by which the Order of Valldoreix sold the assets was not effective as a transferable document, without considering that there had been an infringement of the rules protecting historical heritage. In this controversial pronouncement, the Court did not take into account the fact that the assets in dispute have been declared immovable property, as expressly established in the declaration of the Monastery of Sijena as a National Monument, a category that includes the elements that are consubstantial with the building or its surroundings. This contravenes the doctrine that understands that the properties thus incorporated cannot be the object of any kind of separate legal transaction.

1292

Canonist 13/1 (2022), 119: Australian Catholic Bishops Conference: Complementary Legislation for Australia Pertaining to Acts of Extraordinary Administration and Alienation. (Document)

The Australian Catholic Bishops Conference sets the approved amounts for alienation of temporal goods of the Church at A\$ 6,784,275 (maximum sum) and A\$ 33,921 (minimum sum), as from June 2022.

BOOK VI: SANCTIONS IN THE CHURCH

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

1311*

SC 56 (2022), 41-64: Cristián Villalonga: Judicial Process or Pastoral Mercy? Criminal Law, Catholic Moral Theology, and the Dilemma of Punishment for the Offender. (Article)

V. explores how a misleading understanding of the dilemma of punishing the offender – which has spread among many members of the Church – could explain the deficient institutional response to cases of sexual abuse in ecclesiastical contexts. He analyses factors that have contributed to structuring the judicial process and mercy as antithetical responses to those crimes, posing a complex dilemma regarding cases that must be resolved by the bishops, who are simultaneously judges and shepherds. In concrete terms, he proposes that a particular way of comprehending some matters of moral theology, and the incentives inherent in the bishops' complex institutional stance, would lead to the latter resolving that dilemma by favouring a response based on mercy towards the offender.

1311-1363

SC 56 (2022), 245-277: Alphonse Borras: Le nouveau droit pénal général (cc. 1311-1363), *nihil novi sub sole?* (Article)

B. begins with a brief presentation of the Apostolic Constitution *Pascite gregem Dei* reforming Book VI of the CIC/83, which serves as an introduction and at the same time a key to reading the revised penal legislation. He surveys the first part of Book VI and identifies some major features of its revision. He reviews canons 1311 to 1363, paying particular attention to their modifications from the 1983 Code. He finally points out some doctrinal questions that the revision of Book VI did not address, doubtless due to the need to deal with pressing matters *ad pascendum gregem Dei*.

1311*-1399*

AC 61 (2020-2021), 9-25: Bruno Gonçalves: Le nouveau livre VI du Code de droit canonique latin: une réforme dans la continuité du système pénal canonique. (Article)

The new Book VI (89 canons), promulgated on 1 June 2021 in the Apostolic Constitution *Pascite gregem Dei*, came into force on 8 December 2021. Sanctions are a response to an act or omission to which the law attaches a penalty. The new law includes, and amends, norms already issued, e.g., *Normae de gravioribus delictis* (2001) and *Vos estis lux mundi* (2019). It takes account of the internet and has detailed norms for abuse of minors. All penalties have an expiatory quality, as they aim to punish a reprehensible act. Lay holders of Church offices are liable to sanctions formerly reserved to clerics, such as suspension.

1311*-1399*

IE XXXIV (2022), 47-66: Juan Ignacio Arrieta: La funzione pastorale del diritto penale. (Article)

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

1319*

AC 61 (2020-2021), 61-89: Joseph Domingo: L'utilisation du précepte dans les causes pénales actuelles. (Article)

A penal precept is issued by virtue of executive authority, that is, Ordinaries and their delegates, within the limit of their mandate. A penal precept is one which imposes or urges the execution of an obligation, accompanied by a specific sanction. The penal precept establishes or foresees a sanction as the way of enforcing the obligation it imposes or declares, when it is proved that a law has been broken or that the penal precept that fixed the sanction has not been observed. The penal precept is a warning about future conduct. It can include medicinal and expiatory penalties. Perpetual sanctions, such as dismissal from the clerical state, cannot be imposed in this way. A penal decree, in writing, must state the reasons why it is being issued. It is subject to recourse. It can also be issued at the end of a penal trial or before a preliminary investigation is completed (*Vademecum on certain points of procedure in treating cases of sexual abuse of minors committed by clerics*, June 2020, no. 58). The Dicastery for the Doctrine of the Faith can delegate

authority to an Ordinary to impose disciplinary (non-penal) measures by penal precept.

1320*

Canonist 13/1 (2022), 49-76: Brendan Daly: The Authority and Obligations of a Diocesan Bishop/Local Ordinary and a Religious Institute in his Diocese. (Article)

See above, canon 397.

1362*

SC 56 (2022), 167-204: Valère Nkouaya Mbandji: Les victimes d’abus sexuels et la prescription canonique: une quête de justice au-delà de la limite du temps? (Article)

Taking into account the most recent studies on the subject of criminal prescription in canon law, M. reflects on the impact of the passage of time in the experience of sexual abuse. He draws on the testimonies of victims and survivors of sexual abuse perpetrated by “members of the Church” to raise the question of the appropriateness of criminal prescription in cases of sexual abuse perpetrated on minors and those equated with minors in canon law.

1364*-1398*

AC 61 (2020-2021), 27-46: Alphonse Borrás: Le nouveau droit pénal spécial (canons 1364-1398). (Article)

B. focuses on canons 1364-1398, and canon 1399 as an exception to the principle of legality, “no law, no penalty”. The new norms are more severe and leave less discretion to superiors: 1. the new law refers to “offences against the faith”, not religion; 2. lay people can be subject to delicts: a new canon deals with violation of a pontifical secret, abuses in the administration of church property, abuses of power or office; 3. delicts against sacraments; 4. delicts against good reputation and the crime of forgery; 5. delicts against special obligations, e.g., financial scandals, sins against the sixth commandment; 6. delicts against minors under 16 years are seen as attacks on their dignity.

1364*-1399*

Comm 53 (2021), 427-445: Congregatio pro Doctrina Fidei: Rescriptum ex Audientia Ss.mi “con cui approva le Norme sui delitti riservati della Congregazione per la Dottrina della Fede”, die 7 decembris 2021. (Document)

See below, canon 1405.

1364*-1399*

IE XXXIV (2022), 321-338, 389-397: Davide Cito: Le nuove “Norme sui delitti riservati alla Congregazione per la Dottrina della Fede”. Prime riflessioni. (Document and comment)

See below, canon 1405.

1364*-1399*

J 78 (2022), 27-74: Brian T. Austin: The Revised Book VI, Part II. Selected Norms and Commentary. (Article)

A. comments upon selected norms of Part II (“Particular Offences and the Penalties Established for Them”) of the revised Book VI (“Penal Sanctions in the Church”) of the Latin Code. Substantive changes are presented in a tabular format for ease of comparison with former disciplines and schemata, with a particular focus on style and Latinity. The revised text reconfigures the categories of offences in Titles I–III and incorporates a number of extracodal norms. Most significantly, nine new categories of offence have been established and many penalties rendered mandatory and determinate. A. concludes with a summary of the most significant changes to Part II and reflects upon the importance of the long-awaited instruction on the penal process. (For the first part of this article see *Canon Law Abstracts*, no. 128, p. 86.)

1371*

SC 56 (2022), 85-115: John Anthony Renken: The Delicts of Sexual Abuse in the Revised Book VI. (Article)

See below, canon 1395*.

1378*

SC 56 (2022), 85-115: John Anthony Renken: The Delicts of Sexual Abuse in the Revised Book VI. (Article)

See below, canon 1395*.

1389 / 1378*

TyV LXII (2021), 357-388: Ianire Angulo: La presencia innombrada. Abuso de poder en la Vida Consagrada. (Article)

See above, canon 618.

1378*

VR 132 2/2022 (monográfico): Gemma Morató i Sendra: Caminos para sanar toda situación de abuso. Vida Consagrada del siglo XXI. (Monograph)

See above, canon 618.

1390-1391 / 1390*-1391*

Canonist 13/1 (2022), 36-48: Elizabeth Kim Meng Ong: The Revised Canons 1390 & 1391: the Impact on the Rights to Good Reputation and Privacy. (Article)

This article focuses on the differences between the old and revised canons 1390 and 1391 with regard to the impact on the right to good reputation and privacy and its possible practical effects in the civil and canonical realms. The right to good reputation and privacy is important since it is rooted in the dignity of the human person made in the image and likeness of God, and continues to have an impact long after one has passed from this life. The revision of canons 1390 and 1391 reinforces the right through obligatory penalties. However, prevention is always better than cure, and this can be helped through good policies, procedures, and the basic stance of treating one another with respect.

1395

J 78 (2022), 275-326: Tribunal of the Roman Rota: Definitive Sentence *coram* Arokiaraj, *Poenalis*, A. 40/2021, March 17, 2021; Ronny E.

Jenkins: The Equitable Confirmation of a Condemnatory Sentence Based on an Alternate Legal Title: A Commentary on the Penal Cause *coram* Arokiaraj, March 17, 2021, of the Roman Rota. (Sentence and comment)

The facts presented in this appellate decision are simple and straightforward; a substantial portion of the law applied to the facts is not. Two accusations of acts *contra sextum* were separately lodged against a diocesan priest by two adult women. The first woman alleged that she and the priest had engaged in a sexual relationship that lasted for several years. It had ended by the time of her denunciation of him. The second woman did not allege a sexual relationship, but instead reported that the priest had sexually harassed her by unwanted and inappropriate touching, kissing, verbal and textual expressions, and transmission to her by smartphone of lewd images. All of this occurred while she was an employee of the parish where the priest ministered. For his part, the priest admitted to much of what was alleged against him. He claimed, however, that his actions were misunderstood, and that the woman wished that he text her the photos. A first instance diocesan tribunal found the priest guilty of a violation of the second clause of canon 1395 §1; that is, engaging in persistent sexual relations with the first woman. The penalty of dismissal from the clerical state was imposed on him. The priest appealed to the Roman Rota. No additional proofs were collected. That tribunal confirmed the decision of first instance, including the penalty of dismissal from the clerical state. However, the judges did so based not on the charge the priest faced at first instance – a violation of canon 1395 §1 – but based on a violation of canon 1395 §2. The judges ruled that the priest had not violated the first paragraph of that canon since he had not persisted in the sin *contra sextum* with the first accuser. Instead, he had violated canon 1395 §2 by having sexually harassed the second accuser by use of force and threats. Despite the variation of the legal title under which the priest was found guilty – one title in first instance and a different one on appeal – the appellate decision insists this is not a violation of canon 1639 §1 since the status of the appellant does not change for the worse; that is, he is still guilty of a delict against the sixth commandment and he will still suffer the same punishment as meted out by the first instance court, not a graver punishment. It then provides an extended argument to support this conclusion, basing it on the legal doctrine against *reformatio in peius*, the legal maxim *Iura novit curia*, and adoption of appellate law from the penal procedural code of Vatican City State. J. first elucidates in some detail the argumentation used in the Rotal decision. He then provides observations regarding both the soundness of its reasoning and the possible advantages of its practical application to penal causes.

1395 / 1395*

RMDC 27/2 (2021), 380-411: Roman Rota: Davide-Maria A. Jaeger, Poenalis, Sentencia definitiva del 4 de marzo de 2015. (Sentence)

A cleric performed a sex act on an adult man at night, in a car parked in a quiet street. The act took place below the level of the car windows, and no one witnessed it. Only accidentally did it come light at a later date, following which a preliminary investigation was ordered by the diocesan bishop, which led to a penal process, culminating in a decision by the tribunal that the cleric had committed an offence against canons 277 §§1-3 [provisions dealing with clerical celibacy and continence] and 1395 §2; the tribunal also decreed, in accordance with the diocesan policy, that the cleric was expelled from the clerical state. The Rota, examining the case on appeal, pointed out that neither canon 277 §§1-3 nor the diocesan policy were penal laws. The only relevant penal provision was canon 1395 §2 [as in force at that time] which stated: “A cleric who has offended in other ways against the sixth commandment of the Decalogue [i.e. other than by concubinage or continuance in some other external sin against the sixth commandment causing scandal, as set out in §1], if the offence was committed by force, or by threats, or in public, or with a minor ... is to be punished with just penalties, not excluding dismissal from the clerical state if the case so warrants.” There was no suggestion that the sinful act in question involved force or threats; it was not committed with a minor; and in the particular circumstances, it could not be considered “public”. Hence it was not proved that the cleric was guilty of an offence under canon 1395 §2.

1395*

SC 56 (2022), 85-115: John Anthony Renken: The Delicts of Sexual Abuse in the Revised Book VI. (Article)

By his apostolic constitution *Pascite gregem Dei*, Pope Francis has promulgated a revised Book VI of the Code of Canon Law, the culmination of years of consultation, research, and reflection. In its treatment of delicts of sexual abuse, the revised Book VI reflects recent developments in ecclesiastical legislation and expands the possible offenders to include also lay persons in church leadership roles. The revision also establishes the delict of failing to report a delict when required to do so by law. R. recounts the development of legislation on various delicts of sexual abuse over recent decades, and offers an analysis of the treatment of the delicts of sexual

abuse in the revised Book VI. He also offers reflections for even further development of legislation concerning these delicts.

1398*

AC 61 (2020-2021), 91-104: Laurent-Marie Pocquet du Haut-Jussé: Les enjeux canoniques et pastoraux du motu proprio *Vos estis lux mundi* du 7 mai 2019. (Article)

The preamble of *Vos estis lux mundi* (VELM) reveals the mind of the legislator, already articulated in the “Letter to the People of God” (20 August 2018), which called on the whole Church to combat the abuse of children. VELM puts new responsibilities on metropolitans (arts. 10-12). Art. 19 has the effect of canonizing the civil law in individual jurisdictions, especially relating to reporting offences. These norms apply without prejudice to the rights and obligations established in each place by State laws, particularly those concerning any reporting obligations to the competent civil authorities. A *Vademecum* on procedures for cases of sexual abuse of minors committed by clerics was published in June 2020.

1398*

Canonist 13/1 (2022), 77-88: Martin Pusch – Hans Zollner: Observations from Safeguarding Work for the Evaluation and Revision of Canonical Penal Law. (Article)

In anticipation of the revision of Book VI, the authors highlight the issues that they see as being of fundamental importance in relation to safeguarding: the legal goods protected by penal norms; the status of the victim in penal proceedings; and how best to ensure that the process determines the *actus reus* and *mens rea*, as well as the appropriate sanction in accordance with the law.

1398*

EA 57 (2022), 305-332: Roberto Noriega Fernández: Aproximación a las raíces de los abusos en el seno de la Iglesia Católica. Lectura de los pretextos teológicos de los ‘asesinos de almas’. (Article)

N.F. notes that, within the testimonies of the victims of sexual abuse in the Catholic Church, it is possible to discover religious justifications, which together with other causes have provoked the criminal actions of those

primarily responsible, and the concealment by the institution. He denounces in particular the apparent theological reasons and pretexts that revolve around the anthropology and theology of sexuality, ecclesiology and the conception of ministerial power, and the understanding of sin and grace. He also points out possible ways of solution and reparation.

1398*

FCan XVII/1 (2022), 145-159: João Vergamota – Ricardo Ferreira – João Bizarro – Paulo Pires: O delito de abuso sexual de menores e pessoas vulneráveis e a obrigatoriedade de denúncia às autoridades civis e eclesiais. (Article)

The authors look at the situation concerning the canonical and civil obligations of reporting cases of abuse to the relevant ecclesiastical and civil authorities, in the Portuguese context.

1398*

IE XXXIV (2022), 67-91: Sebastián Terráneo: Il processo di elaborazione dell'Istruzione *Crimen Sollicitationis* del 1922. (Article)

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

1398*

RTL 53 (2022), 133-149: Karlijn Demasure: Une réflexion sur la complexité des facteurs ayant facilité les abus sexuels et leur dissimulation dans l'Église catholique. (Article)

Sexual abuse in the Church needs to be explained by a multifactorial model. D. studies both individual enablers of abuse such as immaturity and paedophilia, and systemic factors such as abuse of power and clericalism. Although these causes were already brought to light by the first official investigation in Canada (1989), decades had to pass before the hierarchy intervened in various areas. Much suffering and scandal could have been avoided if early research and investigations had been taken seriously.

1398*

SC 56 (2022), 85-115: John Anthony Renken: The Delicts of Sexual Abuse in the Revised Book VI. (Article)

See above, canon 1395*.

1398*

VR 133 2 (2022), 83: María Inés Franck: Los desafíos de la prevención en la reforma canónica. (Article)

F. briefly reviews recent canonical measures aimed at preventing abuses, in particular the Pope's chirograph of 22 March 2014 establishing the Pontifical Commission for the Protection of Minors, the motu proprio *As a loving mother* of 4 June 2016, and the motu proprio *Vos estis lux mundi* of 7 May 2019.

BOOK VII: PROCESSES

1403

Comm 53 (2021), 527-545: Congregatio de Causis Sanctorum: Ordo Postulatorum, nota explicativa; “Regolamento dei Postulatori”, die 11 octobris 2021. (Documents)

An explanatory note introduces the new regulations governing postulators for the causes of saints, which make some changes. Officials directly involved in the Congregation for the Causes of Saints cannot be nominated as it would create a possible conflict of interests. Postulators, other than the postulator general for a religious community, cannot take on more than 30 active cases at any one time. There are also changes in the financial and professional management of cases. The regulations themselves are grouped into six sections: 1. general notions; 2. diocesan phase; 3. Roman phase; 4. beatification and canonization; 5. granting the title of Doctor of the Universal Church; 6. relics and mortal remains.

1403

Per 111 (2022), 65-88: Emanuele Spedicato: *Ab imo ad summum*: il contributo alle cause dei santi di p. Ignacio Gordon S.J. (Article)

In this article published in *Periodica* to mark the 20th anniversary of the death of Fr Ignacio Gordon S.J., formerly professor of Canon Law at the Pontifical Gregorian University, S. examines the contribution he made to the processes associated with the causes of saints. He traces Fr Gordon's activities from the early 1960s when he was the postulator of several causes; his work in the revision of the Code of Canon Law in the 1970s and the preparation of the Apostolic Constitution *Divinus perfectionis Magister*; and his contribution to the theological thought behind the causes of saints, with special emphasis on the concept of martyrdom.

1405

Comm 53 (2021), 427-445: Congregatio pro Doctrina Fidei: Rescriptum ex Audientia Ss.mi “con cui approva le Norme sui delitti riservati della Congregazione per la Dottrina della Fede”, die 7 decembris 2021. (Document)

A rescript of 7 December 2021, entering into effect on 8 December 2021, amended the provisions of the motu proprio *Sacramentorum sanctitatis tutela* of 30 April 2001, as previously amended by Pope Benedict XVI on 21 May 2010, concerning the more serious offences reserved to the Congregation for the Doctrine of the Faith. The text of the revised Norms is given in Latin and Italian. Articles 1-8 of the revised Norms are substantive and list the offences: against faith; against the Eucharist; against penance; attempted ordination of a woman; offences against morals, specifically in respect of minors or those equivalent; the possible penalty; prescription. The second part sets out the procedural norms: the competent tribunal; the judicial process; the extrajudicial process; final dispositions.

1405

EIC 62 (2022), 143-169: Pierpaolo Dal Corso: Le nuove Normae de delictis Congregationi pro Doctrina Fidei reservatis: tra continuità e discontinuità nella disciplina. (Article)

See preceding entry. Dal C. notes that current provisions have points of continuity and discontinuity with the previous legislation and must be understood in the context in which they arose, taking into account the changes and subsequent legislative interventions on the delicate issues that they deal with.

1405

IE XXXIV (2022), 321-338, 389-397: Davide Cito: Le nuove “Norme sui delitti riservati alla Congregazione per la Dottrina della Fede”. Prime riflessioni. (Document and comment)

See preceding entries. C. comments on the substantive and procedural elements of the new document. He considers that the norms on reserved offences are still not in complete harmony with the general legislation, although this latest document does represent a step forward. The Italian text of the Norms is given on pp. 389-397.

1405

IE XXXIV (2022), 141-177: Gianpaolo Montini: Strumenti di impugnazione delle decisioni penali. (Article)

See below, canons 1619-1648.

1405

Antonio Rella Ríos: El recurso contra los decretos penales aprobados o emitidos por la Congregación para la Doctrina de la Fe (SST art. 27). (Doctoral thesis)

With the promulgation of the motu proprio *Sacramentorum sanctitatis tutela* (SST) a series of more grave offences were reserved to the exclusive competence of the Congregation [now Dicastery] for the Doctrine of the Faith (CDF). To be able to process these cases more speedily, a penal administrative process was introduced as an extraordinary manner of examining and deciding them. Over the years a system of penal administrative justice developed which began with a delegation or mandate from the CDF to Ordinaries to carry out the penal process, the use of the hierarchical recourse as a means of challenging penal decrees, and the need to create a special contentious-administrative recourse against penal decrees issued or approved by the CDF. This recourse is set out in art. 27 of the Norms of SST of 2010. Some of the proposals regarding it which R. makes in this thesis were in fact incorporated in the 2021 revision of the Norms of SST (art. 24). (For bibliographical details see below, Books Received.)

1417

IE XXXIV (2022), 141-177: Gianpaolo Montini: Strumenti di impugnazione delle decisioni penali. (Article)

See below, canons 1619-1648.

1419-1437

IM 32 (2021), nr 2, 111-130: Adam Bartzak: Odpowiedzialność sądownictwa kościelnego za małżeństwo (*Responsibility of ecclesiastical judges for marriage*). (Article)

Ecclesiastical judges have responsibility for applying the laws to specific cases, the overwhelming majority of which concern marriage nullity. B.

focuses on the individuals involved in the marriage process and their respective responsibilities.

1445

IC 62/123 (2022), 249-277: Przemyslaw Michowicz: La función nomofiláctica a través del precedente jurisprudencial de la Signatura Apostólica. (Article)

See above, canon 19.

1445

IE XXXIV (2022), 257-306: Supremo Tribunale della Signatura Apostolica: Prot. n. 30265/99 C.A. Dimissione, 15 dicembre 2001 (sentenza); 30 ottobre 2003 (decreto); 11 marzo 2014 (decreto); 17 novembre 2004 (decreto); Giovanni Parise: *Dimissione dall'istituto religioso ob alias graves causas (can. 696 §1) ed istanza di restitutio in integrum. Commento alla giurisprudenza del caso di cui al Prot. n. 30265/99 CA.* (Documents and comment)

See above, canon 696.

1445

Per 111 (2022), 33-64: Gianpaolo Montini: La competenza di merito della Segnatura Apostolica nel pensiero di p. Ignacio Gordon S.J. (Article)

This article is one of three published in this fascicle of *Periodica* to mark the 20th anniversary of the death of Fr Ignacio Gordon S.J., formerly a professor of Canon Law at the Pontifical Gregorian University. M. considers the evolution of Fr Gordon's thought on the competence of the *Sectio Altera* of the Supreme Tribunal of the Apostolic Signatura, particularly in the handling of contentious-administrative matters. He begins by referring to Fr Gordon's comments on the Apostolic Constitution *Regimini Ecclesiae Universae* and then moves on to look at his arguments that the work of the *Sectio Altera* was not limited purely to decisions concerning the legitimacy of certain administrative acts on the part of the Congregations of the Roman Curia but also included in some sense a decision on the merits of the individual case. M. shows that this was very much a minority view; however, there are some indications that, although far from explicit, the

opinion of this gentle and loyal teacher is emerging in the practice of the Signatura.

1446

Clara Trinidad Velasco Blanco: El Servicio de Mediación, Arbitraje y Conciliación canónico. (Doctoral thesis)

See below, canon 1713-1716.

1455

J 78 (2022), 75-106: Paul M. Matenaer: “But Instead Expose Them”: Public Access to Criminal Trials in U.S. Law and Canon Law. (Article)

Public access to criminal trials is an indispensable attribute of the Anglo-American legal system. The “rule of publicity” has been the rule in England from time immemorial and was a fundamental attribute of the judicial systems of the early American colonies. The Supreme Court has concluded that “a presumption of openness inheres in the very nature of a criminal trial under our system of government”, and the First and Sixth Amendments safeguard the public nature of criminal trials. Yet, according to M., as essential as publicity is to the American legal system, so secrecy is to the Catholic Church’s legal system. Amid calls for greater transparency and accountability in the Church, recent developments in canon law have taken only small steps to lift the pall of secrecy. Meanwhile, US Catholics have discovered many reasons to distrust their leaders, stemming from sexual and financial misconduct and cover-up. While some canonical scholars have recognized the benefit of employing secular models of transparency, it remains necessary to provide a method of incorporation and to suggest concrete changes. M. begins that conversation by comparing public access in criminal trials under US law and canon law and by examining whether canon law can successfully incorporate any elements of American law. Owing to fundamental differences in the two legal systems, many elements cannot be incorporated, but the core values promoted by the American legal system’s public access doctrine are values inherent in good governance in general. M. applies these values to criminal trials in canon law and provides three concrete proposals that uphold the fundamental values of good governance and accomplish the express purposes of the Church’s penal system. Rather than hide its criminal trials in secret, the Church, he argues, should instead expose them.

1465-1467

IM 32 (2021), nr 1, 107-123: Tomasz Galkowski: Terminy i odroczenia sądowe w procesie o stwierdzenie nieważności małżeństwa (*Time limits and delays in cases declaring the nullity of marriage*). (Article)

The course of the marriage nullity process is regulated, among other things, by rules that contain time limits (*terminus* and *dilatio*). G. notes the legal consequences of the non-observance of these limits, looking at the nature and effects of *fatalia legis* and postponements.

1465-1467

J 78 (2022), 327-354: Tribunal of the Roman Rota: Decree *coram Erlebach, Nullitatis matrimonii; Prael.: De iure appellandi*, B. 78/2021, June 17, 2021; Mario Ferrante: Expiration of Time Limits and the *Ius appellacionis*. (Decree and comment)

See below, canon 1630.

1501-1691

J 78 (2022), 137-202: William L. Daniel: The Canonical Norms on the Judicial Examination or Interrogations: Their Purpose, Implementation, and Non-Observance. (Article)

The judicial examination is the session at which questions are posed by the judge or another instructor to a summoned party, witness, or expert, and the responses are received and recorded by the notary. It is an essential element of the judge's exercise of judicial power and a central component to the orientation of the trial to the discovery of the truth. Observance of the norms governing it is necessary for a just and legitimate judicial process. Those norms stated in the Code of Canon Law and reiterated in the Instruction *Dignitas connubii* require, in brief, the citation of the deponents to appear in person (usually at the tribunal), instruction of them about the obligation to state the truth, the swearing of an oath in most causes, identifying and questioning them individually by the judge with the assistance of the notary, the recording of the responses by the notary under the direction of the judge, and a review and signing of the records. While there are some legitimate exceptions to these norms, it is illegitimate for a tribunal to replace the ordinary method of interrogation with the pre-judicial gathering of statements, the solicitation of written statements, the use of video conferencing or telephone interviews, and interrogation in the absence of a

notary or by a non-judge or non-auditor. Observance of the correct procedure in this matter should weigh upon the conscience of the bishop moderator of the tribunal.

1527

IM 32 (2021), nr 2, 131-143: Rafał Dappa: Dowód z dokumentów prywatnych w procesie o stwierdzenie nieważności małżeństwa (*Proof from private documents in the marriage nullity process*). (Article)

D. studies the question of various forms of electronic communication as evidence in marriage nullity cases. The evidential value of such materials is often doubtful or even insignificant, mainly because of difficulties in verifying their authenticity. However, this type of evidence can prove useful for the case, and D. attempts to assess the suitability of private documents as proofs in canonical trials.

1527

S 84 (2022), 323-339: Vittorio Gepponi: La liceità della prova nel processo matrimoniale canonico. (Article)

The new technologies in the field of electronic communication – with particular regard to e-mail, chat, social messaging on smartphones, etc. – pose problems and questions that are still open and to be defined about their lawfulness within the probative system, specifically in the canonical process for the declaration of matrimonial nullity, which makes the rigorous ascertainment of factual truth particularly complex because it can never be understood apart from the *salus animarum*. G. examines the topic from the perspective of the normative framework – which does not specify the proofs required, although requiring them to be useful and lawful – and within the panorama of doctrinal and jurisprudential orientations; and he pays special attention to certain topical issues which give rise to hermeneutical difficulties especially as to the lawfulness of the proofs, both *quoad substantiam* and *quoad modum acquisitionis*.

1574-1581

SC 56 (2022), 205-221: Ataa Denkha: Le rôle de l'expert dans les procédures matrimoniales: la théorie face à la praxis. (Article)

D. focuses on the role of the expert in marriage processes. He examines the cases in which the Code contemplates the use of an expert and how the latter's work must conform to the requirements of justice and Christian anthropology. He compares the canonical norms with the results of a survey of canonical officials in French-speaking European tribunals. By seeing the law in the light of praxis, some avenues of reflection open up and merit attention so that the application of canonical norms is done in the most adequate way possible.

1598

Canonist 13/1 (2022), 15-35: Merlin Rengith Ambrose: *Contradictorium* and the Right of Defence: Conceptual Clarifications and Canonical Glimpses. (Article)

See above, canon 221.

1608

IE XXXIV (2022), 93-110: Damian G. Astigueta: La certezza morale nella decisione penale. (Article)

Moral certainty has been the subject of several studies and articles. Apparently there is no theoretical difficulty for its understanding, but practice indicates that it is not always well understood. Being a human quality it can be somewhat obscured by false understandings, lack of preparation and personal limitations.

1608

M.^a Teresa Cerdá Donat: La certeza del derecho vinculada a la verdad y la justicia. Reflexión *utriusque iuris* sobre su manifestación en el derecho procesal canónico. (Doctoral thesis)

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

1611-1612

M.^a Teresa Cerdá Donat: La certeza del derecho vinculada a la verdad y la justicia. Reflexión *utriusque iuris* sobre su manifestación en el derecho procesal canónico. (Doctoral thesis)

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

1619

Ius Comm X (2022), 117-128: Supremum Signaturae Apostolicae Tribunal: Decreto, 28 febrero 2019. Nulidad de matrimonio; Juan José García Faílde: Comentario. (Decree and comment)

See below, canon 1644.

1619-1648

IE XXXIV (2022), 141-177: Gianpaolo Montini: Strumenti di impugnazione delle decisioni penali. (Article)

M. looks at the tools which the canonical system makes available for the challenging of penal decisions. In respect of penal “sentences” he looks at appeals, complaints of nullity, and claims for total reinstatement; in respect of administrative decisions, he deals with *remonstratio*, hierarchical recourse, and contentious-administrative recourse. He also examines “challenges” by the executor of a decision; challenges of decisions in matters of *delicta graviora*; challenges against measures taken by virtue of special faculties; direct referrals to the Roman Pontiff; and decisions that are not capable of being challenged, as coming from the Roman Pontiff. In each situation M. sets out the corresponding procedural regulations.

1620 7°

Canonist 13/1 (2022), 15-35: Merlin Rengith Ambrose: *Contradictorium* and the Right of Defence: Conceptual Clarifications and Canonical Glimpses. (Article)

See above, canon 221.

1630

J 78 (2022), 327-354: Tribunal of the Roman Rota: Decree *coram Erlebach, Nullitatis matrimonii; Prael.: De iure appellandi*, B. 78/2021, June 17, 2021; Mario Ferrante: Expiration of Time Limits and the *Ius appellationis*. (Decree and comment)

An affirmative first instance sentence was duly published and notified to the parties and to the defender of the bond. At the same time the judicial vicar stated that the tribunal would be closed as from 24 December 2019 and would reopen on 7 January 2020, and that no procedural time limits would run during that time. The respondent's advocate received notice on 20 December 2019 but did not appeal to the Roman Rota until 10 January 2020. A preliminary question was raised at the Rota *de iure appellandi*, to decide whether the appeal had been lodged in time, the respondent's advocate arguing that the fifteen-day limit provided by the Code had been extended by the notice issued by the judicial vicar. In his comment F. looks at the right of appeal following *Mitis Iudex* and in the light of Rotal jurisprudence, especially concerning "merely dilatory" appeals; the calculation of time limits for exercising the right of appeal, including the concepts of "continuous time" and "useful time"; and the Rota's decision itself. In the particular case the deadline should have run from 20 December 2019, and the *dies ad quem* would have been 4 January 2020. However since the tribunal was closed for the Christmas holidays up to and including 6 January, the deadline for the appeal should have been extended *ex canon 1467* to the following day, 7 January. Thus the appeal presented on 10 January would have been late (*ultra fatalia*) as it was presented three days after the deadline. Nevertheless since the judicial vicar had issued a notice specifically suspending the time limits between 24 December 2019 and 6 January 2020, the appeal submitted on 10 January was to be considered as timely and entirely legitimate. Even though the judicial vicar's suspending of the time limits was itself unlawful (cf. canon 1465 §1), it was not to be considered null because of the provision of canon 10, according to which only those laws which expressly establish the nullity of an act are to be considered invalidating.

1639

J 78 (2022), 275-326: Tribunal of the Roman Rota: Definitive Sentence *coram Arokiaraj, Poenalis*, A. 40/2021, March 17, 2021; Ronny E. Jenkins: The Equitable Confirmation of a Condemnatory Sentence Based on an Alternate Legal Title: A Commentary on the Penal Cause

coram Arokiaraj, March 17, 2021, of the Roman Rota. (Sentence and comment)

See above, canon 1395.

1643

IE XXXIV (2022), 211-231: Marc Teixidor: Genesi e sviluppo del principio *nunquam transeunt in rem iudicatam causae de statu personarum*. Considerazioni storico-critiche. (Article)

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

1644

Ius Comm X (2022), 117-128: Supremum Signaturae Apostolicae Tribunal: Decreto, 28 febrero 2019. Nulidad de matrimonio; Juan José García Faílde: Comentario. (Decree and comment)

After two tribunals had issued affirmative sentences, the respondent submitted a *querela nullitatis* and a request for a new examination of the case to the Roman Rota. The Rota rejected both requests *a limine*. The respondent then presented a *querela nullitatis* and a request for a new examination of the case to the Apostolic Signatura, which issued a decree rejecting the *querela nullitatis*, and a separate decree allowing a new examination of the case. G.F. comments on this latter decree, which he considers could have been clearer and more precise in setting out its arguments.

1647

IE XXXIV (2022), 257-306: Supremo Tribunale della Signatura Apostolica: Prot. n. 30265/99 C.A. Dimissione, 15 dicembre 2001 (sentenza); 30 ottobre 2003 (decreto); 11 marzo 2014 (decreto); 17 novembre 2004 (decreto); Giovanni Parise: *Dimissione dall'istituto religioso ob alias graves causas (can. 696 §1) ed istanza di restitutio in integrum*. *Commento alla giurisprudenza del caso di cui al Prot. n. 30265/99 CA.* (Documents and comment)

See above, canon 696.

1654

IE XXXIV (2022), 141-177: Gianpaolo Montini: Strumenti di impugnazione delle decisioni penali. (Article)

See above, canons 1619-1648.

1671-1691

Comm 53 (2021), 369-371: Ex Actis Francisci Pp.: Litterae Apostolicae Motu Proprio datae “con la quale il Santo Padre istituisce la Commissione Pontificia di verifica e applicazione del mp *Mitis Iudex* nelle Chiese d’Italia”, die 26 novembris 2021. (Document)

By this motu proprio Pope Francis establishes at the Roman Rota a Pontifical Commission to promote the role of bishops in Italy as judges in accordance with *Mitis Iudex*, particularly where there is no current tribunal, by making enquiries and providing assistance to ensure that the provisions of *Mitis Iudex* are being implemented.

1671-1691

FCan XVII/1 (2022), 13-85: Joaquín Alberto Nieva García: “Vademecum” para la “investigación prejudicial o pastoral” según el m.p. *Mitis Iudex Dominus Iesus* y la Ex. Ap. *Amoris laetitia*. (Article)

Pope Francis wanted to give a boost to the pastoral care of the faithful who live in an irregular marriage situation. To this end he gave specific guidelines in the Apostolic Exhortation *Amoris laetitia*, indicating that it is necessary to offer them a reception and accompaniment service that allows them to make a comprehensive discernment of their situation (AL, 244): when there are doubts about the validity of the marriage or certainty of its nullity, it is necessary to carry out a “preliminary investigation” to clarify each case and redirect it, when possible, to the tribunals. To carry out this pastoral “service”, the Roman Pontiff himself had already suggested to the dioceses that they prepare a *vademecum* to help implement this pre-judicial investigation: “One diocese, or several together, according to the present groupings, can form a stable structure through which to provide this service and, if appropriate, a handbook (*vademecum*) containing the elements essential to the most appropriate way of conducting the inquiry” (*Mitis Iudex*, Procedural Rules, art. 3). N.G. explains the importance of this *vademecum*, justifies its usefulness, offers ideas for its elaboration, sets out its operational lines of action, the responsible agents, and the essential

elements for the most adequate development of the “pre-judicial or pastoral investigation” within diocesan marriage ministry.

1671-1691

IM 32 (2021), nr 1, 5-19: Wojciech Góralski: Orzeczenie w sprawie nullitatis matrimonii – i co dalej? Franciszek do Roty Rzymskiej z okazji inauguracji nowego Roku Sądowego 2021 (*The sentence of nullitatis matrimonii – and what next? Francis to the Roman Rota on the occasion of the inauguration of the New Judicial Year 2021*). (Article)

In his address to the Roman Rota of 29 January 2021 Pope Francis appealed to the judges not to forget that the integral good of the person requires them not to remain indifferent in the face of the unpleasant consequences that may be caused by a sentence of nullity of marriage. The Holy Father asks: What will happen to the children and the spouse who does not accept the nullity of the marriage? It is very urgent that bishops, judges, parish priests and other pastors do their best to help abandoned spouses and their children. At the end of the address, Francis expressed his appreciation for the work of the Roman Rota and thanked the retiring Dean for his service.

1671-1691

Ius Comm X (2022), 47-63: José Luis López Zubillaga: La apelación en la reforma del Motu proprio *Mitis Iudex*. (Article)

The appeal in the new process of the nullity of marriage introduces the possibility of confirming by decree the sentence of nullity of the first instance, when the appeal filed against the sentence of nullity of the first instance clearly appears merely dilatory. On the other hand, the legitimacy of the appeal is based on the gravamen involved. Only a burdensome sentence can be appealed against. Consideration must also be given to special situations which can emerge in the appeal, such as the value of the appeal under one or more grounds when the nullity has already been granted on another ground; or the value of a sentence in favour of the validity of marriage after a decision against validity. These questions may also be applied to the briefer process.

1671-1691

J 78 (2022), 327-354: Tribunal of the Roman Rota: Decree *coram Erlebach, Nullitatis matrimonii; Prael.: De iure appellandi*, B. 78/2021,

June 17, 2021; Mario Ferrante: Expiration of Time Limits and the *Ius appellationis*. (Decree and comment)

See above, canon 1630.

1682

EIC 62 (2022), 199-232: Fabio Fornalè: La rimozione del veto a contrarre nuove nozze con particolare riferimento al ruolo della coscienza morale dell'Ordinario del luogo. (Article)

F. looks at the question of the removal of a prohibition to contract a new marriage, with particular reference to the role of the moral conscience of the local Ordinary at each stage of the procedure for lifting the prohibition.

1683-1687

AC 61 (2020-2021), 207-220: Jean-Jacques Boyer: Au sujet du procès matrimonial plus bref devant l'évêque diocésain. Quelques points de tension et de résolution. (Article)

The power of a diocesan bishop to judge cases by the *processus brevior* cannot be delegated. It can only be used if both parties agree on the facts of the case, the grounds of nullity and the use of this procedure. The *libellus* is presented to the judicial vicar who can refer the case to the diocesan bishop if the necessary conditions are met. If they are not met, the decree of the judicial vicar referring the matter to the diocesan bishop is invalid, as is the eventual sentence (canon 124). The defender of the bond must give his view on the matter. The procedure moves from the instruction to the conclusion of the case, without the publication of the *acta*. If at any stage the defender of the bond raises an objection, the matter must be referred to the ordinary procedure. The bishop-judge can only give a judgment in favour of the nullity of a marriage. If he cannot reach moral certitude, the matter must be referred to the ordinary procedure. The bishop-judge can delegate the writing of the sentence to the instructor-judge or assessor. If the defender of the bond does not appeal within fifteen days, the bishop can sign the decree of execution.

1713-1716

Clara Trinidad Velasco Blanco: El Servicio de Mediación, Arbitraje y Conciliación canónico. (Doctoral thesis)

V.B. presents the Mediation, Arbitration and Conciliation Service, a technical-juridical organism dependent on the State, for the extrajudicial resolution of conflicts in any sphere (ecclesial or civil) and in any branch of the law. Canonical mediation is recognized as a juridical institution proper to the law of the Church, distinct from civil or secular mediation. V.B. proposes canonical accompaniment as a preventative and palliative juridical means and as a way to resolve conflicts. (For bibliographical details see below, Books Received.)

1717

AnC 18 (2022) 1, 5-48: Dariusz Borek: Obowiązek powiadomienia o przestępstwie w prawie i praktyce Kościoła (*The obligation of making a delict denunciation in the law and practice of the Church*). (Article)

B. focuses on the obligation of reporting delicts in the Church's law and practice, including the question of whether current Church law still encompasses the obligation to denounce any suspicion of committing a delict and of any disciplinary, liturgical and moral abuse (not only paedophilia). He deals with the following issues: reporting according to the CIC/83; reporting according to the latest canonical regulations; and the State obligation of reporting. He suggests that the Church is trying to adapt its regulations to the challenges of the modern world. However, there are some shortcomings in canon law as it does not determine any sanctions (criminal and/or administrative) in the case of a failure to report. It should be clearly stated that reporting itself should be considered as a sign of conscious co-responsibility for the common good and the ultimate goal, which is the *salus animarum* of each person, including the perpetrator. The introduction of a canonical obligation to report delicts is simply a fulfilment and clarification of the *modus procedendi* established by Jesus Christ (Matthew 18:15-17).

1717-1731

AC 61 (2020-2021), 47-59: Benoît Malvaux: La praxis du traitement des delicta graviora dans les instituts de vie consacrée. (Article)

A superior who becomes aware of a complaint must seek to establish its credibility. In accordance with *Vos estis lux mundi*, art. 2 §3, an Ordinary

who receives a *notitia de delicto* must transmit it immediately to the Ordinary or hierarch of the place where the events were said to have occurred, as well as to the proper Ordinary or hierarch of the person reported; or in the case of a religious, to his major superior. In cases where the local Ordinary and the proper Ordinary are not the same person, it is preferable that they contact each other to determine which of them will carry out the investigation (*Vademecum on certain points of procedure in treating cases of sexual abuse of minors committed by clerics*, June 2020, no. 31). M. says the major religious superior should undertake the preliminary investigation, preferably through a delegate from another congregation, when civil procedures are complete; in any case, the Dicastery for the Doctrine of the Faith (DDF) should still be informed. When the preliminary investigation is complete, the only decision is whether the matter should be referred to the DDF. Interim restrictions can be placed on the ministry of the accused, and help offered to the victim. M. considers the implications of an administrative penal process.

1720

RMDC 27/2 (2021), 315-335: Rogelio Ayala Partida: El derecho de defensa en el proceso administrativo penal. La participación del abogado. (Article)

In recent times the administrative penal process has been the most common procedure used in the Church for handling penal allegations. However, it is a matter of concern that the steps for this procedure are outlined in only one canon, and that canon does not determine the details for ensuring and safeguarding the right of defence. Hence it is necessary to review the general principles of law in order that the competent ecclesiastical authority and advocates act correctly within the limits of their competency. A.P. analyses some general principles of law contained in the *Regulae Iuris* of Pope Boniface VIII, and points out the importance of their application in some of the details of the administrative penal process.

1727

IE XXXIV (2022), 141-177: Gianpaolo Montini: Strumenti di impugnazione delle decisioni penali. (Article)

See above, canons 1619-1648.

1732-1739

IE XXXIV (2022), 141-177: Gianpaolo Montini: Strumenti di impugnazione delle decisioni penali. (Article)

See above, canons 1619-1648.

1733

Clara Trinidad Velasco Blanco: El Servicio de Mediación, Arbitraje y Conciliación canónico. (Doctoral thesis)

See above, canon 1713-1716.

1737

Antonio Rella Ríos: El recurso contra los decretos penales aprobados o emitidos por la Congregación para la Doctrina de la Fe (SST art. 27). (Doctoral thesis)

See above, canon 1405.

1752

Comm 53 (2021), 564-574: Paenitentiaría Apostolica: “A servizio della suprema lex”, allocutio Em.mi Card. Mauro Piacenza occasione diei academici Facultatis Iuris Canonici S. Pio X in Venetia, die 10 novembris 2021. (Address)

Cardinal Piacenza introduces the academic year for canon law students in Venice by reflecting on the meaning and significance of the last canon of the Code and the phrase “the salvation of souls is the supreme law”. Everything in canon law is related to salvation. Without faith it has no meaning, and even to some with faith it seems subordinate to State law. Canon law is at the service of the whole human person. At a horizontal level it guarantees an authentic encounter with Christ in the community. It is also about justice and addressing injustice. He focuses on two examples by way of illustration, the administrative removal of a parish priest, and the penal norms contained in Book VI.

1752

FThC X (2021), 231-281: Presentazione del volume “Il Diritto Canonico tra salvezza e realtà sociale” di S. Em.za il Card. Péter Erdö (Roma, 24 novembre 2021 – Venezia, 26 novembre 2021). (Compilation)

See above, General Subjects (*Compilations*).

1752

Per 111 (2022), 139-171: Anthony Ekpo: *Periculum mortis*: applying the ultimate goal of canon law. (Note)

The salvation of souls is understood to be the supreme law in the Church. In this Note, E. explores the concept of *periculum mortis* (the danger of death) as a canonical principle to be applied within the broader perspective of the salvation of souls. While many canonists will be familiar with some of the applications of this principle in relation to the *munus sanctificandi*, E. shows that it can have applications also in the *munus docendi* and in the *munus regendi*.

EXCHANGE PERIODICALS

- Analecta Cracoviensia
- Angelicum
- Annales Canonici
- Année Canonique
- Anuario Argentino de Derecho Canónico
- Anuario de Derecho Canónico
- Apollinaris
- Archiv für katholisches Kirchenrecht
- Boletín Eclesiástico de Filipinas
- Bogoslovni vestnik
- Claretianum
- Commentarium pro Religiosis et Missionariis
- De Processibus Matrimonialibus
- Eastern Legal Thought
- Ephemerides Iuris Canonici
- Ephrem's Theological Journal
- Estudio Agustiniانو
- Estudios Eclesiásticos
- Folia Theologica et Canonica
- Forum Canonicum
- Forum Iuridicum
- Indian Theological Studies
- Immaculate Conception School of Theology Journal
- Irish Theological Quarterly
- Ius Canonicum
- Ius Communiois
- Ius Ecclesiae
- Iustitia: Dharmaram Journal of Canon Law
- Journal of Sacred Scriptures
- The Jurist
- Kościół i Prawo
- Laurentianum
- Law and Justice
- Louvain Studies
- Periodica
- Philippine Canonical Forum
- Philippiniana Sacra
- Quaderni dello Studio Rotale
- Quærens
- Revista Española de Derecho Canónico
- Revista Mexicana de Derecho Canónico
- Revue de Droit Canonique
- Revue Théologique de Louvain
- Salesianum
- Studia Canonica
- Studies in Church Law
- Studium Generale Marcianum
- Studium Ovetense
- Teología y Vida
- Vida Religiosa
- Vidyajyoti

ABBREVIATIONS, PERIODICALS, AND ABSTRACTORS FOR THIS ISSUE

AC	L'Année Canonique, Paris – Most Rev. Dr John McAreevey, Co. Down.
AnC	Annales Canonici, Krakow – Abstracts supplied by publisher.
Canonist	The Canonist, Journal of the Canon Law Society of Australia and New Zealand, Sydney – Editor.
Comm	Communicationes, Rome – Rev. Mgr Gordon Read, Colchester, Essex.
EA	Estudio Agustiniano, Valladolid – Abstracts supplied by publisher.
EE	Estudios Eclesiásticos, Madrid – Abstracts supplied by publisher.
EIC	Ephemerides Iuris Canonici, new series, Venice – Abstracts supplied by publisher.
ELJ	Ecclesiastical Law Journal, London – Abstracts supplied by publisher.
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.
Ius	Iustitia: Dharmaram Journal of Canon Law, Bangalore – Abstracts supplied by publisher.
Ius Comm	Ius Communionis: Universidad San Dámaso, Madrid – Abstracts supplied by publisher.
J	The Jurist, Washington – Abstracts supplied by publisher.
LJ	Law and Justice, Worcester – Abstracts supplied by publisher.
LW	The Living Word, Kerala– Abstracts supplied by

	publisher.
Per	Periodica, Rome – Fr Aidan McGrath OFM, Dublin.
PS	Philippiniana Sacra, Manila – Abstracts supplied by publisher.
QDE	Quaderni di Diritto Ecclesiale, Milan – Fr Luke Beckett OSB, Ampleforth, York.
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 – Abstracts supplied by publisher.
S	Salesianum, Rome – Abstracts supplied by publisher.
SC	Studia Canonica, Ottawa – Abstracts supplied by publisher.
TyV	Teología y Vida, Santiago de Chile – Abstracts supplied by publisher.
Verg	Vergentis: Revista de Investigación de la Cátedra Internacional conjunta Inocencio III: Universidad Católica San Antonio de Murcia – Abstracts supplied by publisher.
VR	Vida Religiosa, Madrid – Editor.

ENGLISH-LANGUAGE BOOKS REVIEWED IN THE ABOVE PERIODICALS

- Brian Thomas AUSTIN: *The Power of the Congregation for the Doctrine of the Faith to Derogate from Prescription: An Evaluation of the Legality and Justice of the 2002 Rescript* (JCD Thesis), Catholic University of Leuven, 2020, xlix + 285pp. (reviewed by Michael J. Mazza in *J 78* [2022], 358-361)
- Anthony O. EKPO: *Temporal Goods of the Church. A Canonical Examination of Administrative Acts Concerning Their Ownership and Management*, Wilson and Lafleur (Gratianus series, Handbooks Section), Montreal, 2019, 322pp., ISBN 978-2-924974-09-04 (reviewed by John A. Renken in *SC 56* [2022], 337-338)
- John D. FARIS – Jobe ABBASS (eds.): *A Practical Commentary to the Code of Canons of the Eastern Churches*, 2 vols, Wilson and Lafleur (Gratianus series), Montreal, 2019, 3209pp., ISBN 9782924974032 (reviewed by Georges Ruyssen in *J 78* [2022], 355-356)
- William L. DANIEL (tr.): *Ministerium Iustitiae vol. II; The “Lex propria” and More Recent Contentious-Administrative Jurisprudence of the Supreme Tribunal of the Apostolic Signatura*, Wilson and Lafleur (Gratianus series), Montreal, 2021, vi + 762pp., ISBN 9782924974087 (reviewed by Brian T. Austin in *J 78* [2022], 357-358)
- Michael NOBEL: *The Use of Means of Social Communication in the Context of Procedural Law. Questions and Suggestions on the Advantages of Using the Internet at Local Tribunals for Marriage Cases in the Canadian Context*, Wilson and Lafleur (Gratianus series), Montreal, 2021, 255pp., ISBN 9782924974070 (reviewed by Massimo del Pozzo in *IE XXXIV* [2022], 360-363)
- Petar POPOVIĆ: *The Goodness of Rights and the Juridical Domain of the Good: Essays in Thomistic Juridical Realism*, EDUSC, Subsidia Canonica 33, Rome, 2021, 440pp., ISBN 978-88-8333-965-3 (reviewed by Brian T. Austin in *SC 56* [2022], 349-350)

BOOKS RECEIVED

- Sergio F. AUMENTA – Roberto INTERLANDI: *La Curia Romana secondo “Praedicate Evangelium”. Tra storia e riforma*, EDUSC, Pontificia Università della Santa Croce, Facoltà di Diritto Canonico (Subsidia Canonica 40), 2023, 227pp., ISBN 979-12-5482-109-1 [see above, canon 360]
- M.^a Teresa CERDÁ DONAT: *La certeza del derecho vinculada a la verdad y la justicia. Reflexión utriusque iuris sobre su manifestación en el derecho procesal canónico*, Laborum – Universidad Católica de Valencia (Colecciones Tesis Doctorales n° 3, 2022), 356pp., ISBN 978-84-19145-10-9 [see above, General Subjects (*Legal theory*)]
- D. L. D’AVRAY: *Papal Jurisprudence, 385-1234. Social Origins and Medieval Reception of Canon Law*, Cambridge University Press, 2022, xi + 320pp., ISBN 978-1-108-47300-7 [see above, Historical Subjects (*1st millennium*)]
- José FERNÁNDEZ SAN ROMÁN: *Ammissione al matrimonio di chi ha notoriamente abbandonato la fede e di chi è irretito da censura. Presentazione di una ricerca storico-canonica*, Stilgraf, Cesena, 2022, 56 pp., ISBN 979-12-80150-22-6 [see above, Historical Subjects (*1917 Code*)]
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