

Editorial

The reform of penal canon law

Pope Francis reformed the penal law of the Church, in Book VI of the Code of Canon Law, through the Apostolic Constitution *Pascite gregem Dei*, which entered into force on December 8, 2021, on the Solemnity of the Immaculate Conception of Mary. This reform was first started by Pope Benedict XVI in 2007 but was not completed until recently. In Brazil, Edições CNBB published the new legislation accompanied by comments and presentation of the sources of each canon.

Historically, since apostolic times, the Church has always had rules of conduct which, over time, constituted a binding legislative body that brought together the People of God under the guidance of the Bishops. After the Second Vatican Council, some expressed a certain mistrust of the usefulness of the laws of the Church, especially regarding penal legislation. However, this did not prevent Saint John Paul II from promulgating the Code of Canon Law in 1983. This was according to the ecclesiology of communion proper to the Council, noting that the laws of the Church are not external to the faith, but reflect precisely our profession of faith. Hence, the obligation of ecclesiastical laws, starting precisely from faith, is manifest in the justice and maternal mercy of the Church.

To be an impulse to a communal life of faith, the laws of the Church are also linked to social changes and the new needs of the People of God, having to adapt to the needs of the present time. The reform of one of the seven Books that make up the Code of Canon Law

was necessary for an orderly ecclesial life that manifests communion and, consequently, reminds us of the need to intervene when violations are found. Charity requires recourse to a penal system that reconciles three purposes: the restoration of the demands of justice, the correction of the offender, and the reparation of scandals. In particular, crimes against ecclesiastical property committed through gross negligence or gross negligence in the administration were typified. Generally, in this case, corruption takes place in dark and closed environments, while the opening facilitated by transparency helps to understand that the assets of the Catholic Church, under the responsibility of a specific legal entity (diocese, parish, religious community) belong to the catholic community. In the Church, communion is not limited to ideas or good intentions but is an evangelical witness in the administration of goods. In the historical moment in which we live, witnessing transparency in administration is light for the world and gives flavor to the experience of living in a community. Being transparent means giving up isolation, greed, and corruption.

The changes introduced in the new Book VI of the Code of Canon Law respond basically to three guiding criteria. In the first place, the text contains a more precise and sure indication for Bishops and religious Superiors who will have to apply criminal legislation, thus reducing the possibility of subjective interpretation. The second criterion that presided over the reform is the protection of the community and attention to the reparation of scandals, as well as compensation for damage, that is, “no remission must be given until, according to the prudent judgment of the Ordinary, the offender has not repaired the damage possibly caused” (can. 1361, § 4). The third objective that the reform sought to achieve was to provide the Bishops and religious Superiors with the means necessary to prevent crimes and to intervene promptly to correct situations that could worsen over time while bearing in mind that “anyone is deemed innocent until proven otherwise” (can. 1321, § 1).

The innovation to the Code that we wish to bring to the attention of the reader is the fact that the crime of pedophilia is now classified as a crime committed against the dignity of a person. The new canon 1398 includes acts performed not only by clerics (bishops, priests, deacons) but also by non-clerical religious and lay people who work or assume any kind of function or responsibility within any of the church's establishment, on any similar behavior, practiced with adults with violence or abuse of authority. Our editorial of the second half of 2021 could not, therefore, fail to present the new Book VI of the Code of Canon Law, expected for over fifteen years, and containing a reform that will mark a strong ecclesial communion and future canonical studies.

Volume eighth of the Revista "*Scientia Canonica*" consists of four articles. Marcio Fernando França reflects on the belonging of the faithful to the elective parish with new criteria for parish registration; Cristiano Faria dos Santos presents a historical approach to the right of defense from Innocent III to Benedict XVI; Vito Giannelli deepens the editorial modality of the *Animadversiones* in the light of his own experience as Defender of the Bond; Leonardo Caprara outlines the role of the laity in the existing canon law. The number, as usual, contains a section on the jurisprudence of the Roman Rota which this time sees as protagonist a sentence "*coram* Antonio Bartolacci on the nullity of marriage on the basis of "the inability to assume the essential obligations of marriage". The Portuguese translation of the sentence is the work of Leonardo Rosa Ramos, while the adaptation for the publication of the Latin text is by Vincenzo Fasano, who also prepared the explanatory note in five languages. The number closes with two communications, one on the apostolicity of the ecclesiastical archives, and the other on the beatification of Judge Rosario Livatino.

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