to have a bearing on the universal structure – are reminiscent of those outlined in this book in the context of canon law.

Going further, many of Hahn's proposals are already realities in the structures of other ecclesial bodies. Anglicanism has taken great pains to employ 'legal flexibility' in its ecclesial life, and its strategies for dealing with local dissent or objection in a positive and charitable way sound similar to solutions proposed by Hahn. But therein is the rub. Persuasive argument, synodical decision-making and constructive interplay have in practice resulted in theological impasse, loss of ecclesial integrity and the reality of institutionalised schism.

This book reminds us that canon law does not stand in the Catholic Church as an isolated reality, but embodies, and relates to, its ecclesiology and theology. In particular, the potential of canon law to provide a fresh angle on the ecumenical and inter-faith agenda is made clear, together with the value of natural law in establishing new forms of consensus. But, employing Hahn's own call to realism about local realities, it is hard to be as optimistic that the remodelling of canon law along more diverse lines will provide a ready solution to the Church's problems.

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## Apostate Nuns in the Later Middle Ages

Elizabeth Makowski

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Professor Elizabeth Makowski has spent decades researching and writing on the canon law for religious women in the Middle Ages; her works include *Canon Law and Cloistered Women: Periculoso and Its Commentators, 1298–1545* (1997, *'A Pernicious Sort of Woman': quasi-religious women and canon lawyers in the later Middle Ages* (2005) and *English Nuns and the Law in the Middle Ages: cloistered nuns and their lawyers, 1293–1540* (2012).[2] The latest title, *Apostate Nuns in the Later Middle Ages*, provides a fascinating continuation of the subject.

The work is divided into three sections: the first deals with the law and theory of religious profession; the second with the situations which gave rise to the departure of religious women from their cloister (some, but not all, of which were voluntary); and the third with 'the return of the prodigal' as communities struggled to receive back and reintegrate those who had left and then returned

2 The first two were reviewed in (1998) 5 Ecc LJ 120–121 and (2006) 8 Ecc LJ 363–365.

(whether voluntarily or involuntarily). The sources for each section are abundant, including the legal texts and their commentaries, but also evidence coming from correspondence and contemporary narratives, court documents and numerous other collections such as records of episcopal visitations. Makowski's survey of the sources in her introduction is full and well written, and useful not only for this work but for anyone studying religious life in the Middle Ages.

Of particular interest is the author's presentation of the variety of reasons why a woman would have left the cloister, particularly given that the opportunities outside were rarely more abundant than those within the cloister. Petitions by nuns to the Apostolic Penitentiary, a treasure trove which has only slowly yielded its riches in recent years, show a wide variety of situations. Some arose from a coerced profession (classified under the traditional heading of 'force and fear'), particularly when a legacy became available to the nun which she would be forced to forego if she remained. Others, however, resulted from the upheaval of war, famine and pestilence, and could hardly be called 'voluntary' departures. Still others emerged from what Makowski calls 'lust and love'; to her credit, she keeps these in context, although the dust jacket, with Castagnola's 1860 painting of the Carmelite friar and the Quattrocento painter Filippo Lippi hovering over the nun Lucrezia Buti, might suggest a certain more specialised interest.

Those who study or are practitioners in the current canon law of religious life will note quite a few areas of connection between past and present. One example of this, although perhaps not immediately obvious, is Makowski's judicious use of the old Catholic University of America doctoral dissertations (published under the series 'Canon Law Studies'), particularly those that studied *apostati* (those who left religious life with the intention of not returning) and *fugitivi* (those who sought to withdraw from the authority of superiors without necessarily seeking to abandon religious life altogether). These doctoral dissertations, while they had historical components, were commentaries on the *ius vigens*, the law in force and very much current at the time of their composition. The continuing relevance of the law on those who depart religious life without seeking prior permission to do so is clear from the revision of Canon 694 of the *Code of Canon Law*, promulgated by Pope Francis, adding the dismissal of a member of an order who is 'illegitimately absent' from the community for 12 uninterrupted months and is unreachable (motu proprio *Communis vita*, 19 March 2019). One intriguing difference between past and present, however, has to do with the contrast between cases involving those who made profession in a community which then underwent a reform. In the mediaeval period, numerous petitions were filed by religious seeking to escape from a life that had become far more strict than it had been when the religious entered; in the modern period, particularly the last 50 years, there have been numerous cases filed before the tribunal of the Apostolic Signatura by religious seeking escape from a life that has

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become far *less* strict than it had been when the religious entered. In both cases their new situation was definitely not what the religious had signed on for and, for the most part, the ecclesiastical authorities, then and now, have tended to turn a deaf ear to such complaints.

The oft-quoted opening line of Hartley's 1953 novel *The Go-Between*, 'The past is a foreign country; they do things differently there', definitely comes to mind. The assumption behind the mediaeval law, as well as the procedures for its enforcement, such as the English writ *de apostata capiendo*, was that religious profession was a free gift of oneself, and that once given it was not to be taken back. The vocabulary used had, and has, the sense of permanence: 'renunciation', 'donation', 'sacrifice', 'holocaust', 'consecration', 'oblation', in addition to an explicit indication that a religious is such for the whole of their life. It is not surprising, therefore, that there was no 'exit strategy' for religious life in the Middle Ages, and the various procedures which have grown up in the past two centuries for departures from religious life can only be seen as ways of ducking the issue. But the same can be seen in discussions of the indissolubility of marriage: previous generations took the permanence for granted. To what extent can anyone, in marriage or in consecrated life, say 'until death'?

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## The Right to Do Wrong: Morality and The Limits of Law

Mark Osiel
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Any legal or political observer today knows that the law cannot undertake everything necessary to moral ordering in modern society and that it requires informal supplement at many points by concepts as diverse and socially complex as dishonour, shame, disrepute, reproach, disgrace, opprobrium, humiliation and stigma – to name but a few. These non-legal sanctions can, for good or ill, assume a life of their own. Often they have constituted a society's first line of defence against ethical transgression. As the author of this volume puts it:

> Shared understandings of right and wrong inevitably fail to find their way fully into law, but nonetheless assert themselves – at observable points, in recognisable ways – when we seek to put our entitlements to use and encounter others who believe we act improperly. Ethical considerations