

Étienne RICHER, *La lumière montre les ombres. Crise d'efficience et fondements du droit pénal de l'Église. Essai d'analyse au regard du canon 1311 du CIC/1983 et de la loi suprême de la salus animarum*, Toulouse, Les Presses Universitaires de l'Institut Catholique de Toulouse, 2017, 449 pp.

The dean of the faculty of canon law of the Catholic Institute of Toulouse delivers here the fruit of his interesting doctoral research which starts from the observation of a "strongly impotent implementation" (p. 16) of the canonical penal law since the middle of the 20th century, problematic that, face to the scandal of the pedophile, Benedict XVI had recorded in a famous interview with Peter Seewald (*Lumière du monde. Le pape, l'Église et les signes des temps*, Montrouge, Bayard, 2011, p. 46). As the sanctions are not applied or little applied, the author begins by examining the reasons, then it deals with the bases of the criminal law and the ultimate meaning of the ecclesiastical law, the salvation of the souls. In order to do this, he divides his work into three parts.

In the first part, it analyzes first of all the crisis of efficiency of the canon law, the question of delicts, even crimes left unpunished. A first chapter makes the observation of disaffection and examines its consequences: between laxity and „tolerance zero" should be „the imperative respect of a criminal procedure which protects the Church, those who direct it, without being expeditive" (p. 78). The second chapter analyzes the root causes of disaffection: anti-legalism and reticence to criminal sanctions or even ignorance of the criminal law of the Church. As the author does not hesitate to name the problems, his third chapter deals with aggravating factors, including that of the scarcity of jurisprudence and its consequences for the training of canonists.

The second part is divided into two chapters on Canon 1311, which opens Book VI of the Code on Sanctions, which states that the Church has

the inherent right to coercively punish the faithful of Christ as delinquents. The fourth chapter examines this affirmation of the principle of a Church as *societas perfecta* and examines both the scriptural and ecclesiological foundations and the immediate sources, from the 1917 Code to that of 1983, notably the canon 2214, §1 of the 1917 Code and the addresses of Paul VI of 4 October 1969 and 4 August 1976, the text of which will be included in the annexes (p. 331-335 and 345-348). This rich comment concludes with a reflexion on the notion of pain and leads to the fifth chapter devoted to a wide historical perspective. The author indicates a series of „references in the history of the defense of the principle of a penal power of the Church evoking the origins, the *Decretum* of Gratian, the councils of the Lateran, Constance, Trent ...”, in passing through the reflections of Jean Mabillon on the prisons of the religious orders to the first state this positive terms of the penal power of the Church, namely the encyclical of Leon XIII, *Immortale Dei*, cited at length p. 233-234.

Why can the Church punish? In the third part, the author tries to answer this question which constitutes the title. It does so in two chapters which successively treat, first of all, the conflicts of interpretation between schools of canonical doctrine – the school of *ius publicum ecclesiasticum*, so-called school of *communio* and pastoralist current - then the foundations of the canonical penal law in the light of sources, especially conciliar, of the canon 1311: *Lumen gentium* 8 and *Gaudium and spes* 76, to which it adds a reflexion around *Dignitatis humanae* 4.

This lively book at the time of a revision of the criminal law of the Roman Catholic Church turns out to be a well done scientific work, as valuable for the research and enriching for the reflection that it would surely deserve a more careful presentation of the footnotes, as well as the attention to the spelling or accuracy of names or titles. That does not prevent me however to salute this ambitious and relevant work and to strongly recommend the reading of this work, not only to the canonists or future canonists but also and especially to the pastors, because it is a question of making this right more effective or efficient and to make sure that the light of Christ shines and that the Church does not miss its mission to be before the world „*speculum iustitiae*”, according to the Pope John Paul II at la Rote on February 17, 1979.

Rev. Prof. Constantin Rus