
The volume contains 14 articles by the author, an introduction by the editor, a 38-page select bibliography, and an index (mainly of names). The articles are revised versions of those which were originally published in various books. Although different articles, they have a unifying theme which is expressed in the book’s title. This unity is well expressed in the thesis of the book, namely, “Contrary to the argument that the emergence of the papacy as the primary judicial and legislative authority in the Latin Church was the result of a deliberate programme of papal aggrandizement, the primary argument of this book is that the process of consultation and appeal reveal a different picture: not of a relentless papal machine but of a constant dialogue between diocesan bishops and the papal Curia, in which the ‘papal machine’ evolved to meet the demand” (p. 21). A careful reader will repeatedly meet with this thesis in the book in various forms. For example, “It was not by decree, then, but through the multiple exchanges between regional prelates and the [papal] Curia that the rules for marriage were progressively refined through Alexander’s [Alexander III, pope, 1159-81] pontificate, and that refinement was made in the context of the
learned law, knowledge of which had penetrated to the remotest regions” (p. 211). Therefore, this book “highlights the interactive role of popes and bishops in the development of ecclesiastical law and practice between the years 1120 - 1234” (p. 21). It contains ample references to primary sources in footnotes. Useful for a good understanding of the history of canon law, the book is a necessity in any good canon law library.

The subject matter of the book is better understood against the commonly-held opinion that the Roman Church is in the jurisdictional apex of the Latin Church because of a deliberate policy of papal aggrandizement. Contrary to that opinion, the book demonstrates that the fact is much more pervasive. Papal interventions took place primarily because of appeals and consultations, which came from outside Rome and within, which practice was consolidated, but, not invented, in the 12th century. Setting the Medieval Latin Church’s progress in canon law in a wider context, the author demonstrates that the persons or officials responsible for this progress were not only the popes and papal curia, but also local bishops, other litigants, and legal experts. The papal interventions were the consequences, and not causes, of the legal transformation which took place in the period treated in this book.

The book identifies three interconnected movements characterising the 12th-13th century Western Church: the emergence of learned law, the professionalization of the courts, and the increasing litigiousness of Western society (p. 214). It amply treats the historical context of certain papal decisions which later became law of the Latin Church and still later became the law of the whole Catholic Church (including the Eastern Catholic Churches). Many of the decretals, treated in the book, were originally papal resolutions to some issues posed by the faithful, especially bishops. They, although originally limited to individual cases, or to the territory of specific dioceses, later became law of the Catholic Church (Latin and Eastern) through various process. Since identical or similar problems existed in various places, those
decisions were received and applied in those places where they were relevant or could be effectively enforced. Originally containing law in seminal form, those decretals went through repeated selection and refinement process before they were really accepted as law or sources of law. We can trace the roots of certain present laws in those decretals; or it explains how certain laws originated and developed before reaching their present form.

The author often limits the sphere of her arguments to the law of the Latin Church. This fact reveals that she is well aware of the existence of the Eastern (Catholic) Churches and their law. This matter deserves attention, because it testifies to the accuracy of the knowledge of the author. Differently, some Western canonists tend to identify the universal Church with the Latin Church, and accordingly consider the law of the Latin Church to be law of the entire Catholic Church.

The general historical context of many papal decisions or clarifications (given through decretals or legal letters containing replies to appeals or answers to consultations) presents a complex array of circumstances within which many Church laws and their collections were made. Besides the strict canon law roots visible in the decisions of popes, by reading this book, a reader can acquire knowledge of various customs and practices which existed in the 12th century Europe (for example only people of noble birth had cognomen, p. 23-4, 33), which give a hint to the origin of many Church laws. A characteristic of the book is that it recounts various events, litigations and controversies of legal importance and demonstrates how they became causes of appeals and clarifications, and consequently demanding papal intervention and legislation. Through these recounting, we have a lively picture of the medieval Church: its resources, activities, problems and the way they were solved. Interpretative comments and anecdotes are woven into those narratives, putting together a number of interconnected elements. The book also informs us that the 12th century provided an environment in which many norms of the present canon law originated and developed. The context and the historical anecdotes
help us understand better the law originated under their influence. The pieces of historical information, given in the book, are often helpful to reconstruct the history of certain present canons. It offers detailed and deep analysis of the situation which caused certain papal interventions. Such analysis gives insight into the main principles which lie behind the laws originated in that period. Besides, they provide criteria for analysing those laws.

The book succeeds in bringing out clearly the dialogue aspect which lies behind the papal interventions. It presents the local issues in certain chapters and the corresponding papal interventions, which those issues required, in other chapters. Both these agents act as complementary. In other words, the papal curia was responding to the growing appellate and consultative culture in which litigants and bishops and their advisers consulted the curia on a variety of problems and uncertainties as they rose within their dioceses.

A law-oriented analysis of historical facts, the book offers a good model for the use of history in canon law. Although it contains many historical data, it is not purely a narration of history. Data are analysed to bring out the conclusions relevant to canon law. In other words, the author traces the roots of canon law in those historical events. This is a method offered to researchers in canon law, and shows how they can handle history. Therefore, this book is also relevant from a methodological point of view for a researcher. It is also a confirmation of the importance of history for a deep study of canon law. A detailed account of the history of the Western Church’s jurisprudence, the book is more useful in the academic circles than in court rooms.

The author asks whether the decretals were originally intended to become laws. She observes that even in the early second millennium, the proper forum for legislative activity in the Church was council “which provided the opportunity for face-to-face debate as well as mechanisms for promulgation and dissemination” (p. 280). After an analysis, she demonstrates “Yet, the placing of such rescripta beside the decrees of papal councils and their insertion in what had become the standard
law book presumed recognition of their equivalent authority” (p. 280). The insertion of papal decretals in those collections attributed to them a value equivalent to conciliar canons. Councils had a privileged position, above papal legislation, as legislators for the whole Church. The decretals did not instantly become common law of the whole Latin Church. They became common law only when they were selected, abstracted and copied, into local collections and later systematically organised compilations. The author succeeds in communicating the complexity involved in the law-making.

Together with the origin of many laws, we also get a good picture of the early second millennium Latin canonical collections, their contents, the context in which they were collected, their utility and authority, their provenance, people who compiled them, the place where they were kept, etc. In those collections, decretals had a significant place as they were one of the main contents of those collections. The description about various manuscripts or collections containing the documents of canonical interest is very useful to researchers in this field.

The facts given in the book illustrate the vitality of the legal culture existed and developed in the Latin Church in the 12th and 13th centuries which provide evidence of a flourishing dialogue between the local bishops and the papal curia. The book, in general, bears witness to “the settled practical habit of looking to Rome for declarations of the common law of the Church” (p. 361). That culture eventually produced many laws, and those laws evolved in the course of time by correcting mistakes, reviewing judgements, refining definitions, emending a previous decision in the light of experience, etc. Often popes quote the decretals or decisions of their predecessors. This shows how later laws were rooted in previous laws, and at the same time how needed reforms were made by adapting them to the changed situations.

The book explains how in the 12th-13th centuries, various questions related to the present marriage law were clarified and
definitively established such as blessing a marriage, clandestine marriage, marriage consent, spiritual relationship between godparents and the godchildren, consanguinity and affinity, etc. The decretals contain elements of law also in other areas such as simony, formation of clerics and their behaviour and moral life, religious institutes, inheritance, etc. Only in the 12th century, the jurisprudence finally established that the lawful consent made marriage (p. 289-90). Many times, the book has the expression “learned law”. From the context, it seems, it refers to the Roman law and canon law which was taught in universities and applied in courts in the medieval Western Church.

Another important data available in this book is the information how the government of the Catholic Church gradually centralised through various interventions of popes. Those interventions were considered final and the acceptance of papal decisions in that way gradually led to concentration of power in the pope. Thus, we can say that the early second millennium practice laid the foundation for the way of exercising the Petrine ministry as we have it today.

The book is capable of stimulating a reflection on the application of the principle of subsidiarity in the papal interventions as they are narrated in it. In essence, the application of the principle of subsidiarity would amount to the intervention of higher authorities in the affairs of the institutions and individuals at lower level only when these lower-level institutions and individuals cannot manage their affairs. Such non-intervention is intended to help the lower-level institutions and individuals manage their affairs on their own and actualise their potentialities. The book explains that popes intervened mostly when their intervention was sought by litigants and local bishops. Thus, those interventions were intended to help the local Churches. On the one hand, the book makes us recognise the importance of the institutions of papacy and the curia, because they can intervene when the local Church lacks the resources to manage their affairs. On the other hand, it shows that when the local Churches can manage their affairs with their own resources, popes and the curia could abstain from intervening
in local affairs. The former is service, and the latter is interference. A
reader could gather this insight from the data given in this book.

Often the papal intervention was sought when the bishops
encountered problems for which the existing written law offered
insufficient guidance. “It was from these materials [decretals] that
bishops and their lawyers constructed their own dossiers of authorities
for later use – as support for synodal decrees, for example, or even as
authorities in judicial cases” (p. 289). Unlike many other canonists
and historians of canon law, the author of this book finds that the
progress of canon law in the specified period was also a pastoral
need.

This well-researched book is written in a clear and simple style.
However, its comprehension requires careful attention because of
abundant historical details and elaborate footnotes which might hinder
an easy reading of the book. This fact adds to the merit of the book as
a serious tool and guide for further research. Next to Latin text citations,
the author gives their English translation. This method is very useful for
those who need a support of English to understand the cited Latin
texts. At the same time, the original Latin texts help the reader to
verify the authenticity of the text. Extensively based on primary sources
(including unpublished manuscripts), the book is an evidence for its
author’s capacity to analyse historical facts from various angles and to
come to the conclusions emerging from those facts. Unity of theme, a
clearly articulated thesis, ample references to primary sources, and
examination of details of facts and their analysis speak about the
richness and the high quality of the book, and that is sufficient reason
to recommend it to canonists and historians.

Prof. Sunny Kokkaravalayil sj
Faculty, Pontifical Oriental Institute, Rome