

Editor's note

Dear Reader, we publish the number three of the Journal *Scientia Canonica* with six articles and a section on the Apostolic Tribunal of the Roman Rota. Damián Guillermo Astigueta, Dean of the Faculty of Canon Law of the Pontifical Gregorian University, presents a study on some internal problems of the *Motu Proprio Vos estis lux mundi*. Critical reading makes it possible to recognize the novelties in the criminal field with the presentation of new types of criminal law related to the substantive aspects of the law, for example, the violence of abuse of authority, the concept of vulnerable person, the problem of interference of ecclesiastical authority on investigations, which deprives the verification of the facts, and the end of the criminal practice of the statute of limitations of the crime. Here are also considered the questions preliminary to the new type of crimes against minors and the vulnerable, for example, the receipt of complaints, the responsibility of persons forced to inform, the conduct of the prior investigation and the action of the Metropolitan. The author's proposal is to show the internal contradictions of the new legislation by contributing to the development of canonical legislation.

The resignation of religious for illegitimate absence from the religious house after the *Motu Proprio Communis Vita* is the first part of the article by Valdinei de Jesus Ribeiro, professor at the Superior Institute of Canon Law Santa Catarina. The second part of the article will be published in the next issue of our journal. The author highlights the canonical legislation on the necessary presence of the religious in the house, determined by the legitimate Superior, given that community life is one of the central elements of religious consecration. The resignation of a religious for illegitimate absence, until March 2019, was difficult because, for example, it would not have

been possible to find him. The new *Motu Proprio* has been added to can. 694 of the Code of Canon Law in view of a resignation and, in this way, a religious can be resigned for illegitimate absence, either via *ab homine* optional (first part of the article) or via *ipso facto* (second part of the article).

Simone Pereira de Araújo, Professor at the Faculty of Canon Law St. Pius X, Venice, presents us the first part of her research on the origin, starting from the fourth century, and the historical evolution of the counsels of superiors in consecrated life. Beginning with Eastern and Western monastic life, the author made a research on canonical legislation for the creation of councils, taking as a reference the model of St. Pachomius, St. Basil and St. Benedict. The reference of the study is made from this historical period, 4th century, where the councils were already part of the structure of the government, until the great influence of the reforms in the monasteries of Cluny and Citeaux. The research also shows the moment when this legal institution of the council was sanctioned by law and later became obligatory for the function of collaboration in the government of superiors.

Maria Sueli Almeida de Oliveira, President of the Brazilian Association of Canonists, and Allan Victor de Almeida Marandola bring us a theme on International Law with research on the juridical personality of the Holy See. Understanding the international subjectivity of this body, the Holy See, requires a juridical, sociological and theological foundation. The conceptual distinction is external and internal to the Church, as a reality distinct from the Catholic Church and the Vatican City State. The objective of the research is to examine the characteristics of the international subjectivity of the Holy See and identify the characteristics that a subject must have in order to be recognized in its international subjectivity. In this way, considering that the Church was divinely instituted by the Lord, the concepts meet in the one moral person. It has been studied whether the Vatican State is still an instrument which seeks to guarantee to the Church the conditions for its own Church to carry out its spiritual activity, without fearing any influence from other nations. Finally, it was found that the Holy See possesses a true international subjectivity compared to the civil state.

Our journal *Scientia Canonica* presents another historical research: the canonical legislation on the choice of bishops in the first millennium. Reginaldo Roberto Luiz, member of the General Council of the Order of the Blessed Virgin Mary of Mercy, deals with the *designatio episcoporum* starting from the New Testament. The designation of new bishops has always been a matter of customary law and codified law, both internally and externally to the Church, highlighting the priority of the question to one's own Church and society. The topics are dealt with from the New Testament up to the *Didaché*, from the letter of St. Clement Roman, up to the fourth century. The analysis considers the influence of the imperial structure, the determination of the legislation of the councils and the determination of the legislation of the Metropolitans until the attempt to return to the elective principle of choice at the beginning of the 5th century. However, there was greater interference of temporal power in episcopal choices after the 6th century, with bishops' choices becoming complex from the 8th century onwards. In reality, canonical legislation has been developed in the sense of protecting the Church from state influence, which marks a history of tensions, conflicts and instability that have always been present in the choices of candidates for episcopacy.

Felipe Fabiane, a doctoral student in Canon Law at the Pontifical Lateran University, writes on the composition of diocesan tribunal resulting from the reform of matrimonial nullity proceedings starting from the *Motu Proprio Mitis Iudex Dominus Iesus*. The author's canonical reference is canon 1673 which proposes the speed and accessibility of matrimonial nullity proceedings to the People of God. In this way, the constitution of diocesan tribunal with the reform promoted by the *Motu Proprio* requires the deepening of the study on interdiocesan tribunals, the nearest court and the constitution of judicial bodies, including the presence of the laity as judges in the judging panel, who participate in co-responsibility in the decision. Finally, the article also deals with the monocratic judgement and the training of assessors of the single judge in which the necessary legal qualification as a true pastoral service is noted.

The journal *Scientia Canonica* publishes for the first time the section on the jurisprudence of the Tribunal of the Roman Rota that

will be continued in the following issues. We begin with the speech of Pope Francis, delivered at the opening of the Judicial Year 2019, on the theme of unity and matrimonial fidelity. Below we present a judgment of matrimonial nullity, in which the defendant is a permanent deacon. The judgment of Bishop Felipe Heredia Esteban, Ponente, pronounced on June 4, 2018 with legal basis on the serious lack of description of judgment and the inability to assume the essential obligations of marriage, was translated by Leonardo Rosa Ramos, professor at the Pontificium Institutum Altioris Latinitatis. To complete this section, Vincenzo Fasano, professor at the Faculty of Canon Law of the Pontifical University of St. Thomas Aquinas in Rome, comments on the above mentioned judgment in five languages and reflects on the concept of condominium in the jurisprudence of the Apostolic Tribunal of the Roman Rota at the beginning of the 20th century.

Finally, the journal *Scientia Canonica*, continues to work on the purpose of becoming a channel of study communication between researchers of canonical science. The authors belong to different university institutions with great experience and juridical practice. We are sure that the number three of the journal *Scientia Canonica* will give great benefit to scholars of Canon Law and to the public interested in knowing and dialoguing with this science. Enjoy reading it.

Denilson Geraldo
Editor