

### Editor's note

*Revista Scientia Canonica* continues with the regular publication of two issues for year. So we present number four, volume two, with eight articles, a section on the jurisprudence of the Court of the Roman Rota and a section on communications.

The first article, by the undersigned Denilson Geraldo, deals with the methodology of canonical juridical science: its foundation in the mystery of the Church is verified, according to the decree *Optatam Totius* of the Second Vatican Council. Referring first to the pre-conciliar ecclesial environment, marked by a link to the *Ius Publicum Ecclesiasticum*, and then to the post-conciliar environment, unfavourable to canonical juridical science, the article illustrates how ecclesial attempts have been made to overcome the rejection of the Church's need for laws, with a limited hermeneutics of canonical science, starting with theology and pastoral care. Hence the proposal of the article, considering some methodological indications and analyzing the current norms for the faculties of canon law, according to which canonical science must adopt the juridical method and be based on the mystery of the Church.

The *motu proprio Communis Vita* is again studied by Valdeinei de Jesus Ribeiro, professor at the Superior Institute of Canon Law Santa Catarina, in the second article published in this second volume. The article deals with the elements of the case of the resignation *ipso facto* due to the illegitimate absence from a religious house. The author discusses the procedure to be adopted in this case, as well as the legal effects of the resignation, the cessation of votes, the cessation of rights and obligations, the non-recognition of the right to compensation for the duration of the stay in the institution and the moral duty to help the member discharged from the institution. Certainly, religious institutes

cannot ignore the canonical situation of a member who is illegally absent from the religious house, since the institute itself could be held responsible for the choices made by the member during that period.

Damián Guillermo Astigueta, professor at the Pontifical Gregorian University, presents research on the contest in crime and concealment, delimiting the concepts of personal action of crime and concealment, both in secular and canonical doctrine. In this sense, based on a historical basis identified in the Code of 1917, which presents detailed legislation on the subject, the very clear professor notes that in the 1983 Code the question is not well elaborated: therefore, the author concludes - considering the ongoing preparation for the reform of Book VI of the Code of Canon Law - with a legislative proposal for the crime of concealment in the new canonical law.

The fourth article is by Simone Pereira de Araújo, professor at the Faculty of Canon Law Pius X of Venice, on the council of the superior in institutes of consecrated life (Part II). The research begins with the mendicant orders, passes through modern congregations, especially Jesuits, and ends with institutes dedicated to the apostolate of the 19th century. The work is a continuation of the first article, published in number 3 of our magazine, which showed the evolution of the institution of councils in the governance of consecrated life. In reality, consecrated life is, par excellence, the ecclesial institution in which the synodality is lived: the councils of superiors, historically and at different levels, have contributed greatly to forming the synodal vision of the Church.

Javier Belda Iniesta, professor at the Pontifical Theological Institute Jon Paul II (Madrid) and at the Catholic University of Murcia, presents in turn a research on the evolution of the rite of penance in the *jus antiquum* considering the period between the apostolic rule and the canonical tradition. The author bases his research on the Scriptures and the Fathers of the Church, to demonstrate how the existence of the personal rite of penance was already present in the ancient Church, before the spread of Celtic penitential books in the European continent. The essential elements of the rite, namely confession, judgment on gravity, forgiveness and

penance for the sin committed, were already present in the personal rite from the first millennium onwards.

The sixth article of the section is the second part of the research of Reginald Robert Luiz, a member of the General Council of the Order of the Blessed Virgin Mary of Mercy, on canonical legislation on the election of bishops, covering the period from the 11th century to the first half of the 16th century. The appointment of bishops always has the attention of the popes, in particular Pope Gregory VII, with specific legislation. The Worms Pact and the work of canonical chapters in cathedrals were analyzed by the author to understand the meaning of canonical legislation, all aimed at providing autonomy to the Roman Pontiff for the choice of bishops.

Diego Zoia, lawyer at the Court of the Roman Rota, examines the concepts of seal and secrecy in the Note of the Apostolic Penitentiary on the importance of the inviolability of the sacramental seal published on July 29, 2019. The Note reiterates the need to preserve the sacramental seal, divine law, and official secrecy also with respect to the fundamental rights of the human person. Through an etymological approach, considering the theological and philosophical tradition of the Church and, in particular, Thomist thought, the author elaborates the concepts of fidelity and veracity which are open to the different forms of secrecy: natural secret, promised secret, professional secret and sacramental secret. The interconnections and obligations arising from the maintenance of the seal and secrecy favour the safeguarding of the secret itself in harmony with the virtue of fidelity and truthfulness.

The baptism of children adopted by persons of the same sex (Part I) is the title of the article by Marcio Fernando França, PhD in Canon Law at the Pontifical Lateran University. The author's analysis is based on Christian anthropology, "male and female God created them", to demonstrate that the administration of baptism to the child does not mean the legitimation of the state of life of those responsible for the child, even though there was a union recognized by the State. In fact, the parish priest must be assured of the Christian upbringing of the baptized and the need for catechesis addressed to the community about this administration of baptism so that there is no scandal.

Mons. David Maria Jaeger, a Brazilian citizen and hearing judge of the Tribunal of the Roman Rota, publishes in the case law section the final sentences for simulated marriage consent issued on 14 February 2019. The translation from Latin into Portuguese is by Leonardo Rosa Ramos, professor at the Pontificium Institutum Altioris Latinitatis and the Pontifical Athenaeum of Santo Anselmo. The commentary on the sentence is by Vincenzo Fasano, professor at the Faculty of Canon Law of the Pontifical University of St. Thomas Aquinas in Urbe and lawyer at the Apostolic Tribunal of the Roman Rota.

In the communication section there are also the changes to the Codex Iuris Canonici and the Codex Canonum Ecclesiarum Orientalium, with reference to the years 2018 and 2019, presented by Hugo Cleilton da Silva Cavalcante, professor at various institutions of Canon Law in Brazil and abroad. Finally, the undersigned presents a communication on the Note of the Apostolic Penitentiary Court on the importance of the sacramental seal and official secrecy.

Revista Scientia Canonica therefore concludes the second year of publications with four issues in two volumes, offering the Portuguese and other idioms readers a contribution to the development of canon law studies, both in Brazil and abroad.

Have a good reading!

Denilson Geraldo  
Editor