



ANDRZEJ PASTWA

University of Silesia in Katowice, Poland

<https://orcid.org/0000-0003-2679-5107>

## “Accompanying Migrants” as a Touchstone of the Realisation of the Synodal Church Idea A Canonist’s Remarks

**Abstract:** “Synodality is a style, it is walking together, and it is what the Lord expects of the Church in the third millennium” (Francis). The specific motto and wording of this study in the quoted “programme” thought of Pope Francis, articulated in the *Address to Members of the International Theological Commission* (2019). The Pope expresses appreciation for the extensive work of the Commission crowned with the “theological clarification” of the mentioned idea, and above all by demonstrating the importance in the perception of the mission of the Church today. If, in the opinion of the Holy Father, factual and competent expert argumentation, step by step, reveals the truth that “a synodal Church is a Church of participation and co-responsibility,” such a determination cannot remain without impact on the *praxis* of undertaking the most serious pastoral challenges of the present time — on various levels of realization: local, regional, and universal, including ecumenical commitment.

This applies in its entirety to the creation of strategies and specific actions of the Church towards the growing phenomenon of human mobility, especially in its forms that manifest themselves as dramatic and devastating to families and individuals. What we mean here is the Church’s multi-track postulate — or more precisely: communion, synodal — efficiency (with its determinants: dynamics, efficiency, effectiveness), for which in 2016 Francis coined the term: “accompanying migrants”. Consequently, in recent years there have been a number of normative and operational activities of the present successor of St. Peter, which in our time — rightly called: “the era of migration” (Francis) — set a new trend of clothing/embellishing the aforementioned critical area of *salus animarum* with synodal accents.

As it is showed in the study, a canonist, with the horizon of the principle of *ius sequitur vitam* before his eyes, cannot remain passive towards the pressing challenges delineated here. Indeed, within the orbit of the study of canon law a weighty question

appears — what conclusions of a canonical nature stem from the “millennium” project of the realization of the Synodal Church Idea.

**Keywords:** *kairós* of synodality, mission of synodal Church, Pope Francis, “accompanying migrants”, rights of (Christian) migrants, the “millennial” path of the Church’s renewal, the postulate of the Church law renewal, ecumenical context

## 1. “The *kairós* of synodality”

“Much has also been done since the Second Vatican Council for the reform [...]. But there is certainly much more to be done, in order to realize all the potential of the instruments of communion, which are especially appropriate today in view of the need to respond promptly and effectively to the issues which the Church must face in these rapidly changing times.”<sup>1</sup> It is no coincidence, one may say, that this — “programme” statement of the Great Shepherd of the Universal Church — made at the beginning of the 3rd millennium in the *Apostolic Letter “Novo Millennio Ineunte”* — became a reference point for the works of the International Theological Commission.<sup>2</sup> What is also significant, recalling the millenary papal message, the theologians of the Commission did not hesitate to direct this correctly diagnosed *urgente opus* of decoding the present “signs of the times”<sup>3</sup> to the path of the “communal discernment” — that is, the same way it was anticipated at the end of his pontificate by St. John Paul II.<sup>4</sup> In the opinion of the Pope at that moment, there was a time when the realization of the mission of the entire People of God (invariably according to the indications of the social teaching of the Church: upholding the dignity and freedom of a person, respecting human life, protection and promotion of family, promotion of justice, solidarity, and peace<sup>5</sup>) must

<sup>1</sup> JOHN PAUL II: *Apostolic Letter “Novo Millennio Ineunte”* [6.01.2001], n. 44.

<sup>2</sup> INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 8, [http://www.vatican.va/roman\\_curia/congregations/cfaith/cti\\_documents/rc\\_cti\\_20180302\\_sinodalita\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_cti_20180302_sinodalita_en.html) (accessed: 28.12.2020).

<sup>3</sup> Cf. VATICAN COUNCIL II: *Dogmatic Constitution on Divine Revelation “Dei Verbum”* (November 18, 1965), n. 4; VATICAN COUNCIL II: *Pastoral Constitution on the Church “Gaudium et Spes”* [7.12.1965] [hereinafter: GS], nn. 4, 11.

<sup>4</sup> “Communal discernment allows us to discover God’s call in a particular historical situation”. INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 113.

<sup>5</sup> Cf. JOHN PAUL II: *Discorso alla Chiesa Italiana per la celebrazione del III Convegno Ecclesiale* [23.11.1995], n. 10.

mean — “today more than ever”<sup>6</sup> (!) — Ecclesiastical adoption of the principles and methods of a way of discernment that is not only personal but also communitarian.<sup>7</sup> Therefore, in the further development of the papal thought, the said Commission has no doubts: “It is a matter of the Church, by means of the theological interpretation of the signs of the times under the guidance of the Holy Spirit, travelling the path that is to be followed in service of God’s plan brought to eschatological fulfillment in Christ, which also has to be fulfilled in every *kairós* throughout history.”<sup>8</sup>

“The *kairós* of synodality”<sup>9</sup> is the path of the authentic *renovatio Ecclesiae*,<sup>10</sup> accurately captured and defined at the Second Vatican Council,<sup>11</sup> and today (*hic et nunc*) defined by the authority of the Office of Peter: in the *ad intra* dimension — through the revitalisation of synodal structures and consequently energising the communal life of the Church<sup>12</sup> and her primary task of the New Evangelization,<sup>13</sup> in the *ad extra* dimen-

<sup>6</sup> Ibidem.

<sup>7</sup> Ibidem.

<sup>8</sup> INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 113.

<sup>9</sup> Ibidem, n. 1 [Introduction].

<sup>10</sup> See A. PASTWA: “Synodality — Participation — Co-Responsibility. Remarks on the Determinants of the *Aggiornamento* of the Church Law.” In: *Idea of Synodality: Contexts, Challenges and Perspectives (I). Ecumeny and Law 7* (2019), pp. 95—114.

<sup>11</sup> “Ausdrücklich bezog sich das Konzil in seinem Dekret über die Hirtenaufgabe der Bischöfe auf synodale Zusammenkünfte. In Christus Dominus (CD 36) werden sie als „ehrwürdige Einrichtungen“ bezeichnet. [...] In Ergänzungen der Herausstellung der päpstlichen Vollmacht auf dem I. Vatikanischen Konzil bildet das Zweite Vatikanum die Kollegialität der Bischöfe mit einer synodalen Ausübung ihrer Vollmacht zusammen. Hinzu kam, dass das Konzil die theologische Position der Leien stärkte. Auch sie nehmen an der Heilssendung der Kirche teil, wie die Kirchenkonstitution LG 33 hervorhebt, und üben eine „wertvolle Wirksamkeit zur Evangelisation der Welt“ (LG 35)” — a quote from J. SCHMIEDL: “Synodalität in der katholischen Kirche — ein »Zeichen der Zeit«. Anmerkungen im Anschluss an ein Dokument der Internationalen Theologenkommission.” In: *Rechtskultur und Rechtspflege in der Kirche. Festschrift für Wilhelm Rees zur Vollendung des 64. Lebensjahres*. Eds. Ch. OHLY, St. HAERING, L. MÜLLER [Kanonistische Studien und Texte, Bd. 71]. Berlin 2020, p. 341.

<sup>12</sup> Cf. INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 103.

<sup>13</sup> See BENEDICT XVI: *Apostolic Letter in the Form of Motu Proprio Establishing the Pontifical Council for Promoting the New Evangelization “Ubicumque et Semper”* [21.09.2010], [http://www.vatican.va/content/benedict-xvi/en/apost\\_letters/documents/hf\\_ben-xvi\\_apl\\_20100921\\_ubicumque-et-semper.html](http://www.vatican.va/content/benedict-xvi/en/apost_letters/documents/hf_ben-xvi_apl_20100921_ubicumque-et-semper.html) (accessed: 28.12.2020); cf. also G. GÄNSWEIN: “Neuevangelisierung. Weg und Herzmitte der Kirche in unserer Zeit.” In: *Theologia Iuris Canonici. Festschrift für Ludger Müller zur Vollendung des 65. Lebensjahres*. Eds. Ch. OHLY, W. REES, L. GEROSA. [Kanonistische Studien und Texte, Bd. 67]. Berlin 2017, pp. 41—51.

sion — through the credible response of the Church to the global challenges in the “particular historical situation”<sup>14</sup> that the world is today (*missio ad gentes*<sup>15</sup>).

This conciliar ecclesiology reverberates already in the title of the quoted document of the International Theological Commission: *Synodality in the Life and Mission of the Church* (2018), while the authenticity of the chosen azimuth (the *kairós* of synodality) is confirmed by the developed criteria of “conversion to renew synodality,” such as: formation for the spirituality of communion; the practices of listening, dialogue and communal discernment; its relevance for the ecumenical journey and for *diakonia* in building a social ethos based on fraternity and solidarity.<sup>16</sup> Suffice it to say that these and other desiderata — the fruit of five years of work of the outstanding experts of the Commission — offer a creative potential that will not only enrich theological (ecclesiological) thought, but also — one may surmise — encourage the Shepherds of the Church to give a new dynamism to the Church’s evangelising mission and appropriate activity in the area of establishing, interpreting and applying *ius communionis*. Indeed, since we live in a time when “communion must be cultivated and extended day by day and at every level in the structures of each Church’s life,”<sup>17</sup> the hinted upon “new” communion/synodal pastoral strategy<sup>18</sup> cannot go hand in hand with the *novum* of the established (adapted) law. It is especially true due to the fact that the assumed (and in the logic of *Ecclesia iuris* — even necessary!<sup>19</sup>) correlations bring

<sup>14</sup> INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 113.

<sup>15</sup> See BENEDICT XVI: *Address to the Participants of the International Conference on Occasion of the 40th Anniversary of the Conciliar Decree “Ad Gentes”* [11.03.2006], [http://www.vatican.va/content/benedict-xvi/en/speeches/2006/march/documents/hf\\_ben-xvi\\_spe\\_20060311\\_ad-gentes.html](http://www.vatican.va/content/benedict-xvi/en/speeches/2006/march/documents/hf_ben-xvi_spe_20060311_ad-gentes.html) (accessed: 28.12.2020); FRANCIS: *Apostolic Exhortation “Evangelii Gaudium”* (November 24, 2013) [hereinafter: EG], nn. 52—75.

<sup>16</sup> INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 103.

<sup>17</sup> JOHN PAUL II: *Apostolic Letter “Novo Millennio Ineunte”* [6.01.2001], n. 45.

<sup>18</sup> “Synodality is the specific *modus vivendi et operandi* of the Church.” INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 6.

<sup>19</sup> This logic is well reflected in the passage of the apostolic constitution *Sacrae disciplinae leges*, announced by John Paul II on the occasion of the promulgation of Code of Canon Law (1983): “It appears sufficiently clear that the Code is in no way intended as a substitute for faith, grace and the charisms in the life of the Church and of the faithful. On the contrary, its purpose is rather to create such an order in the ecclesial society that, while assigning the primacy to faith, grace and the charisms, it at the same time renders easier their organic development in the life both of the ecclesial society and of the individual persons who belong to it.” JOHN PAUL II: *Apostolic Constitution “Sacrae disciplinae*

the desired synergy effect: “While the wisdom of the law, by providing precise rules for participation, attests to the hierarchical structure of the Church [...], the spirituality of communion, by prompting a trust and openness wholly in accord with the dignity and responsibility of every member of the People of God, supplies institutional reality with a soul.”<sup>20</sup>

Magisterial, radical strengthening of this “millennium” stream of the renewal of the Church — based on Peter’s charism of reading the *kai-rós* of the new era,<sup>21</sup> we owe today to the Pope, who placed the synodal programme high on the standard of his pontificate.<sup>22</sup> Pope Francis, since it is him who the above refers to, in a famous speech delivered on October 17, 2015 on the occasion of commemorating the 50th anniversary of the institution of the Synod of Bishops, dispels any doubts stating: “It is precisely this path of synodality which God expects of the Church of the third millennium.”<sup>23</sup> Additionally, the symptomatic papal decision to establish synodality the main theme of the forthcoming Synod of Bishops in Rome in 2022 should be mentioned here.<sup>24</sup>

The beginning of Francis’ pontificate should be linked to a valuable pastoral analysis of contemporary reality: “In our time humanity is experiencing a turning-point in its history [...]”<sup>25</sup> The Pope extends his diagnosis to “many fields,”<sup>26</sup> among which there is no shortage of sensitive pastoral themes concerning: on the one hand, the evangelisation and missionary enthusiasm and the inculturation of faith (and as a consequence:

---

*leges*” [25.01.1983]. Cf. also A. PASTWA: “The Law of the Church — the Law of Freedom.” *Religious Freedom Today. Ecumeny and Law* 4 (2016), pp. 110—119.

<sup>20</sup> JOHN PAUL II: *Apostolic Letter “Novo Millennio Ineunte”* [6.01.2001], n. 45; cf. INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 107.

<sup>21</sup> Cf. Acts 15:7—12.

<sup>22</sup> Cf. J. SCHMIEDL: “Synodalität in der katholischen Kirche...,” pp. 345—346; a similar opinion, however with elements of criticism — TH. SCHÜLLER: „Das Pontifikat Papst Franziskus’ aus kirchenrechtlicher Perspektive.“ *Theologische Revue* 116 (2020) January, pp. 14—15.

<sup>23</sup> FRANCIS: *Address at the Ceremony Commemorating the 50th Anniversary of the Institution of the Synod of Bishops* [17.10.2015], [http://www.vatican.va/content/francesco/en/speeches/2015/october/documents/papa-francesco\\_20151017\\_50-anniversario-sinodo.html](http://www.vatican.va/content/francesco/en/speeches/2015/october/documents/papa-francesco_20151017_50-anniversario-sinodo.html) (accessed: 28.12.2020).

<sup>24</sup> The General Secretary of the Synod of Bishops, Card. Lorenzo Baldisseri, has announced that Pope Francis has convoked the 16th Ordinary General Assembly of the Synod of Bishops, which will be held in the month of October 2022 — with the theme: “For a Synodal Church: Communion, Participation and Mission”, <http://www.synod.va/content/synod/en/news/theme-for-the-16th-ordinary-general-assembly-of-the-synod-of-bis.html> (accessed: 28.12.2020).

<sup>25</sup> EG, n. 52.

<sup>26</sup> See *ibidem*, nn. 52—75.

canon law),<sup>27</sup> on the other hand, “finding solutions to problems affecting peace, social harmony, the land, the defense of life, human and civil rights,” and in a more concrete dimension — solidarity and concern “for those in greatest need.”<sup>28</sup> It was soon to have turned out that the last of the important “fields” would be largely “filled” — with the benefit of the hindsight: reasonably — by the multilevel activity of the Shepherds and the Legislator of the Universal Church encouraging a synodal (!) response to the problem of migration and migrants. The announcement of the “new path” appears on the occasion of the annual *Message for the World Day of Migrants and Refugees (2014)*. The revealed *spiritus movens* of the entire papal speech is the constation: “Contemporary movements of migration represent the largest movement of individuals, if not of peoples, in history.”<sup>29</sup> What is difficult to overlook — these words are the introduction to the formulation of the universal appeal of the Head of the Church to its members to return from the anti-evangelical path of “throwaway [sic] culture” and return to the path of the “culture of encounter” — an appeal, completed with the stringent pastoral indication: “a change of attitude towards migrants and refugees is needed on the part of *everyone* [emphasis mine — A.P.]”<sup>30</sup>

Thus, the (hypo)thesis (which is at least *implicite* put forward by Pope Francis, and for this reason alone, merits scientific verification) that in the preparation of a comprehensive/systemic Church response to the situation of “those in greatest need”<sup>31</sup> it is precisely “*synodality*, as a constitutive element of the Church,” that offers “the most appropriate interpretive framework,” acquires credibility.<sup>32</sup>

---

<sup>27</sup> TH. SCHÜLLER: “Das Pontifikat Papst Franziskus’ aus kirchenrechtlicher Perspektive.” *Theologische Revue* 116 (2020) January, p. 2. See also J. HAHN: *Church Law in Modernity. Toward a Theory of Canon Law between Nature and Culture*. Cambridge 2019, pp. 116—173.

<sup>28</sup> EG, n. 65.

<sup>29</sup> FRANCIS: *Message for the World Day of Migrants and Refugees (2014)*, [http://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco\\_20130805\\_world-migrants-day.html](http://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20130805_world-migrants-day.html) (accessed: 28.12.2020).

<sup>30</sup> Ibidem.

<sup>31</sup> EG, n. 65.

<sup>32</sup> FRANCIS: *Address at the Ceremony Commemorating the 50th Anniversary of the Institution of the Synod of Bishops* [17.10.2015]; cf. IDEM: *Apostolic Constitution on the Synod of Bishops “Episcopalis Communio”* [15.09.2018], n. 6.

## 2. Synodal accents of Pope Francis’ normative and operational activities on “accompanying migrants”

The attention of the researchers of the specificity of the present pontificate (with the hallmark: *kairós* of synodality), was captured by a *passus* of the previously quoted document issued by the International Theological Commission (2018), in which the theologians of the Commission highlighted the inspiring potential of the papal “millennium” reading of the conciliar teaching about the Church’s mission: “In conformity with the teaching of *Lumen Gentium*, Pope Francis remarks in particular that synodality ‘offers us the most appropriate framework for understanding the hierarchical ministry itself’ and that, based on the doctrine of the *sensus fidei fidelium*, all members of the Church are agents of evangelisation. Consequently making a synodal Church a reality is an indispensable precondition for a new missionary energy that will involve the entire People of God.”<sup>33</sup>

The “magisterial” caesura — “new threshold” of the Conciliar thought on *communio Ecclesiae*,<sup>34</sup> carefully noted at the beginning of the document, indeed, goes far beyond the official authorization of the source (evangelical)<sup>35</sup> rooting of *synodality*. It is already visible in the recognition of Pope Francis of the extensive work of the Commission crowned with the “theological clarification” of the mentioned idea, and above all by demonstrating the importance in the perception of the mission of the Church today.<sup>36</sup> If, in the opinion of the Holy Father, factual and competent expert argumentation,<sup>37</sup> step by step, reveals the truth that “a synodal

<sup>33</sup> INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 9.

<sup>34</sup> “The fruits of the renewal promised by Vatican II in its promotion of ecclesial communion, episcopal collegiality and thinking and acting ‘synodally’ have been rich and precious. [...] Hence the *new threshold* [emphasis mine — A.P.] that Pope Francis invites us to cross.” Ibidem, nn. 8—9.

<sup>35</sup> Ibidem, n. 9.

<sup>36</sup> The words addressed directly to the members of the Commission speak for themselves: “You have shown how the practice of synodality, traditional but always to be renewed, is the implementation, in the history of the People of God on their journey, of the Church as a mystery of communion, in the image of Trinitarian communion. As you know, this theme is very close to my heart: synodality is a style, it is walking together, and it is what the Lord expects of the Church in the third millennium.” FRANCIS: *Address to Members of the International Theological Commission* [29.11.2019], [http://www.vatican.va/content/francesco/en/speeches/2019/november/documents/papa-francesco\\_20191129\\_commissione-teologica.html](http://www.vatican.va/content/francesco/en/speeches/2019/november/documents/papa-francesco_20191129_commissione-teologica.html) (accessed: 28.12.2020).

<sup>37</sup> The most important (in the opinion of the Commission itself) conclusion, summarising the first two chapters of the document is worth quoting: “[...] synodality denotes

Church is a Church of participation and co-responsibility,”<sup>38</sup> such a determination cannot remain without impact on the *praxis* of undertaking the most serious pastoral challenges of the present time — on various levels of realisation: local, regional and universal, including ecumenical commitment.<sup>39</sup> Obviously, this applies in its entirety to the creation of strategies and specific actions of the Church towards the growing phenomenon of human mobility, especially in its forms that manifest themselves as dramatic and devastating to families and individuals. What we mean here is the Church’s multi-track postulate — or more precisely: communion, synodal — efficiency (with its determinants: dynamics, efficiency, effectiveness), for which in 2016 Pope Francis coined the term: “accompanying migrants.”<sup>40</sup>

No wonder that in recent years there have been a number of normative and operational activities of the present successor of St. Peter, which in our time — rightly called “the era of migration”<sup>41</sup> — set a new trend of dressing the aforementioned critical area of *salus animarum* with synodal accents.

---

the particular *style* that qualifies the life and mission of the Church, expressing her nature as the People of God journeying together and gathering in assembly, summoned by the Lord Jesus in the power of the Holy Spirit to proclaim the Gospel. Synodality ought to be expressed in the Church’s ordinary way of living and working. This *modus vivendi et operandi* works through the community listening to the Word and celebrating the Eucharist, the brotherhood of communion and the co-responsibility and participation of the whole People of God in its life and mission, on all levels and distinguishing between various ministries and roles.” Ibidem, n. 70a.

<sup>38</sup> Ibidem, n. 67. Cf. A. PASTWA: “Synodality — Participation — Co-Responsibility...,” pp. 105—110.

<sup>39</sup> “The world in which we live, and which we are called to love and serve, even with its contradictions, demands that the Church strengthen cooperation in all areas of her mission.” FRANCIS: *Address at the Ceremony Commemorating the 50th Anniversary of the Institution of the Synod of Bishops* [17.10.2015]. “Ecumenical commitment marks out a journey involving the whole People of God [...] in order to discover, share and rejoice in the many riches that unite us as gifts of the one Lord in virtue of the baptism we share: from prayer to hearing the Word and experiencing the love we have for each other in Christ, from witnessing to the Gospel to serving the poor and outcasts, from commitment to a society of justice and solidarity to a commitment to peace and the common good.” INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 115.

<sup>40</sup> FRANCIS: *Apostolic Exhortation “Amoris Laetitia”* [19.03.2016], n. 46.

<sup>41</sup> IDEM: *Message for the 105th World Day of Migrants and Refugees 2019*, [http://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco\\_20190527\\_world-migrants-day-2019.html](http://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20190527_world-migrants-day-2019.html) (accessed: 28.12.2020).



## 2.1. In the service of dignity and holiness of every person (the context of the rights of Christian migrants)

“In all her being and actions, the Church is called to promote the integral development of the human person in the light of the Gospel.”<sup>42</sup> This sentence in the form of a kind of personalistic manifesto opens the Apostolic Letter of 2016, announced by Pope Francis on the occasion of the establishment of the new Dicastery of the Roman Curia: Dicastery for Promoting Integral Human Development. Thus, by the act of the supreme ecclesiastical legislator,<sup>43</sup> the traditional commitment of the Holy See to migrants (so far under the responsibility of the Pontifical Council for the Pastoral Care of Migrants and Itinerant People) gains a chance — it must be clearly stated! — of rising to a new, higher level.<sup>44</sup> The Pope expressed *explicite* such hope two years later in the annual *Message for the 104th World Day of Migrants and Refugees*<sup>45</sup> — an enunciation not stripped of personal accents,<sup>46</sup> but above all carrying a valuable substantive message. Apart from the justification of this critical structural and organisational change, there are at least several reasons to consider this official Message (2018) as worthwhile of special attention. First, it should be noted that the papal words of the commentary are accompanied by a reference to the teachings of the predecessor on the See of Peter, who in the great

<sup>42</sup> FRANCIS: *Apostolic Letter Issued Motu Proprio Instituting the Dicastery for Promoting Integral Human Development* [17.08.2016], [http://www.vatican.va/content/francesco/en/motu\\_proprio/documents/papa-francesco-motu-proprio\\_20160817\\_humanam-progressionem.html](http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio_20160817_humanam-progressionem.html) (accessed: 28.12.2020).

<sup>43</sup> The Pope made proper changes in special law, mainly in JOHN PAUL II: *Apostolic Constitution “Pastor Bonus”* [28.06.1988] — art. 142—153 were abrogated.

<sup>44</sup> “This Dicastery will be competent particularly in issues regarding migrants, those in need, the sick, the excluded and marginalized, the imprisoned and the unemployed, as well as victims of armed conflict, natural disasters, and all forms of slavery and torture.” Ibidem. A harbinger of positive changes is the activity of Migrants & Refugees Section (within the new dicastery) — see last document: DICASTERY FOR PROMOTING INTEGRAL HUMAN DEVELOPMENT — MIGRANTS & REFUGEES SECTION: *Pastoral Orientations on Internally Displaced People*. Vatican City 2020.

<sup>45</sup> FRANCIS: *Message for the 104th World Day of Migrants and Refugees 2018*, [https://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco\\_20170815\\_world-migrants-day-2018.html](https://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20170815_world-migrants-day-2018.html) (accessed: 28.12.2020).

<sup>46</sup> “Throughout the first years of my pontificate, I have repeatedly expressed my particular concern for the lamentable situation of many migrants and refugees fleeing from war, persecution, natural disasters and poverty. [...] When I instituted the new Dicastery for Promoting Integral Human Development, I wanted a particular section — under my personal direction for the time being — to express the Church’s concern for migrants, displaced people, refugees and victims of human trafficking.” Ibidem.

social encyclical *Caritas in Veritate* (2009): firstly, places the phenomenon of migration (“a social phenomenon of epoch-making”) in the context of an “integral human development,”<sup>47</sup> secondly, he concludes his position with an instructive proclamation: “Every migrant is a human person who, as such, possesses fundamental, inalienable rights that must be respected by everyone and in every circumstance.”<sup>48</sup> Further reflection, especially on the cited *memento* of Benedict XVI, prompts Francis to affirm the basic criterion of the social teaching of the Church, namely to emphasise the importance of the *personalistic norm* in the design/implementation of the mission of “accompanying migrants.”

The universal ideological message seems to be quite clear. The highlighting in the 2018 Message of “the principle of the centrality of the human person”<sup>49</sup> — as indicated, in full harmony with the teaching of the post-conciliar popes<sup>50</sup> — should be read as a methodical presentation of the primacy of this *norm* which defines the order of justice: ethical<sup>51</sup> and legal/canonical.<sup>52</sup> In relation to the discussed pastoral challenge, among others, it means that at the centre of the adequate (!) activity of the bodies responsible for applying the law (in the sphere of international organisations, states, the Church) — including the new legislation<sup>53</sup> —

<sup>47</sup> BENEDICT: *Encyclical Letter on Integral Human Development in Charity and Truth “Caritas in Veritate”* [29.06.2009], n. 62.

<sup>48</sup> Ibidem. Cf. also PONTIFICAL COUNCIL FOR THE PASTORAL CARE OF MIGRANTS AND ITINERANT PEOPLE: *Instruction Erga Migrantes Caritas Christi* [3.05.2004] [hereinafter: EMCC]. *Acta Apostolicae Sedis* 96 (2004), pp. 762—822, n. 27.

<sup>49</sup> FRANCIS: *Message for the 104th World Day of Migrants and Refugees 2018*.

<sup>50</sup> For complete information, in addition to Benedict XVI, Popes Paul VI and John Paul II are also quoted. At this point, it is worth recalling the not mentioned words of St. John Paul II: “I wish to invite you to an ever-deeper awareness of your mission: to see Christ in every brother and sister in need, to proclaim and defend the dignity of every migrant, every displaced person and every refugee. In this way, assistance given will not be considered an alms from the goodness of our heart, but an act of justice due to them.” JOHN PAUL II: *Address to the Participants in the Assembly of the Council of the International Catholic Migration Commission* [12.11.2001], n. 2, [http://www.vatican.va/content/john-paul-ii/en/speeches/2001/november/documents/hf\\_jp-ii\\_spe\\_20011112\\_icmc.html](http://www.vatican.va/content/john-paul-ii/en/speeches/2001/november/documents/hf_jp-ii_spe_20011112_icmc.html) (accessed: 28.12.2020).

<sup>51</sup> Cf. J. GOCKO: “Istotne aspekty teologii migracji.” *Teologia i Moralność* 12 (2017), no. 1(21), p. 55.

<sup>52</sup> Cf. L. SABBARESE: “Die Seelsorge unter/für Migranten. Ein Appell an die »katholische Vielfalt« der Kirche.” In: *Migration und Flucht. Zwischen Heimatlosigkeit und Gastfreundschaft*. Eds. K. KRÄMER, K. VELLGUTH. [Theologie der Einen Welt. Bd. 13]. Freiburg im Breisgau 2018, p. 273.

<sup>53</sup> The determinants of such a global strategy of promotion of human rights — on the basis of the transcendent dignity of the human person — was formulated by Pope Francis already in 2014. In a loud speech at the European Parliament in Strasbourg, he concluded: “Europe will be able to confront the problems associated with immigra-

always remains the person of the migrant, their natural and supernatural dignity, reinforced by the principle of fundamental equality of all people, without any discrimination. Here Francis’ thought culminates in an original synthesis. The personalistic *par excellence* illumination of the horizon of universal fundamental rights (universal and inalienable) is clothed by the Pope with a neat idea and logical suit — a logical chain whose links are four verbs. The programme of “welcoming, protecting, promoting and integrating migrants and refugees”<sup>54</sup> will now become an inseparable theme of the consecutive enunciations on the World Day of Migrants and Refugees.<sup>55</sup> But that is not all: the important *novum* of the 2019 Message specifying the format of the said programme (which of course deserves a deeper contemplation<sup>56</sup>) — is the conclusion that those four verbs “do not apply only to migrants and refugees” because “they describe the Church’s mission,”<sup>57</sup> and as such they are “synodal verbs” (!).<sup>58</sup> However, the effectiveness of such a tailored Church programme of “accompanying migrants” in the universal dimension (*missio ad extra*) is to a large extent conditioned by fidelity to the assumptions of the Church’s *aggiornamento* (*missio ad intra*). Therefore, the present Pope — by revitalising the message of the Second Vatican Council on “ecclesial conversion as openness

---

tion only if it is capable of clearly asserting its own cultural identity and enacting adequate legislation to protect the rights of European citizens and to ensure the acceptance of immigrants.” FRANCIS: *Address to the European Parliament* [25.11.2014], [https://www.vatican.va/content/francesco/en/speeches/2014/november/documents/papa-francesco\\_20141125\\_strasburgo-parlamento-europeo.html](https://www.vatican.va/content/francesco/en/speeches/2014/november/documents/papa-francesco_20141125_strasburgo-parlamento-europeo.html) (accessed: 28.12.2020).

<sup>54</sup> FRANCIS: *Message for the 104th World Day of Migrants and Refugees 2018*; IDEM: *Address to Participants in the International Forum on “Migration and Peace”* [21.02.2017], [http://www.vatican.va/content/francesco/en/speeches/2017/february/documents/papa-francesco\\_20170221\\_forum-migrazioni-pace.html](http://www.vatican.va/content/francesco/en/speeches/2017/february/documents/papa-francesco_20170221_forum-migrazioni-pace.html) (accessed: 28.12.2020).

<sup>55</sup> FRANCIS: *Message for the 105th World Day of Migrants and Refugees 2019* [29.09.2019]; IDEM: *Message for the 106th World Day of Migrants and Refugees 2019* [27.09.2020], [https://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco\\_20200513\\_world-migrants-day-2020.html](https://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20200513_world-migrants-day-2020.html) (accessed: 28.12.2020).

<sup>56</sup> This thread will be touched upon again in the third point of this study.

<sup>57</sup> FRANCIS: *Message for the 105th World Day of Migrants and Refugees 2019* [29.09.2019).

<sup>58</sup> The Fathers of the Synod of Bishops (2018) competently express their opinions on this issue: “ ‘Welcome, protect, promote and integrate’, the four verbs with which Pope Francis synthesizes the action needed to support migrants, are synodal verbs. Implementing them requires the Church’s action at all levels and it involves all the members of Christian communities. For their part, migrants, appropriately accompanied, can offer spiritual, pastoral and missionary resources to the host communities.” SYNOD OF BISHOPS. XV ORDINARY GENERAL ASSEMBLY: *Young People, the Faith and Vocational Discernment. Final Document* [October 27.10.2018], n. 147, [http://www.vatican.va/roman\\_curia/synod/documents/rc\\_synod\\_doc\\_20181027\\_doc-final-instrumentum-xvassemblea-giovani\\_en.html](http://www.vatican.va/roman_curia/synod/documents/rc_synod_doc_20181027_doc-final-instrumentum-xvassemblea-giovani_en.html) (accessed: 28.12.2020).

to a constant self-renewal born of fidelity to Jesus Christ”<sup>59</sup> — links the pastoral activity in question with the fulfillment of an elementary condition. It is “missionary conversion”: the renewing mentalities, attitudes, practices in order to be ever more faithful to her vocation.<sup>60</sup> The value and depth of the papal recommendation was perfectly captured by the International Theological Commission, which sees this programme idea as closely akin to promotion of the synodal principle<sup>61</sup> of co-essentiality between hierarchical gifts and charismatic gifts in the Church.<sup>62</sup> “Pastoral conversion for the implementation of synodality means that some paradigms often still present in ecclesiastical culture need to be quashed because they express an understanding of the Church that has not been renewed by the ecclesiology of communion. These include: the concentration of responsibility for mission in the ministry of Pastors; insufficient appreciation of the consecrated life and charismatic gifts; rarely making use of the specific and qualified contribution of the lay faithful, including women, in their areas of expertise.”<sup>63</sup>

The synodal horizon of the “accompanying migrants” programme, emerging from the developed guidelines, undoubtedly strengthens the postulates of renown expert-canonists,<sup>64</sup> to anchor the appropriate ecclesiastical activity in the field of *missio ad intra* — that is, on the one hand, updating the rights of Christian migrants (with the fundamental right to use redeeming measures<sup>65</sup>), on the other hand, a universal and

<sup>59</sup> The principle formulated in the Decree on Ecumenism turns out to be pivotal: “Every renewal of the Church essentially consists in an increase of fidelity to her own calling [...] Christ summons the Church as she goes her pilgrim way [...] to that continual reformation of which she always has need, in so far as she is a human institution here on earth.” VATICAN COUNCIL II: *Decree on Ecumenism* “*Unitatis Redintegratio*” [21.11.1964], n. 6.

<sup>60</sup> EG, n. 26.

<sup>61</sup> Cf. VATICAN COUNCIL II: *Dogmatic Constitution on the Church* “*Lumen Gentium*” [21.11.1964] [hereinafter: LG], n. 4.

<sup>62</sup> INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 74.

<sup>63</sup> *Ibidem*, n. 105.

<sup>64</sup> E. BAURA: “L’Istruzione ‘Erga Migrantes Caritas Christi’. Profili giuridici.” *People on the Move* 37 (2005), no. 98, pp. 100—103 (97—107); L. GEROSA: “Mitbürger der Heiligen (Eph 2,19). Das Fördern der Heiligkeit der Kirche als Verpflichtung: ein Paradigma für die kanonistische Hermeneutik?” In: *Theologia Iuris Canonici...*, pp. 53—55.

<sup>65</sup> “The Christian faithful have the right to receive assistance from the sacred pastors out of the spiritual goods of the Church, especially the word of God and the sacraments.” *Codex Iuris Canonici* (*Code of Canon Law*, promulgated: January 25, 1983) [hereinafter: CIC], can. 213; Cf. *Codex Canonum Ecclesiarum Orientalium* (*Code of Canons of the Eastern Churches*, promulgated: 18.10.1990) [hereinafter: CCEO], can. 16. The universal character of this norm is sealed by the principle of “true equality.” CIC, can. 208; CCEO, can. 11.

shared commitment to evangelisation (with the fundamental duty/right of all Christians to spread God’s message of salvation<sup>66</sup>) — in the paradigmatic<sup>67</sup> for the whole *ius Ecclesiae* can. 210 CIC: “All the Christian faithful must direct their efforts to lead a holy life and to promote the growth of the Church and its continual sanctification, according to their own condition.”<sup>68</sup> In other words, today it is difficult to ignore the serious voices of the canonistic doctrine, which recommend (whether *explicite*<sup>69</sup> or *implicite*<sup>70</sup>) perceiving the legal and pastoral system created/modernised to meet the challenges of the era of migration<sup>71</sup> through the prism of the conciliar doctrine of the universal call to holiness.<sup>72</sup>

This “path” directed at the service of the dignity and holiness of a migrant — which in fact promotes the missionary vocation on an unprecedented scale (including by emphasising the participation and co-responsibility of the lay people in order to achieve the desired effect of “synodal synergy”<sup>73</sup>) — it is clearly visible in the recent decisions of the highest ecclesiastical legislator. Considering that the salvation goods: the word and the sacraments, have been entrusted to the Church for giving them to the Christian faithful, and as such they constitute their due right —

<sup>66</sup> “All the Christian faithful have the duty and right to work so that the divine message of salvation more and more reaches all people in every age and in every land.” CIC, can. 211; cf. CCEO, can. 14.

<sup>67</sup> R. SOBAŃSKI: “C. 210 als Rechtssatz”. In: *Iuri canonico promovendo. Festschrift für Heribert Schmitz zum 65. Geburtstag*. Eds. W. AYMANS, K.-Th. GERINGER. Regensburg 1994, pp. 72—73; G. DALLA TORRE: *Santità e diritto. Sondaggi nella storia del diritto canonico*. Torino 1999, p. 2; L. GEROSA: Mitbürger der Heiligen (Eph 2,19)... , p. 55.

<sup>68</sup> Cf. CCEO, can. 13.

<sup>69</sup> E. BAURA: L’Istruzione ‘Erga Migrantes Caritas Christi’...,” pp. 100—103.

<sup>70</sup> L. GEROSA: Mitbürger der Heiligen (Eph 2,19)... pp. 54—55.

<sup>71</sup> The elements of the mentioned system that has its foundations in the appropriate provisions of CIC (cf. can. 34) and CCEO, are created, first and foremost, by the already mentioned Instruction *Erga Migrantes Caritas Christi* (2004). See also PONTIFICAL COUNCIL FOR THE PASTORAL CARE OF MIGRANTS AND ITINERANT PEOPLE, PONTIFICAL COUNCIL COR UNUM: *Welcoming Christ in Refugees and Forcibly Displaced Persons. Pastoral Guidelines*. Vatican City 2013; DICASTERY FOR PROMOTING INTEGRAL HUMAN DEVELOPMENT — MIGRANTS & REFUGEES SECTION: *Pastoral Orientations on Internally Displaced People*, Vatican City 2020.

<sup>72</sup> LG [Chapter V: *The Universal Call to Holiness in the Church*], nn. 39—42, especially n. 37.

<sup>73</sup> “Synodality is lived out in the Church in the service of mission. *Ecclesia peregrinans natura sua missionaria est*; she exists in order to evangelise. The whole People of God is an agent of the proclamation of the Gospel. Every baptised person is called to be a protagonist of mission since we are all missionary disciples. The Church is called, in synodal synergy, to activate the ministries and charisms present in her life and to listen to the voice of the Spirit, in order to discern the ways of evangelisation.” INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 53.

it is not surprising that most of the legislative changes undertaken in the last five years by Pope Francis should be read today in this key. This is undoubtedly the case of the 2016 *Motu Proprio "De Concordia inter Codices"*, a document which modifies a number of provisions of the Code of Canon Law — with the arguments disclosed: (1) bringing in harmony between the provisions of the CIC and the CCEO, especially in cases in which it is necessary to regulate relations between subjects that belong respectively to the Latin Church and an Oriental Church; (2) meeting the challenge of the signs of the our times, namely, “the mobility of the population.”<sup>74</sup> In this spirit we should interpret the most characteristic changes in the norms concerning the sacrament of baptism and the sacrament of marriage. A completely new paragraph has been added to two others in can. 111. After a slightly amended (at the end) paragraph 1: “Through the reception of baptism a child is ascribed to the Latin Church if the parents belong to that Church or, should one of them not belong to it, if both parents agree in choosing that the child be baptized in the Latin Church; but, if the agreement is lacking, the child is ascribed to the Church *'sui iuris'*, to which the father belongs” — a new, second paragraph follows now: “However, if only one parent is Catholic, the child is ascribed to the Church to which the Catholic parent belongs.”<sup>75</sup> The essential supplement of can. 868 with paragraph 3 concerns also the sacrament of baptism with the final clause, conceptually close to the solution adopted in can. 844: “An infant of non-Catholic Christian parents is baptized licitly if the parents, or at least one of them or the person who lawfully takes their place requests it and if it is physically or morally impossible for them to obtain access to the actual ministry.”<sup>76</sup> The same weight (and a similar conceptual foundation) has the extension of can. 1116 — regulating an extraordinary form of the celebration of marriage — with an additional third paragraph: “§ 1. If a person competent to assist according to the norm of law cannot be present or approached without grave inconvenience, those who intend to enter into a true marriage can contract it validly and licitly before witnesses only: 1/ in danger of death; 2/ outside the danger of death provided that it is prudently fore-

<sup>74</sup> The fragment of the papal document is as follows: “This is particularly evident in our times, in which the mobility of the population has resulted in the presence of a significant number of Eastern faithful in Latin territories. This new situation generates numerous pastoral and juridical questions, which demand to be resolved by means of appropriate norms.” FRANCIS: *Litterae Apostolicae Motu Proprio Datae "De Concordia Inter Codices" Quibus Nonnullae Normae Codicis Iuris Canonici Immutantur* [31.05.2016], [https://www.vatican.va/content/francesco/la/motu\\_proprio/documents/papa-francesco-motu-proprio\\_20160531\\_de-concordia-inter-codices.html](https://www.vatican.va/content/francesco/la/motu_proprio/documents/papa-francesco-motu-proprio_20160531_de-concordia-inter-codices.html) (accessed: 28.12.2020).

<sup>75</sup> Cf. CCEO, can. 29.

<sup>76</sup> Cf. CCEO, can. 681.

seen that the situation will continue for a month. § 2. [...]. § 3. In addition to the provisions established in §1, nn. 1 and 2, the local ordinary can confer to any Catholic priest the faculty to bless the marriage of faithful Christians of the Eastern Churches who are not in full communion with the Catholic Church if they request it spontaneously, and provided there is nothing to preclude the valid and licit celebration of the marriage. The same priest, however, with the necessary prudence, shall inform the competent authority of the interested non-Catholic Church of the case.”<sup>77</sup>

A natural consequence of Francis’ repeated statements (sometimes very personal<sup>78</sup>) on the role of women in the synodal Church — which in the context of accompanying migrants most strongly echoes in *Apostolic Exhortation “Querida Amazonia”* (2020)<sup>79</sup> — is the legislative decision, the importance of which is best emphasised by the fact that it is for the authorisation of the lay people to act in the name of the Church.<sup>80</sup> It can be safely said that drawing final conclusions from the principle of fundamental equality of all the faithful (can. 208),<sup>81</sup> determined the intervention of the highest ecclesiastical legislator<sup>82</sup> in the matter of equating the position of a woman with a man in access to the ministries of lector and acolyte, performed on a permanent basis. Modified can. 230 § 1 CIC now reads as follows: “Lay persons who possess the age and qualifications established by decree of the conference of bishops can be admitted

<sup>77</sup> Cf. CCEO, can. 833.

<sup>78</sup> Pope FRANCIS: *Let Us Dream: The Path to a Better Future*, New York 2020, pp. 66—68.

<sup>79</sup> FRANCIS: *Apostolic Exhortation “Querida Amazonia”* [2.02.2020] [hereinafter: QA]; IDEM: *Apostolic Exhortation “Christus Vivit”* [25.03.2019], n. 245, [http://www.vatican.va/content/francesco/en/apost\\_exhortations/documents/papa-francesco\\_esortazione-ap\\_20190325\\_christus-vivit.html](http://www.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20190325_christus-vivit.html) (accessed: 28.12.2020). See also SYNOD OF BISHOPS. XV ORDINARY GENERAL ASSEMBLY: *Young People, the Faith and Vocational Discernment. Final Document* (October 27, 2018), n. 148; S. WENDEL: “Partizipation von Frauen am kirchlichen Handeln nach »Querida Amazonia«.” *Zeitschrift für Pastoraltheologie* 40/1 (2020), pp. 159—168.

<sup>80</sup> ST. SCHWARZ: “Handeln im Namen der Kirche. Die Leien mit kanonischer Sendung in der Diözese.” In: *Rechtskultur in der Diözese. Grundlagen und Perspektiven*. Ed. I. RIEDEL-SPANGENBERGER. Freiburg im Breisgau 2006, pp. 393—405.

<sup>81</sup> P. BOEKHOLT: “Sedung durch Taufe und Firmung. Rechte und Pflichten der Christgläubigen in der Diözese.” In: *Rechtskultur in der Diözese...*, pp. 52—53.

<sup>82</sup> FRANCIS: *Apostolic Letter Issued Motu Proprio “Spiritus Domini” Modifying Canon 230 §1 of the Code of Canon Law Regarding Access of Women to the Ministries of Lector and Acolyte* [10.01.2021], [http://www.vatican.va/content/francesco/en/motu\\_proprio/documents/papa-francesco-motu-proprio-20210110\\_spiritus-domini.html](http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20210110_spiritus-domini.html) (accessed: 28.12.2020); IDEM: *Letter to the Prefect of the Congregation for the Doctrine of the Faith Regarding Access of Women to the Ministries of Lector and Acolyte* [10.01.2021], [http://www.vatican.va/content/francesco/en/letters/2021/documents/papa-francesco\\_20210110\\_lettera-donne-lettorato-accolitato.html](http://www.vatican.va/content/francesco/en/letters/2021/documents/papa-francesco_20210110_lettera-donne-lettorato-accolitato.html) (accessed: 28.12.2020).

on a stable basis through the prescribed liturgical rite to the ministries of lector and acolyte. Nevertheless, the conferral of these ministries does not grant them the right to obtain support or remuneration from the Church.”

Finally, it is difficult not to identify the same concern of the highest legislator for the *salus animarum*<sup>83</sup> of all people in today’s world of mobility and migration — in the announcement of the Apostolic Constitution on Ecclesiastical Universities and Faculties “*Veritatis Gaudium*” (2017),<sup>84</sup> which is the long-awaited act of reform of ecclesiastical higher education law.<sup>85</sup> To see the important role Pope Francis assigns to the reform of education<sup>86</sup> and higher education<sup>87</sup> in the synodal way of creating “culture of encounter,” it is enough to quote the very instructive words of Foreword to the above-mentioned document: “The primary need today is for the whole People of God to be ready to embark upon a new stage of ‘Spirit-filled’ evangelization. This calls for ‘a resolute process of discernment, purification and reform’. In this process, a fitting renewal of the

<sup>83</sup> “Dem kirchlichen Recht kommt [...] im Blick auf die *salus animarum* dienende Funktion zu. Dies bedeutet, Rechtsvorschriften müssen in der Kirche stets geeignet sein, dass die Gläubigen als Einzelne und in der Gemeinschaft durch die Verkündigung des Wortes Gottes sowie durch den Empfang der Sakramente und Sakramentalien (vgl. c. 213 CIC) näher zu Gott zu finden, um der Pflicht der Heiligung des eigenen Lebens nachzukommen und zum Wachstum der Kirche beizutragen (vgl. c. 210 CIC).” R. ALTHAUS: “Das Kirchenrecht — ein überzeitlicher Fels in der Brandung oder Wegbereiter der Veränderung?” In: *Kirche im Wandel. Ekklesiale Identität und Reform*. Ed. St. KOPP. Freiburg im Breisgau 2020, p. 334.

<sup>84</sup> FRANCIS: *Apostolic Constitution on Ecclesiastical Universities and Faculties “Veritatis Gaudium”* [8.12.2017] [hereinafter: VG], [http://www.vatican.va/content/francesco/en/apost\\_constitutions/documents/papa-francesco\\_costituzione-ap\\_20171208\\_veritatis-gaudium.html](http://www.vatican.va/content/francesco/en/apost_constitutions/documents/papa-francesco_costituzione-ap_20171208_veritatis-gaudium.html) (accessed: 28.12.2020).

<sup>85</sup> Cf. TH. SCHÜLLER: *Das Pontifikat Papst Franziskus’ aus kirchenrechtlicher Perspektive...*, pp. 11–12.

<sup>86</sup> An interesting initiative by Francis is undoubtedly Reinventing the Global Compact on Education (the global discussion under the auspices of the Pope, inaugurating this project, is scheduled for May 14, 2020, but due to the COVID-19 pandemic, it is to take place at a later date. In the mind of the Holy Father, the purpose of this educational alliance is, among others, train individuals who are willing to contribute to the service of the community: “Service is a pillar of the culture of encounter: »It means bending over those in need and stretching out a hand to them, without calculation, without fear, but with tenderness and understanding, just as Jesus knelt to wash the Apostles’ feet. Serving means working beside the neediest of people, establishing with them first and foremost human relationships of closeness and bonds of solidarity«”. FRANCIS: *Message for the Launch of the Global Compact on Education* (September 12, 2019), [http://www.vatican.va/content/francesco/en/messages/pont-messages/2019/documents/papa-francesco\\_20190912\\_messaggio-patto-educativo.html](http://www.vatican.va/content/francesco/en/messages/pont-messages/2019/documents/papa-francesco_20190912_messaggio-patto-educativo.html) (accessed: 28.12.2020).

<sup>87</sup> DICASTERY FOR PROMOTING INTEGRAL HUMAN DEVELOPMENT — MIGRANTS & REFUGEES SECTION: *Pastoral Orientations on Internally Displaced People*, p. 14.



system of ecclesiastical studies plays a strategic role. These studies, in fact, are called to offer opportunities and processes for the suitable formation of priests, consecrated men and women, and committed lay people. At the same time, they are called to be a sort of providential cultural laboratory in which the Church carries out the performative interpretation of the reality brought about by the Christ event and nourished by the gifts of wisdom and knowledge by which the Holy Spirit enriches the People of God in manifold ways — from the *sensus fidei fidelium* to the magisterium of the bishops, and from the charism of the prophets to that of the doctors and theologians.”<sup>88</sup>

## 2.2. In the name of a “common path” towards unity (the ecumenical context of the pastoral operability of Church structures)

Already at the beginning of the pontificate of Francis the *Apostolic Exhortation “Evangelii Gaudium”* (2013) showed the potential<sup>89</sup> and pivotal importance<sup>90</sup> of synodal bodies for the “millennium” renewal of the Church, namely, the liberation of the missionary dynamism proper to its essence.<sup>91</sup> It can be assumed that such a “programmed” manifesto of the pontificate — with a universal, deeply humanistic message of evangelical truths, still evokes a wide social response. It is not only about making original theoretical diagnoses of how to overcome “excessive centralisation” in looking at the Church.<sup>92</sup> Synodal undertaking of the most serious challenges of the present time, such as the problem of migrants,<sup>93</sup> forces — in the name of realising the postulate of greater efficiency of

<sup>88</sup> VG, n. 3

<sup>89</sup> Cf. J. SCHMIEDL: “Synodalität in der katholischen Kirche...,” pp. 345—346.

<sup>90</sup> TH. SCHÜLLER: “Das Pontifikat Papst Franziskus ...,” p. 14.

<sup>91</sup> EG, n. 32.

<sup>92</sup> “Excessive centralization, rather than proving helpful, complicates the Church’s life and her missionary outreach.” Ibidem. However, this is not the place here to reflect on the ideas of the “Synodal Way”, initiated in 2020 in Germany, it is worth noting the long-standing intellectual ferment in posing fundamental questions, such as: *Kan man dieselbe Kirche anders denken?* [Can one the same Church, another thinking?]. M. SEEWALD: *Reform — Dieselbe Kirche anders denken*. Freiburg im Breisgau 2019, p. 11.

<sup>93</sup> EG, n. 210.

the Church structures<sup>94</sup> — *praxis* of making efforts to “not walk alone”<sup>95</sup> through evangelisation. This has to mean: in the personal dimension — consistent dissemination among pastors (especially those who have the title: *pastor proprius*)<sup>96</sup> and the lay faithful attitudes of co-responsibility, participation and, above all, fruitful cooperation, and in the institutional dimension — authentic evangelisation commitment, both to every parish (as “a community of communities”), and basic communities, small communities, movements, and forms of association.<sup>97</sup> It is about a joint work, bonded/optimised by the logic of “missionary communion”<sup>98</sup> — with its indispensable characteristics: dialogue and communal discernment, the building of a social ethos based on fraternity and solidarity, the united efforts of committed Christians of every denomination.<sup>99</sup>

The ecclesiastical work of integration of migrants, which should give an impulse to launch this synodal potential and the resources primarily at the basic level (diocese — parish)<sup>100</sup> — through the help of individu-

<sup>94</sup> However, it is worth remembering that while the effectiveness of church structures potentially generates the progress of the missionary efforts, it is “without new life and an authentic evangelical spirit, without the Church’s ‘fidelity to her own calling’, any new structure will soon prove ineffective.” EG, 26.

<sup>95</sup> “Pastoral ministry in a missionary key seeks to abandon the complacent attitude that says: ‘We have always done it this way’. I invite everyone to be bold and creative in this task of rethinking the goals, structures, style and methods of evangelization in their respective communities. A proposal of goals without an adequate communal search for the means of achieving them will inevitably prove illusory. I encourage everyone to apply the guidelines found in this document generously and courageously, without inhibitions or fear. The important thing is to not walk alone, but to rely on each other as brothers and sisters, and especially under the leadership of the bishops, in a wise and realistic pastoral discernment.” EG, n. 33.

<sup>96</sup> “Der Leiter als eigenberechtigter Hirte der Pfarrei ist gemäß cc. 515, 519, 521 und 526 CIC/1983 (cc. 279,280 und 287 CCEO) immer und allein Pfarrer. In dieser Hirtensorge (cura pastoralis) ist er nicht zu ersetzen. Zugleich sieht c. 519 CIC/1983 (c. 281 § 1 CCEO) für die Pfarrei die Bildung von »Pastoralteams« vor, in denen durch bischöfliche Sendung weitere Priester, ständige Diakone sowie pastorale Mitarbeiterinnen und Mitarbeiter an und in der Seelsorge (cura animarum) unter der Leitung Pfarres beteiligt werden. ” CH. OHLY: “Der Pfarrer als »Pastor proprius«. Erinnerung an ein verfassungsrechtliches Grundprinzip.” In: *Rechtskultur und Rechtspflege in der Kirche...*, pp. 287—288.

<sup>97</sup> EG, nn. 28, 29.

<sup>98</sup> EG, nn. 23, 31.

<sup>99</sup> INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 103.

<sup>100</sup> “The first level of the exercise of *synodality* is had in the particular Churches. After mentioning the noble institution of the Diocesan Synod, in which priests and laity are called to cooperate with the bishop for the good of the whole ecclesial community, the *Code of Canon Law* devotes ample space to what are usually called ‘organs of communion’ in the local Church: the presbyteral council, the college of consultors, chapters

als and groups, volunteer associations and movements, parochial<sup>101</sup> and diocesan<sup>102</sup> organisations, in cooperation with all people of good will<sup>103</sup> — has significant ecumenical implications.<sup>104</sup> After all, it is all about true integration of migrants and asylum seekers without neglecting the religious dimension, fundamental for every person.<sup>105</sup> *Ergo*: if it is known that Christians will certainly be in the orbit of this mission, coming from various parts of the world, then the attention to the religious dimension entails inevitable ecumenical dialogue (broadly understood).<sup>106</sup>

This is where the quoted motto of Francis finds its application, reflecting the synodal *par excellence* of this ecclesiastical mission: “The important thing is to not walk alone, but to rely on each other as brothers and sisters, and especially under the leadership of the bishops, in a wise and realistic pastoral discernment.”<sup>107</sup> What testifies to the fact that the papal words need to be treated as an urgent task of disseminating the rules and methods of dialogue<sup>108</sup> proper to synodal assemblies (diocesan

---

of canons and the pastoral council. Only to the extent that these organizations keep connected to the ‘base’ and start from people and their daily problems, can a synodal Church begin to take shape: these means, even when they prove wearisome, must be valued as an opportunity for listening and sharing.” FRANCIS: *Address at the Ceremony Commemorating the 50th Anniversary of the Institution of the Synod of Bishops* [17.10.2015].

<sup>101</sup> See for example V. DE PAOLIS: “Parrocchia personale.” In: *Migrazioni. Dizionario socio-pastorale*. Ed. G. BATTISTELLA. Cinisello Balsamo 2010, pp. 783—789.

<sup>102</sup> See for example A. KAPTIJN: “Gli Ordinariati per i fedeli cattolici orientali privi di gerarchia propria.” In: *Cristiani orientali e pastori latini*. Ed. P. GEFAELL. Milano 2012, pp. 233—267; A. E. GRASSMANN: “Die lateinischen Ordinariate für Gläubige orientalischer Riten. Genese, verfassungsrechtliche Verortung und Darstellung der gegenwärtigen Gestalt.” In: *Lebendige Kirche in neuen Strukturen: Herausforderungen und Chancen*. Eds. H. HALLERMANN, TH. MECKEL, S. PFANNKUCHE, M. PULTE. Würzburg 2015, pp. 219—265.

<sup>103</sup> BENEDICT: *Message for the World Day of Migrants and Refugees (2013)* [12.10.2012]; [https://www.vatican.va/content/benedict-xvi/en/messages/migration/documents/hf\\_ben-xvi\\_mes\\_20121012\\_world-migrants-day.html](https://www.vatican.va/content/benedict-xvi/en/messages/migration/documents/hf_ben-xvi_mes_20121012_world-migrants-day.html) (accessed: 28.12.2020).

<sup>104</sup> FRANCIS: *Address at the Ceremony Commemorating the 50th Anniversary of the Institution of the Synod of Bishops* [17.10.2015].

<sup>105</sup> “Indeed, it is to this [religious — AP.] dimension that the Church, by virtue of the mission entrusted to her by Christ, must devote special attention and care: this is her most important and specific task.” BENEDICT: *Message for the World Day of Migrants and Refugees (2013)* (October 12, 2012).

<sup>106</sup> Obviously, the fruitful implementation of the wider missionary goal, which is integration of migrants-believers of non-Christian religions, assumes conducting an interreligious dialogue. See EG, nn. 247—254.

<sup>107</sup> EG, n. 33.

<sup>108</sup> H. HALLERMANN: “Beratung und Beispruch. Formen der Mitverantwortung in der Diözese.” In: *Rechtskultur in der Diözese...*, pp. 300—321; N. WITSCH: “Gemeinsam auf dem Weg. Synodale Strukturen der Diözese.” In: *Rechtskultur in der Diözese...*, pp. 406—435; G. MAY: “Der Ruf nach mehr Synodalität.” In: *Theologia Iuris Canonici...*, pp. 223—248.

synod, particular and regional councils, synod of bishops<sup>109</sup>) is, at least, the similarity of this statement of the well-known “millennium” enunciation of St. John Paul II: “The Bishop is responsible for bringing about this unity in diversity by promoting [...] a collaborative effort which makes it possible for all to journey together along the common path of faith and mission.”<sup>110</sup> Teaching on the one hand about “the importance of consultation,”<sup>111</sup> and on the other, about the “need for a new impetus to inculturation,”<sup>112</sup> Francis confirms, with his authority, the validity of the ideological assumptions<sup>113</sup> of *Instruction “Erga Migrantes Caritas Christi”*

---

<sup>109</sup> The order of the institutional dialogue bodies mentioned here is not accidental. Francis — on the basis of the ecclesiological perspective of LG, sketches with great consequence the image of a synodal Church as “an inverted pyramid”: “The Synod of Bishops is the point of convergence of this listening process conducted at every level of the Church’s life. The Synod process begins by listening to the people of God, which ‘shares also in Christ’s prophetic office’. [...] The Synod process then continues by listening to the pastors. [...] The Synod process culminates in listening to the Bishop of Rome, who is called to speak as ‘pastor and teacher of all Christians’, not on the basis of his personal convictions but as the supreme witness to the *fides totius Ecclesiae*, the guarantor of the obedience and the conformity of the Church to the will of God, to the Gospel of Christ, and to the Tradition of the Church.” FRANCIS: *Address at the Ceremony Commemorating the 50th Anniversary of the Institution of the Synod of Bishops* [17.10.2015].

<sup>110</sup> John Paul II: *Apostolic Exhortation on the Bishop, Servant of the Gospel of Jesus Christ for the Hope of the World “Pastores Gregis”* ([16.10.2003], n. 44.

<sup>111</sup> “In this way, it can be seen that the synodal process not only has its point of departure but also its point of arrival in the People of God, upon whom the gifts of grace bestowed by the Holy Spirit through the gathering of Bishops in Assembly must be poured out.” FRANCIS: *Apostolic Constitution on the Synod of Bishops “Episcopalis Communio”* [15.09.2018], n. 7; cf. IDEM: *Address at the Ceremony Commemorating the 50th Anniversary of the Institution of the Synod of Bishops* ([17.10.2015]. Cf. also INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 68.

<sup>112</sup> QA, n. 95.

<sup>113</sup> Yes, the same can be said about the validity of the provisions of the Instruction based on these assumptions. This is confirmed by the relevant legal and pastoral criteria adopted in the document regarding the service to migrants — for example: (a) the local Church must be pastorally involved with people on the move through the services of parishes, whether territorial or personal, *missiones cum cura animarum* [EMCC, n. 91]; national and/or diocesan/eparchial pastoral structures have to be set up, when necessary [EMCC, n. 26; cf. EMCC, n. 79]; (b) in accordance with the principle of promotion and observance of the “rites of the Eastern Churches as patrimony of the universal Church of Christ” (CIC, can. 39; EMCC, n. 26), Eastern Rite Catholic migrants deserve particular pastoral attention (CIC, can. 383 § 2, can. 518; EMCC, 52—54); (c) indispensability of the collaboration between the Churches of origin and of arrival (EMCC, n. 70); (d) the engagement of the laity, lay associations and ecclesial movements on tasks of *diakonia* (EMCC, n. 86); (e) the shortage of priests for migrants can be partly remedied by entrusting certain activities in the parish to suitably prepared laity (CIC, can.

from 2004. It is enough to quote the very<sup>114</sup> “ecumenical” line from this document: “[Cultural and religious plurality — A.P.] is a treasure, and dialogue is the as yet imperfect and ever evolving realization of that final unity to which humanity aspires and is called.”<sup>115</sup>

Ecumenical commitment in the work of the Church “accompanying migrants” marks out a path/journey involving all the People of God.<sup>116</sup> Speaking of the practical expression of *koinonía*, updated *hic et nunc* by the power of the Holy Spirit — following the example of the Trinitarian mystery<sup>117</sup> — in each local Church and in its relation with the other Churches through synodal structures and processes.<sup>118</sup> If so, then migration as an object of ecclesial pastoral work should be directly linked to the renewal of the Church of Christ. Luigi Sabbarese is right that it is not just a matter of the ordinary relations between particular Churches, Churches of origin and host Churches, but it is a fundamental ecclesiological and ecumenical problem.<sup>119</sup> In consideration of this, the authors of *Ecumenical Vademecum* (2020) rightly extended the list of priorities of practical ecumenism to include a new crucial area: “coordinated Christian action to care for displaced and migrant peoples”<sup>120</sup> — making an important remark in the commentary that cooperation between Christian

---

228, §1; can. 230 § 3, can. 517 § 2; EMCC, n. 45) [today, we may add: “and women” — QA, n. 103].

<sup>114</sup> Cf. J. Voss: “Ökumenische Dimensionen in der Instruktion *Erga migrantes caritas Christi*.” *People on the Move* 37 (2005), no. 98, p. 53.

<sup>115</sup> This sentence is preceded by passage: “Openness to different cultural identities does not, however, mean accepting them all indiscriminately, but rather respecting them — because they are inherent in people — and, if possible, appreciating them in their diversity. The ‘relativity’ of cultures was also stressed by the Second Vatican Council (cf. GS 54, 55, 56, 58).” EMCC, n. 30.

<sup>116</sup> INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 115.

<sup>117</sup> FRANCIS: *Address to Members of the International Theological Commission* (November 29, 2019); ROMAN CATHOLIC CHURCH AND THE ORTHODOX CHURCH: *Ecclesiological and Canonical Consequences of the Sacramental Nature of the Church Ecclesial Communion, Conciliarity and Authority*, Ravenna, 13 October 2007, n. 5, [http://www.vatican.va/roman\\_curia/pontifical\\_councils/chrstuni/ch\\_orthodox\\_docs/rc\\_pc\\_chrstuni\\_doc\\_20071013\\_documento-ravenna\\_en.html](http://www.vatican.va/roman_curia/pontifical_councils/chrstuni/ch_orthodox_docs/rc_pc_chrstuni_doc_20071013_documento-ravenna_en.html) (accessed: 28.12.2020).

<sup>118</sup> INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 116; cf. K. KOCH: “Synodalität in der Katholischen Kirche in der ökumenischer Perspektive: Papst und Bischöfe, Konzilien und Synoden.“ In: *Synodalität in der katholischen Kirche. Die Studie der Internationalen Theologischen Kommission im Diskurs*. Eds. M. GRAULICH, J. RAHNER [*Quaestiones disputatae*, Bd. 311]. Freiburg im Breisgau 2020, pp. 220—242.

<sup>119</sup> L. SABBARESE: “Die Seelsorge unter/für Migranten...,” p. 271.

<sup>120</sup> PONTIFICAL COUNCIL FOR PROMOTING CHRISTIAN UNITY: *The Bishop and Christian Unity: An Ecumenical Vademecum*. Città del Vaticano 2020, p. 34, n. 38.

churches in service of the poor is “a driving force in promoting the desire for Christian unity.”<sup>121</sup>

### 3. In the face of contemporary challenges: “Synodality” as a paradigm of canonistic hermeneutics?

The central point of the “millennium” diagnosis of the state and prospects of implementing the conciliar idea<sup>122</sup> of the reforming the Church by John Paul II is the implementation of *Communio*. The statement of the Holy Father speaks for itself: “[...] there is certainly much more to be done, in order to realize all the potential of the instruments of communion, which are especially appropriate today in view of the need to respond promptly and effectively to the issues which the Church must face in these rapidly changing times.”<sup>123</sup> What is worth noting here, in this (and similar) context, is that the ecclesiological thought of all the popes of the first two decades of the 21st century goes to the Divine Animator of the dynamics of the testimony of the priestly people — the testimony of faith and love worthy of the challenges of the present time. It is the Holy Spirit who, by distributing hierarchical and charismatic gifts,<sup>124</sup> generously ensures the continuation of the *aggiornamento* of the Church community (*communio*) and its law (*ius communionis*). Above all, the activity of the Creator of unity — uniting the action of the Holy Spirit in the Eucharist, which makes that the community as a whole becomes ever more the body of Christ<sup>125</sup> — defines the profile of the ecclesial synodal

<sup>121</sup> Ibidem.

<sup>122</sup> Cf. GS, nn. 43, 44.

<sup>123</sup> JOHN PAUL II: *Apostolic Letter “Novo Millennio Ineunte”* [6.01.2001], n. 44.

<sup>124</sup> “The gifts of the Spirit are given for the building up of Christ’s Body (1 Cor 12) and for ever greater witness to the Gospel in the world.” BENEDICT XVI: *Apostolic Exhortation “Sacramentum Caritatis”* (February 22, 2007) [hereinafter: SacCar], n. 17. It should be added here that in the sacramental structure of the Church (*communio*), both hierarchical and charismatic gifts converge in the service of the bishop who updates — according to the logic of the ecclesiological principles of the Vatican II: collegiality, synodality and subsidiarity — the fullness of Christ’s service: as Prophet, Priest, and King (*tria munera Christi*); cf. A. PASTWA: “Synodality — Participation — Co-Responsibility...,” pp. 97–98.

<sup>125</sup> SacCar, no. 13. “The Church’s synodal path is shaped and nourished by the Eucharist.” INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 47

path<sup>126</sup> on the sensitive *hic et nunc* sections of “united” responsibility for the work of evangelisation. Consequently, the specificity of *ius Ecclesiae*<sup>127</sup> determines that the same action of the Third Divine Person also determines the shape of the law-making processes in the Church. After all, *proprium* of the Church law is immanently inscribed renewal potential in it, thereby making the Church “contemporary,” according to the principle of the *Sacrae disciplinae leges* Constitution: “fidelity in newness and of newness in fidelity.”<sup>128</sup>

With the horizon of the principle of *ius sequitur vitam* before our eyes, we can ask at this point what pivotal or even strategic conclusions of a canonical nature can be drawn on the basis of the previously articulated premises: a) mobility and migration constitute in today’s world<sup>129</sup> and the Church<sup>130</sup> “a structural phenomenon, and not a passing emergency”<sup>131</sup>; b) the legal-pastoral programme “accompanying migrants” in its optimal project goes hand in hand with the Realisation of the Synodal Church Idea<sup>132</sup>; c) personalistic determinants of each and every synodal programme are in fact: “welcome,” “protect,” “promote,” and “integrate”<sup>133</sup>; d) synodality, after it is translated into the established institutions and procedures of the Church, “expresses the ecumenical dimension of canon law.”<sup>134</sup>

Synthetically speaking,<sup>135</sup> it should be noted that the millennium

<sup>126</sup> FRANCIS: *Address at the Ceremony Commemorating the 50th Anniversary of the Institution of the Synod of Bishops* [17.10.2015].

<sup>127</sup> See R. SOBAŃSKI: “Charisma et norma canonica.” In: *Ius in vita et in missione Ecclesiae. Acta symposii internationalis Iuris Canonici occurrente X anniversario promulgationis Codicis Iuris Canonici diebus 19—24 aprilis 1993 in Civitate Vaticana celebrati*. Città del Vaticano 1994, pp. 75—90.

<sup>128</sup> JOHN PAUL II: *Apostolic Constitution “Sacrae disciplinae leges”* [25.01.1983].

<sup>129</sup> “[...] migrants are a ‘paradigm’ able to shed light on our times.” SYNOD OF BISHOPS XV ORDINARY GENERAL ASSEMBLY: *Young People, the Faith and Vocational Discernment. Final Document* [27.10.2018], n. 25.

<sup>130</sup> Cf. D. MARKL: “Die Kirche als Migrantin. Zu den biblischen Ursprüngen des sich wandelnden Gottesvolkes.” In: *Kirche im Wandel...*, pp. 83—99.

<sup>131</sup> FRANCIS: *Apostolic Exhortation “Christus Vivit”* (March 25, 2019), n. 91.

<sup>132</sup> “Synodality is the method by which the Church can address ancient and new challenges.” SYNOD OF BISHOPS XV ORDINARY GENERAL ASSEMBLY: *Young People, the Faith and Vocational Discernment. Final Document* [27.10.2018], n. 144.

<sup>133</sup> “‘Welcome, protect, promote and integrate’, the four verbs with which Pope Francis synthesizes the action needed to support migrants, are synodal verbs.” *Ibidem*, n. 147.

<sup>134</sup> FRANCIS: *Address to Participants in the Conference Promoted by the Society for the Law of the Eastern Churches* [19.09.2019], [https://www.vatican.va/content/francesco/en/speeches/2019/september/documents/papa-francesco\\_20190919\\_diritto-chieseorientali.html](https://www.vatican.va/content/francesco/en/speeches/2019/september/documents/papa-francesco_20190919_diritto-chieseorientali.html) (accessed: 28.12.2020).

<sup>135</sup> The merely sketchy form of the conclusions, dictated by the format of this study, may be treated as an invitation to further scientific research of the issues presented here.

“package” of Church’s renewal announced in numerous statements by Pope Francis is an announcement of a wider transfer<sup>136</sup> of revitalised ecclesiological ideas to the *ius Ecclesiae* ground. The importance and potential of the new “path” presented here are already shown by the contextual penetration of two areas of the methodology of the Church law, closely related to each other.

*The first area: getting to know and legislating.* Taking into account the original *proprium* of the reflected law (*ordinatio fidei*), including its systemic frameworks, which are determined by the dialectic of continuity and changeability — the paradigmatic significance is confirmed by the rule that the *ius communionis* at no stage of its development can break away from its theological base; this is particularly true for the first two links in the chain of the Church’s legal practice.<sup>137</sup> Thus, the universal legislator and consequently particular legislators, together with the ecclesial community<sup>138</sup> united around the pastoral office (successors of Peter, successors of the Apostles), face today the challenge of making, step by step, a dynamic/concretising reception of Revelation.<sup>139</sup> This is all to make sure that “the new canonical legislation will prove to be an efficacious means”<sup>140</sup> of the People of God’s mission, which is active undertaking of responsibility for the evangelical testimony of delivering the revealed truth.

In Francis’ opinion there is an urgent need to unblock the paths of communication/dialogue today (including “decentralization,”<sup>141</sup> “increasing the spirit of episcopal collegiality”<sup>142</sup>), so that the will of Christ could better shape the law of the community — traditionally using the magisterial/pastoral content of data and inscribed as legal,<sup>143</sup> or at least legal as

<sup>136</sup> JOHN PAUL II: *Apostolic Constitution “Sacrae disciplinae leges”* [25.01.1983].

<sup>137</sup> The wide methodological horizon of the practice of law covers the basics of its recognition and creation, and then interpretation, application and observance.

<sup>138</sup> The programme of activating ministries and charisms — in order to achieve the desired effect of synodal synergy on the paths of evangelisation — assumes that not only the pastors of the Church, but all the faithful share the responsibility for the shape of the *ius communionis*.

<sup>139</sup> Cf. H. PREE: “Zur Wandelbarkeit und Unwandelbarkeit des *Ius Divinum*.” In: *Theologia et ius canonicum. Festgabe für Heribert Heinemann zur Vollendung seines 70. Lebensjahres*. Ed. H.J.F. REINHARDT. Essen 1995, p. 123.

<sup>140</sup> JOHN PAUL II: *Apostolic Constitution “Sacrae disciplinae leges”* [25.01.1983].

<sup>141</sup> EG, nn. 16, 32.

<sup>142</sup> FRANCIS: *Address at the Ceremony Commemorating the 50th Anniversary of the Institution of the Synod of Bishops* [17.10.2015].

<sup>143</sup> An adequate and complete depiction of the current “Corpus iuris canonici” is the theme of John Paul II’s famous statement about the intrinsic connection of juridical norms with Church doctrine: “In fact, the authentic interpretation of God’s Word, exercised by the Magisterium of the Church [ ] has juridical value to the extent that it



well.<sup>144</sup> In this respect, fidelity to “the principle of synodality” in undertaking lawmaking activity must mean broad openness to the action of the Holy Spirits “in the communion of the Body of Christ and in the missionary journey of the People of God.”<sup>145</sup> This is the context of the papal invitation of the Pastors and their communities to the ecclesiastical *synodal process*,<sup>146</sup> which as “the process of decision-making”<sup>147</sup> will certainly constitute a privileged form of law-making in the field of *ius communionis*. It also seems obvious that since this *process* involves a comprehensive renewal of the Church’s synodal structures, then an adjusted (adequate) renewal of community law is to be expected not only at the universal level, but also at local and regional levels.

*Second area: interpretation and application of law.* The two enunciations of the papal magisterium, by their categorical or even imperative character, illuminate the “millennium” context of canonistic hermeneutics. The first one, by John Paul II, in his final *Address to the Roman Rota* (2005), is an authoritative, strong voice against any attempt to positivist deformation of the canonical laws: “[A canonist — A.P.] must never lose sight of the intrinsic connection of juridical norms with Church doctrine. Indeed, people sometimes presume to separate Church law from the Church’s magisterial teaching as though they belonged to two separate spheres; they suppose the former alone to have juridically binding force, whereas they

---

concerns the context of law, without requiring any further formal procedure in order to become juridically and morally binding.” JOHN PAUL II: *Address to Members of the Tribunal of the Roman Rota* [29.01.2005], [https://www.vatican.va/content/john-paul-ii/en/speeches/2005/january/documents/hf\\_jp-ii\\_spe\\_20050129\\_roman-rot.html](https://www.vatican.va/content/john-paul-ii/en/speeches/2005/january/documents/hf_jp-ii_spe_20050129_roman-rot.html) (accessed: 28.12.2020). In short, juridical value is not only represented by ecclesiastical laws, which are promulgated as such; the same value may also have statements of the papal magisterium in areas immanently connected with the legal dimension. Cf. L. GEROSA: *Mitbürger der Heiligen* (Eph 2,19)...., p. 57.

<sup>144</sup> R. SOBAŃSKI: “Niezmiennność i historyczność prawa w Kościele: prawo Boże i prawo ludzkie.” *Prawo Kanoniczne* 40 (1997) no. 1—2, p. 25.

<sup>145</sup> INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), no. 46.

<sup>146</sup> See note 24.

<sup>147</sup> The remarks of International Theological Commission regarding synodal process at the diocesan level are valuable: “The synodal process must take place at the heart of a hierarchically structured community. In a diocese, for example, it is necessary to distinguish between the process of *decision-making* through a joint exercise of discernment, consultation and co-operation, and *decision-taking*, which is within the competence of the Bishop, the guarantor of apostolicity and Catholicity. Working things out is a synodal task; decision is a ministerial responsibility. A correct exercise of synodality must contribute to a better articulation of the ministry of the personal and collegial exercise of apostolic authority with the synodal exercise of discernment on the part of the community.” INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), n. 69.

value the latter merely as a directive or an exhortation. Such an approach basically reveals a *positivist mindset* which is in contradiction with the best of the classical and Christian juridical tradition concerning the law. [...] For a healthy juridical interpretation, it is indispensable to understand *the whole body of the Church's teachings*.”<sup>148</sup> The second enunciation is connected with the doctrinal (ecclesiological) leitmotif of Francis, which gives rise to a bold hypothesis: “synodality” is a paradigm of canonistic hermeneutics. These are the words from the already quoted famous speech from 2015 delivered on the occasion of commemorating the 50th anniversary of the institution of the Synod of Bishops: “*Synodality*, as a constitutive element of the Church, offers us the most appropriate interpretive framework for understanding the hierarchical ministry itself.”<sup>149</sup>

Without going into an in-depth analysis of the extensive subject matter, which is primarily determined by the precise provisions of canons 17 and 19 CIC (parallel — canons 1499 and 1501 CCEO), it is worthwhile to briefly refer to these normative “modules” in the content of the mentioned canons, which directly or at least indirectly correspond to the *meritum* of papal recommendations. They are the formulas that are a clear testimony to disagreement either with the static shape of legislation (“guardian” of the fossilised structures) or its positivist deformation,<sup>150</sup> namely: “the mind of the legislator”<sup>151</sup> and “general principles of law.”<sup>152</sup> Importantly, both formulas (and not only the latter one, as in the codified text of the canons) are closely related to *aeqitas canonica*. After all, the latter one, apart from its specific role of correcting *rigor iuris*, constitutes the internal and formal impetus for justice and dynamic principle of creation and development of law.

<sup>148</sup> JOHN PAUL II: *Address to Members of the Tribunal of the Roman Rota* [29.01.2005], n. 6.

<sup>149</sup> FRANCIS: *Address at the Ceremony Commemorating the 50th Anniversary of the Institution of the Synod of Bishops* [17.10.2015].

<sup>150</sup> Cf. TH. SCHÜLLER: “Auslegung von Gesetzen im Kirchenrecht. Ein rechtshistorischer und antekanonistischer Beitrag zur Debatte.” In: *Theologia Iuris Canonici...*, pp. 127—128; A. PASTWA: “Synodality — Participation — Co-Responsibility...,” pp. 107—108.

<sup>151</sup> CIC, can. 17: “Ecclesiastical laws must be understood in accord with the proper meaning of the words considered in their text and context. If the meaning remains doubtful and obscure, recourse must be made to parallel places, if there are such, to the purpose and circumstances of the law, and to *the mind of the legislator*.” Cf. CCEO, can. 1499.

<sup>152</sup> CIC, can. 19: “If a custom or an express prescript of universal or particular law is lacking in a certain matter, a case, unless it is penal, must be resolved in light of laws issued in similar matters, *general principles of law applied with canonical equity*, the jurisprudence and practice of the Roman Curia, and the common and constant opinion of learned persons.” Cf. CCEO, can. 1501.

Finally, it is not difficult to define the sphere of principles — relevant to healthy canonistic hermeneutics<sup>153</sup> — with which the *credo* of the synodal ecclesiological “path” resonates. Well, “the mind of the legislator” in can. 17 CIC combines: the principles that the Church legislator follows (“legislative guiding principles”<sup>154</sup>), the principle of the primacy of theological sources resulting from the specificity of the church law,<sup>155</sup> values protected and promoted by Church law, and above all canonical equity, which should be connected with the intention of the legislator to create equitable law.<sup>156</sup> In turn, the *generalia iuris principia*<sup>157</sup> in can. 19 CIC should be treated “as a tool of mitigating the harmful antinomy mostly between: formal and material justice, what is public (*bonum commune / bonum communionis*) and what is private (*bonum personae*). At the end of the day it is about the principles that convey the potential of supporting — system in *ius Ecclesiae* — ‘alliance’ of law and ministry (see John Paul II’s famous address to the Roman Rota from 1990), directed towards real protection/promotion of subjective rights of the faithful in the Church, in the name of the realisation of the *salus animarum* goal.”<sup>158</sup>

## Bibliography

- ALTHAUS R.: “Das Kirchenrecht — ein überzeitlicher Fels in der Brandung oder Wegbereiter der Veränderung?” In: *Kirche im Wandel. Ekklesiale Identität und Reform*. Ed. ST. KOPP. Freiburg im Breisgau 2020, pp. 313—335.
- BAURA E.: “L’Istruzione ‘Erga Migrantes Caritas Christi’. Profili giuridici.” *People on the Move* 37 (2005), no. 98, pp. 97—107.

<sup>153</sup> John Paul II: *Address to Members of the Tribunal of the Roman Rota* [29.01.2005], n. 6.

<sup>154</sup> TH. SCHÜLLER: *Auslegung von Gesetzen im Kirchenrecht...*, p. 133.

<sup>155</sup> “All regulators of [the Church life — AP] ultimately originate from the same source, that is, from the faith proclaimed by the Church. Therefore, it should be assumed that the sources of faith and the practice of faith found their reflection and legal translation in church law.” R. SOBAŃSKI: *Metodologia prawa kanonicznego*. Katowice 2004, p. 57.

<sup>156</sup> Cf. R. SOBAŃSKI: “Komentarz do kan. 17.” In: *Komentarz do Kodeksu Prawa Kanonicznego*. Vol. 1. Ed. J. KRUKOWSKI. Poznań 2003, p. 71.

<sup>157</sup> See T. GAŁKOWSKI: *Ogólne zasady prawa w prawie kanonicznym*. Warszawa 2020.

<sup>158</sup> A. PASTWA: *Review: Tomasz Gałkowski, Ogólne zasady prawa w prawie kanonicznym [General Principles of Law in the Canon Law]*, Warszawa: Wydawnictwo Naukowe Uniwersytetu Kardynała Stefana Wyszyńskiego, 2020, 221 pp. In: *Semicentennial of Karol Wojtyła’s “Person and Act”: Ideas — Contexts — Inspirations (II). Philosophy and Canon Law* 7 (2021), no. 2, (in press).

- BOEKHOLT P.: “Sedung durch Taufe und Firmung. Rechte und Pflichten der Christgläubigen in der Diözese.” In: *Rechtskultur in der Diözese. Grundlagen und Perspektiven*. Ed. I. RIEDEL-SPANGENBERGER. Freiburg im Breisgau 2006, pp. 50—71.
- BENEDICT XVI: *Address to the Participants of the International Conference on Occasion of the 40th Anniversary of the Conciliar Decree “Ad Gentes”* [11.03.2006], [http://www.vatican.va/content/benedict-xvi/en/speeches/2006/march/documents/hf\\_ben-xvi\\_spe\\_20060311\\_ad-gentes.html](http://www.vatican.va/content/benedict-xvi/en/speeches/2006/march/documents/hf_ben-xvi_spe_20060311_ad-gentes.html) (accessed: 28.12.2020).
- BENEDICT XVI: *Apostolic Letter in the Form of Motu Proprio Establishing the Pontifical Council for Promoting the New Evangelization “Ubi cumque et Semper”* [21.09.2010], [http://www.vatican.va/content/benedict-xvi/en/apost\\_letters/documents/hf\\_ben-xvi\\_apl\\_20100921\\_ubicumque-et-semper.html](http://www.vatican.va/content/benedict-xvi/en/apost_letters/documents/hf_ben-xvi_apl_20100921_ubicumque-et-semper.html) (accessed: 28.12.2020).
- BENEDICT XVI: *Apostolic Exhortation “Sacramentum Caritatis”* [22.02.2007].
- BENEDICT: *Encyclical Letter on Integral Human Development in Charity and Truth “Caritas in Veritate”* [29.06.2009].
- BENEDICT: *Message for the World Day of Migrants and Refugees (2013)* [12.10.2012], [https://www.vatican.va/content/benedict-xvi/en/messages/migration/documents/hf\\_ben-xvi\\_mes\\_20121012\\_world-migrants-day.html](https://www.vatican.va/content/benedict-xvi/en/messages/migration/documents/hf_ben-xvi_mes_20121012_world-migrants-day.html) (accessed: 28.12.2020).
- Codex Iuris Canonici (Code of Canon Law, promulgated: 25.01.1983).*
- Codex Canonum Ecclesiarum Orientalium (Code of Canons of the Eastern Churches, promulgated: 18.10.1990).*
- DALLA TORRE G.: *Santità e diritto. Sondaggi nella storia del diritto canonico*. Torino 1999.
- DE PAOLIS V.: “Parrocchia personale.” In: *Migrazioni. Dizionario socio-pastorale*. Ed. G. BATTISTELLA. Cinisello Balsamo 2010
- DICASTERY FOR PROMOTING INTEGRAL HUMAN DEVELOPMENT — MIGRANTS & REFUGEES SECTION: *Pastoral Orientations on Internally Displaced People*. Vatican City 2020.
- FRANCIS: *Address at the Ceremony Commemorating the 50th Anniversary of the Institution of the Synod of Bishops* [17.10.2015], [http://www.vatican.va/content/francesco/en/speeches/2015/october/documents/papa-francesco\\_20151017\\_50-anniversario-sinodo.html](http://www.vatican.va/content/francesco/en/speeches/2015/october/documents/papa-francesco_20151017_50-anniversario-sinodo.html) (accessed: 28.12.2020).
- FRANCIS: *Address to the European Parliament* [25.11.2014], [https://www.vatican.va/content/francesco/en/speeches/2014/november/documents/papa-francesco\\_20141125\\_strasburgo-parlamento-europeo.html](https://www.vatican.va/content/francesco/en/speeches/2014/november/documents/papa-francesco_20141125_strasburgo-parlamento-europeo.html) (accessed: 28.12.2020).
- FRANCIS: *Address to Members of the International Theological Commission* [29.11.2019], [http://www.vatican.va/content/francesco/en/speeches/2019/november/documents/papa-francesco\\_20191129\\_commissione-teologica.html](http://www.vatican.va/content/francesco/en/speeches/2019/november/documents/papa-francesco_20191129_commissione-teologica.html) (accessed: 28.12.2020).
- FRANCIS: *Address to Participants in the Conference Promoted by the Society for the Law of the Eastern Churches* [19.09.2019], [https://www.vatican.va/content/francesco/en/speeches/2019/september/documents/papa-francesco\\_20190919\\_diritto-chieseorientali.html](https://www.vatican.va/content/francesco/en/speeches/2019/september/documents/papa-francesco_20190919_diritto-chieseorientali.html) (accessed: 28.12.2020).

- FRANCIS: *Address to Participants in the International Forum on “Migration and Peace”* [February 21.02.2017], [http://www.vatican.va/content/francesco/en/speeches/2017/february/documents/papa-francesco\\_20170221\\_forum-migrazioni-pace.html](http://www.vatican.va/content/francesco/en/speeches/2017/february/documents/papa-francesco_20170221_forum-migrazioni-pace.html) (accessed: 28.12.2020).
- FRANCIS: *Apostolic Constitution on Ecclesiastical Universities and Faculties “Veritatis Gaudium”* [8.12.2017].
- FRANCIS: *Apostolic Constitution on the Synod of Bishops “Episcopalis Communio”* [15.09.2018].
- FRANCIS: *Apostolic Exhortation “Amoris Laetitia”* [19.03.2016].
- FRANCIS: *Apostolic Exhortation “Christus Vivit”* [25.03.2019].
- FRANCIS: *Apostolic Exhortation “Evangelii Gaudium”* [24.11.2013].
- FRANCIS: *Apostolic Exhortation “Querida Amazonia”* [2.02.2020].
- FRANCIS: *Apostolic Letter Issued Motu Proprio Instituting the Dicastery for Promoting Integral Human Development* [17.08.2016], [http://www.vatican.va/content/francesco/en/motu\\_proprio/documents/papa-francesco-motu-proprio\\_20160817\\_humanam-progressionem.html](http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio_20160817_humanam-progressionem.html) (accessed: 28.12.2020).
- FRANCIS: *Apostolic Letter Issued Motu Proprio “Spiritus Domini” Modifying Canon 230 §1 of the Code of Canon Law Regarding Access of Women to the Ministries of Lector and Acolyte* [January 10.01.2021], [http://www.vatican.va/content/francesco/en/motu\\_proprio/documents/papa-francesco-motu-proprio-20210110\\_spiritus-domini.html](http://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio-20210110_spiritus-domini.html) (accessed: 28.12.2020).
- FRANCIS: *Letter to the Prefect of the Congregation for the Doctrine of the Faith Regarding Access of Women to the Ministries of Lector and Acolyte* [10.01.2021], [http://www.vatican.va/content/francesco/en/letters/2021/documents/papa-francesco\\_20210110\\_lettera-donne-lettorato-accollato.html](http://www.vatican.va/content/francesco/en/letters/2021/documents/papa-francesco_20210110_lettera-donne-lettorato-accollato.html) (accessed: 28.12.2020).
- FRANCIS: *Let Us Dream: The Path to a Better Future*. New York 2020.
- FRANCIS: *Litterae Apostolicae Motu Proprio Datae “De Concordia Inter Codices” Quibus Nonnullae Normae Codicis Iuris Canonici Immutantur* [31.05.2016], [https://www.vatican.va/content/francesco/la/motu\\_proprio/documents/papa-francesco-motu-proprio\\_20160531\\_de-concordia-inter-codices.html](https://www.vatican.va/content/francesco/la/motu_proprio/documents/papa-francesco-motu-proprio_20160531_de-concordia-inter-codices.html) (accessed: 28.12.2020).
- FRANCIS: *Message for the Launch of the Global Compact on Education* [12.09.2019], [http://www.vatican.va/content/francesco/en/messages/pont-messages/2019/documents/papa-francesco\\_20190912\\_messaggio-patto-educativo.html](http://www.vatican.va/content/francesco/en/messages/pont-messages/2019/documents/papa-francesco_20190912_messaggio-patto-educativo.html) (accessed: 28.12.2020).
- FRANCIS: *Message for the World Day of Migrants and Refugees (2014)*, [http://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco\\_20130805\\_world-migrants-day.html](http://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20130805_world-migrants-day.html) (accessed: 28.12.2020).
- FRANCIS: *Message for the 104th World Day of Migrants and Refugees 2018*, [https://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco\\_20170815\\_world-migrants-day-2018.html](https://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20170815_world-migrants-day-2018.html) (accessed: 28.12.2020).
- FRANCIS: *Message for the 105th World Day of Migrants and Refugees 2019* [29.09.2019], <https://www.vatican.va/content/francesco/en/messages/migration/doc->

- uments/papa-francesco\_20190527\_world-migrants-day-2019.html (accessed: 28.12.2020).
- FRANCIS: *Message for the 106th World Day of Migrants and Refugees 2019* [27.09. 2020], [https://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco\\_20200513\\_world-migrants-day-2020.html](https://www.vatican.va/content/francesco/en/messages/migration/documents/papa-francesco_20200513_world-migrants-day-2020.html) (accessed: 28.12.2020).
- GAŁKOWSKI T.: *Ogólne zasady prawa w prawie kanonicznym*. Warszawa 2020.
- GÄNSWEIN G.: “Neuevangelisierung. Weg und Herzmitte der Kirche in unserer Zeit.” In: *Theologia Iuris Canonici. Festschrift für Ludger Müller zur Vollendung des 65. Lebensjahres*. Eds. CH. OHLY, W. REES, L. GEROSA. [Kanonistische Studien und Texte, Bd. 67]. Berlin 2017, pp. 41—51.
- GEROSA L.: “Mitbürger der Heiligen (Eph 2,19). Das Fördern der Heiligkeit der Kirche als Verpflichtung: ein Paradigma für die kanonistische Hermeneutik?” In: *Theologia Iuris Canonici. Festschrift für Ludger Müller zur Vollendung des 65. Lebensjahres*. Eds. CH. OHLY, W. REES, L. GEROSA. [Kanonistische Studien und Texte, Bd. 67]. Berlin 2017, pp. 53—64.
- GOCKO J.: “Istotne aspekty teologii migracji.” *Teologia i Moralność* 12 (2017), no. 1(21), pp. 47—58.
- GRASSMANN A. E.: “Die lateinischen Ordinariate für Gläubige orientalischer Riten. Genese, verfassungsrechtliche Verortung und Darstellung der gegenwärtigen Gestalt.” In: *Lebendige Kirche in neuen Strukturen: Herausforderungen und Chancen*. Eds. H. HALLERMANN, TH. MECKEL, S. PFANNKUCHE, M. PULTE. Würzburg 2015, pp. 219—265.
- HAHN J.: *Church Law in Modernity. Toward a Theory of Canon Law between Nature and Culture*. Cambridge 2019, pp. 116—173.
- HALLERMANN H.: “Beratung und Beispruch. Formen der Mitverantwortung in der Diözese.” In: *Rechtskultur in der Diözese. Grundlagen und Perspektiven*. Ed. I. RIEDEL-SPANGENBERGER. Freiburg im Breisgau 2006, pp. 300—321.
- INTERNATIONAL THEOLOGICAL COMMISSION: *Synodality in the Life and Mission of the Church* (2018), [http://www.vatican.va/roman\\_curia/congregations/cfaith/cti\\_documents/rc\\_cti\\_20180302\\_sinodalita\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_cti_20180302_sinodalita_en.html) (accessed: 28.12.2020).
- JOHN PAUL II: *Address to Members of the Tribunal of the Roman Rota* [29.01.2005], [https://www.vatican.va/content/john-paul-ii/en/speeches/2005/january/documents/hf\\_jp-ii\\_spe\\_20050129\\_roman-rota.html](https://www.vatican.va/content/john-paul-ii/en/speeches/2005/january/documents/hf_jp-ii_spe_20050129_roman-rota.html) (accessed: 28.12.2020).
- JOHN PAUL II: *Address to the Participants in the Assembly of the Council of the International Catholic Migration Commission* [12.11.2001], [http://www.vatican.va/content/john-paul-ii/en/speeches/2001/november/documents/hf\\_jp-ii\\_spe\\_20011112\\_icmc.html](http://www.vatican.va/content/john-paul-ii/en/speeches/2001/november/documents/hf_jp-ii_spe_20011112_icmc.html) (accessed: 28.12.2020).
- JOHN PAUL II: *Apostolic Constitution “Pastor Bonus”* [28.06.1988].
- JOHN PAUL II: *Apostolic Constitution “Sacrae disciplinae leges”* [25.01.1983].
- JOHN PAUL II: *Apostolic Exhortation on the Bishop, Servant of the Gospel of Jesus Christ for the Hope of the World “Pastores Gregis”* [16.10.2003].
- JOHN PAUL II: *Apostolic Letter “Novo Millennio Ineunte”* [6.01.2001].
- JOHN PAUL II: *Discorso alla Chiesa Italiana per la celebrazione del III Convegno Ecclesiale* (November 23, 1995), <https://www.vatican.va/content/john-paul-ii/>

- it/speeches/1995/november/documents/hf\_jp-ii\_spe\_19951123\_palermo.html (accessed: 28.12.2020).
- KAPTIJN A.: “Gli Ordinariati per i fedeli cattolici orientali privi di gerarchia propria.” In: *Cristiani orientali e pastori latini*. Ed. P. Gefaell. Milano 2012, pp. 233—267.
- KOCH K.: “Synodalität in der Katholischen Kirche in der ökumenischer Perspektive: Papst und Bischöfe, Konzilien und Synoden.” In: *Synodalität in der katholischen Kirche. Die Studie der Internationalen Theologischen Kommission im Diskurs*. Eds. M. GRAULICH, J. RAHNER [Quaestiones disputatae, Bd. 311]. Freiburg im Breisgau 2020, pp. 220—242.
- MARKL D.: “Die Kirche als Migrantin. Zu den biblischen Ursprüngen des sich wandelndes Gottesvolkes.” In: *Kirche im Wandel. Ekklesiale Identität und Reform*. Ed. ST. KOPP. Freiburg im Breisgau 2020, pp. 83—99.
- MAY G.: “Der Ruf nach mehr Synodalität.” In: *Theologia Iuris Canonici. Festschrift für Ludger Müller zur Vollendung des 65. Lebensjahres*. Eds. CH. OHLY, W. REES, L. GEROSA. [Kanonistische Studien und Texte, Bd. 67]. Berlin 2017, pp. 223—248.
- OHLY Ch.: “Der Pfarrer als »Pastor proprius«. Erinnerung an ein verfassungsrechtliches Grundprinzip.” In: *Rechtskultur in der Diözese. Grundlagen und Perspektiven*. Ed. I. RIEDEL-SPANGENBERGER. Freiburg im Breisgau 2006, pp. 275—288.
- PASTWA A.: “The Law of the Church — the Law of Freedom.” In: *Religious Freedom Today. Ecumeny and Law* 4 (2016), pp. 105—125.
- PASTWA A.: Review: Tomasz Gałkowski, *Ogólne zasady prawa w prawie kanonicznym* [General Principles of Law in the Canon Law], Warszawa: Wydawnictwo Naukowe Uniwersytetu Kardynała Stefana Wyszyńskiego, 2020, 221 pp. In: *Semicentennial of Karol Wojtyła’s “Person and Act”: Ideas — Contexts — Inspirations (II)*. Philosophy and Canon Law 7 (2021), no. 2.
- PASTWA A.: “Synodality — Participation — Co-Responsibility. Remarks on the Determinants of the *Aggiornamento* of the Church Law.” In: *Idea of Synodality: Contexts, Challenges and Perspectives (I)*. *Ecumeny and Law* 7 (2019), pp. 95—114.
- PONTIFICAL COUNCIL FOR THE PASTORAL CARE OF MIGRANTS AND ITINERANT PEOPLE: *Instruction “Erga Migrantes Caritas Christi”* [3.05.2004]. *Acta Apostolicae Sedis* 96 (2004), pp. 762—822.
- PONTIFICAL COUNCIL FOR THE PASTORAL CARE OF MIGRANTS AND ITINERANT PEOPLE, PONTIFICAL COUNCIL COR UNUM: *Welcoming Christ in Refugees and Forcibly Displaced Persons. Pastoral Guidelines*. Vatican City 2013.
- PONTIFICAL COUNCIL FOR PROMOTING CHRISTIAN UNITY: *The Bishop and Christian Unity: An Ecumenical Vademecum*. Città del Vaticano 2020.
- PREE H.: “Zur Wandelbarkeit und Unwandelbarkeit des *Ius Divinum*.” In: *Theologia et ius canonicum. Festgabe für Heribert Heinemann zur Vollendung seines 70. Lebensjahres*. Ed. H.J.F. REINHARDT. Essen 1995, pp. 111—135.
- ROMAN CATHOLIC CHURCH AND THE ORTHODOX CHURCH: *Ecclesiological and Canonical Consequences of the Sacramental Nature of the Church Eccle-*

- sial Communion, Conciliarity and Authority*, Ravenna, 13 October 2007, [http://www.vatican.va/roman\\_curia/pontifical\\_councils/chrstuni/ch\\_orthodox\\_docs/rc\\_pc\\_chrstuni\\_doc\\_20071013\\_documento-ravenna\\_en.html](http://www.vatican.va/roman_curia/pontifical_councils/chrstuni/ch_orthodox_docs/rc_pc_chrstuni_doc_20071013_documento-ravenna_en.html) (accessed: 28.12.2020).
- SABBARESE L.: “Die Seelsorge unter/für Migranten. Ein Appell an die »katholische Vielfalt« der Kirche.” In: *Migration und Flucht. Zwischen Heimatlosigkeit und Gastfreundschaft*. Eds. K. KRÄMER, K. VELLGUTH. [Theologie der Einen Welt. Bd. 13]. Freiburg im Breisgau 2018, pp. 265—274.
- SCHMIEDL J.: “Synodalität in der katholischen Kirche — ein »Zeichen der Zeit«. Anmerkungen im Anschluss an ein Dokument der Internationalen Theologienkommission.” In: *Rechtskultur und Rechtspflege in der Kirche. Festschrift für Wilhelm Rees zur Vollendung des 64. Lebensjahres*. Eds. Ch. OHLY, St. HAERING, L. MÜLLER [Kanonistische Studien und Texte, Bd. 71]. Berlin 2020, pp. 339—351.
- SCHÜLLER TH.: “Auslegung von Gesetzen im Kirchenrecht. Ein rechtshistorischer und antekanonistischer Beitrag zur Debatte.” In: *Theologia Iuris Canonici. Festschrift für Ludger Müller zur Vollendung des 65. Lebensjahres*. Eds. Ch. OHLY, W. REES, L. GEROSA. [Kanonistische Studien und Texte, Bd. 67]. Berlin 2017, pp. 127—138.
- SCHÜLLER TH.: “Das Pontifikat Papst Franziskus” aus kirchenrechtlicher Perspektive.” *Theologische Revue* 116 (2020) January, pp. 1—17.
- SCHWARZ St.: “Handeln im Namen der Kirche. Die Leien mit kanonischer Sendung in der Diözese.” In: *Rechtskultur in der Diözese. Grundlagen und Perspektiven*. Ed. I. RIEDEL-SPANGENBERGER. Freiburg im Breisgau 2006, pp. 388—405.
- SEEWALD M.: *Reform — Dieselbe Kirche anders denken*. Freiburg im Breisgau 2019.
- SOBAŃSKI R.: “C. 210 als Rechtssatz”. In: *Iuri canonico promovendo. Festschrift für Heribert Schmitz zum 65. Geburtstag*. Eds. W. AYMANS, K.-Th. GERINGER. Regensburg 1994, pp. 57—73.
- SOBAŃSKI R.: “Charisma et norma canonica.” In: *Ius in vita et in missione Ecclesiae. Acta symposii internationalis Iuris Canonici occurrente X anniversario promulgationis Codicis Iuris Canonici diebus 19-24 aprilis 1993 in Civitate Vaticana celebrati*. Città del Vaticano 1994, pp. 75—90.
- SOBAŃSKI R.: “Komentarz do kan. 17.” In: *Komentarz do Kodeksu Prawa Kanonicznego*. Vol. 1. Ed. J. KRUKOWSKI. Poznań 2003, pp. 69—71.
- SOBAŃSKI R.: *Metodologia prawa kanonicznego*. Katowice 2004.
- SOBAŃSKI R.: “Niezmiennność i historyczność prawa w Kościele: prawo Boże i prawo ludzkie.” *Prawo Kanoniczne* 40 (1997) no. 1—2, pp. 23—44.
- SYNOD OF BISHOPS. XV ORDINARY GENERAL ASSEMBLY: *Young People, the Faith and Vocational Discernment. Final Document* [27.10.2018], [http://www.vatican.va/roman\\_curia/synod/documents/rc\\_synod\\_doc\\_20181027\\_doc-final-instrumentum-xvassemblea-giovani\\_en.html](http://www.vatican.va/roman_curia/synod/documents/rc_synod_doc_20181027_doc-final-instrumentum-xvassemblea-giovani_en.html) (accessed: 28.12.2020).
- VATICAN COUNCIL II: *Decree on Ecumenism “Unitatis Redintegratio”* [21.11.1964].
- VATICAN COUNCIL II: *Dogmatic Constitution on the Church “Lumen Gentium”* [21.11.1964].



- VATICAN COUNCIL II: *Dogmatic Constitution on Divine Revelation “Dei Verbum”* [18.11.1965].
- VATICAN COUNCIL II: *Pastoral Constitution on the Church “Gaudium et Spes”* [7.12.1965].
- Voss J.: “Ökumenische Dimensionen in der Instruktion *Erga migrantes caritas Christi*.” *People on the Move* 37 (2005), no. 98, pp. 45—58.
- WENDEL S.: “Partizipation von Frauen am kirchlichen Handeln nach »Querida Amazonia«.” *Zeitschrift für Pastoraltheologie* 40/1 (2020), pp. 159—168.
- WITSCH N.: “Gemeinsam auf dem Weg. Synodale Strukturen der Diözese.” *Rechtsskultur in der Diözese. Grundlagen und Perspektiven*. Ed. I. RIEDEL-SPANGENBERGER. Freiburg im Breisgau 2006, pp. 406—435.

ANDRZEJ PASTWA

« Accompagnement des migrants » comme pierre de touche de l’idée d’une Église synodale. Remarques d’un canoniste

Résumé

„La sinodalità è uno stile, è un camminare insieme, ed è quanto il Signore si attende dalla Chiesa del terzo millennio” (le pape François). Cette pensée cardinale du programme du pape François, articulée dans *Address to Members of the International Theological Commission* (2019), constitue la devise et le fondement de la présente étude. Le Pape apprécie le travail d’une grande portée de la Commission, culminant dans l’idée d’ « una puntualizzazione teologica » de la synodalité et démontrant son importance dans la perception de la mission de l’Église aujourd’hui. Si, selon le pape, l’argumentation d’experts, étant concrète et compétente, révèle progressivement la vérité que l’Église synodale est une Église de participation et de responsabilité partagée, alors une telle opinion ne peut rester sans influence sur la *praxis* de relever les défis pastoraux les plus sérieux à l’heure actuelle et à divers niveaux de mise en œuvre : local, régional et universel, y compris l’engagement œcuménique.

Cela s’applique, dans son intégralité, à la création de stratégies et d’activités concrètes de l’Église face au phénomène croissant de la mobilité humaine, en particulier sous les formes qui se manifestent comme dramatiques et destructrices pour les familles et les individus. Il s’agit du postulat de l’opérativité ecclésiale et multidirectionnelle — ou plus précisément de l’opérativité de communion et synodale (avec ses indices : dynamique, efficacité, productivité), pour laquelle en 2016, le pape François a proposé le terme : « accompagnement les migrants ». Il n’est pas étonnant que, ces dernières années, toute une série d’actions normatives et opérationnelles du successeur actuel de Saint Pierre, qui à notre époque - appelée à juste titre « l’ère de la migration » (le pape François) — indiquent une nouvelle tendance consistant à donner des accents synodaux à la zone de *salus animarum*.

Comme le montre l’étude, le canoniste, ayant devant ses yeux l’horizon du principe de *ius sequitur vitam*, ne peut rester passif face aux défis critiques ici exposés. En effet, dans l’orbite des études canoniques se pose une question importante, à savoir quelles

conclusions de nature juridique résultent du projet « millénaire » de mise en œuvre de l'idée d'une Église synodale.

**Mots clés :** *kairós* de la synodalité, mission de l'Église synodale, Pape François, « accompagnement les migrants », droits des migrants (chrétiens), cours « millénaire » pour le renouveau de l'Église, postulat du renouveau du droit de l'Église, contexte œcuménique

ANDRZEJ PASTWA

« Accompagnamento ai migranti » come pietra di paragone per l'idea di una Chiesa sinodale. Alcune osservazioni di un canonista

Abstract

„La sinodalità è uno stile, è un camminare insieme, ed è quanto il Signore si attende dalla Chiesa del terzo millennio” (Papa Francesco). Questa idea di programma del Papa Francesco, articolata in *Address to Members of the International Theological Commission* (2019) costituisce il motto e il fondamento del presente studio. Il Papa apprezza l'ampio lavoro della Commissione, culminato nell'idea di „una puntualizzazione teologica” della sinodalità, lavoro che ha anche confermato la sua importanza nell'adeguata percezione della missione della Chiesa d'oggi. Se, come sostiene il Papa, la concreta e competente argomentazione di esperti rivela progressivamente la verità che la Chiesa sinodale è una Chiesa di partecipazione e di corresponsabilità, allora tale opinione non può restare influente sulla *praxis* nell'affrontare le sfide pastorali sempre più serie e presenti a vari livelli di attuazione: locale, regionale e universale, compreso l'impegno ecumenico.

Ciò si applica, nella sua totalità, alla creazione di strategie e attività concrete della Chiesa di fronte al crescente fenomeno della mobilità umana, specialmente nelle forme che si manifestano come drammatiche e distruttive per le famiglie e gli individui. È questo il postulato dell'operatività ecclesiale e multidirezionale — o più precisamente dell'operatività di comunione e di sinodalità (con i suoi indici: dinamica, efficienza, produttività), per la quale nel 2016, il Papa Francesco ha proposto il termine: “Accompagnamento ai migranti”. Non stupisce che, negli ultimi anni, tutta una serie di interventi normativi e operativi dell'attuale successore di San Pietro, che nel nostro tempo — giustamente chiamato „l'era delle migrazioni” (Papa Francesco) — indichino una nuova tendenza a conferire accenti sinodali alla zona di *salus animarum*.

Come mostra lo studio, il canonista, avendo davanti agli occhi l'orizzonte del principio di *ius sequitur vitam*, non può restare passivo di fronte alle sfide critiche qui presentate. Nell'orbita degli studi canonici si pone infatti una questione importante, ovvero quali conclusioni di natura giuridica derivino dal progetto “millenario” di attuazione dell'idea della Chiesa sinodale.

**Parole chiave:** *kairós* della sinodalità, missione della Chiesa sinodale, papa Francesco, “accompagnamento ai migranti”, diritti dei migranti (cristiani), corso “millenario” per il rinnovamento della Chiesa, postulato del rinnovamento del diritto ecclesiale, contesto ecumenico