

BOOK REVIEWS

Gianluca BELFIORE, *Il processi di nullità matrimoniale nella riforma di Papa Francesco*, Catania-Troina, Studio Teologico S. Paolo-Grafiser, 2017, 188 pp.

The author of this book, which deals with the judicial activity of the Catholic Church in matrimonial matters, was educated at the University of Catania in Sicily and Ferrara where he obtained a doctorate in constitutional law. While now devoting himself to studies in canon law, he offers a global analysis of the reform introduced by the *Motu proprio Mitis Iudex Dominus Iesus* who changed twenty canons of the book VII of the Code of Canon Law of 1983, both in a perspective of secular jurist and canonist. This dual training allows him to consider the new laws that reform the canonical process as a specialist in public law, noting some relations with the Italian legal order which are not highlighted by other comments (see for example the n°s. 82, 227, 249). The abundant notes provide the necessary insights for those who will work on this subject.

This book, which is one of the first published in Italian on the subject, is divided into five chapters preceded by a preface by Professor Arroba Conde. The first chapter presents the historico-ecclesial context in which the reform is born, that is to say the context desired by Pope Francis in summoning two Synods of bishops in Rome on the theme of the family. Thanks to a comprehensive bibliographic search, the author indicates certain positions which, in legal doctrine and practice, went in the direction of a reform of the law on the lawsuits (p. 7-30) and reveals as some ecclesiastic events immediately preceding the reform which determined the papal decision (p. 31-45). This research (especially with reference to the conformity of the two sentences and to *Dignitas Connubii*) and the reconstruction of the context were done in collaboration with the chair of canon law of the University of Catania, whose professor Orazio Condorelli, a recognized historian, is the holder. Once the context is presented, the author proceeds to the examination of the text, starting from the general aspects and the legislation applicable to all the processes (Chapter II) and

devoting a special chapter to the ordinary trial (Chapter III) and another to the *processus brevior coram Episcopo* (Chapter IV).

The title of the monograph announces that the subject will be about the processes of matrimonial nullity in (*nella*) the reformation of Pope Francis, that is to say, in this broader work of reform which speaks of “pastoral conciliation”, of Church “in exit” towards “the peripheries”. This is why the author considers the idea of proximity as a centrale, clearly mentioned in the preamble of the *motu proprio*, despite the many criticisms that have been expressed and recounted. In this line, he is in favor of a strict interpretation of the diocesan dimension of the administration of matrimonial justice (p. 74-78). It is the shepherd proper to the flock, he says, who cares for his sheep, especially those who are wounded. He can not ask triers for such care that God has laid on his own shoulders as it says in Lk 15, 5. The diocesan dimension is also the proper dimension of the pastoral accompaniment of wounded couples, which must be comprehensible, close and realistic (p. 167).

The author often emphasizes the centrality of the figure of the diocesan bishop-judge in the reform and this makes him take a stand on the “non-delegable” character of the *munus decendi* in the *processus brevior* (p.97), an opinion which has been confirmed by the Pope himself during the audience granted to participants in the course organized by the Roman Rotary Court on November 25, 2017. The Pope declared that the diocesan bishop, by virtue of his pastoral office, is a judge personal and unique in the shorter trial. The figure of the diocesan bishop-judge, he said, is the architrave, the constitutive principle and the discriminating element of the whole shorter process instituted by the two *motu proprio*. Then the pope added that, in this type of trial, two conditions can not be separated, required *ad validitatem*: the episcopal character and the fact of being head of a diocesan community of the faithful (he refers to the canon 381, §2). If one of these two conditions is missing, the shorter trial can not take place. The request must be judged in an ordinary trial because the decision to pronounce *coram Domino* is always and only that of the bishop. The mentioned speech also asserts that entrusting the whole shorter trial to the interdiocesan tribunal (either with a neighboring diocese or several dioceses), would lead to denaturing and reducing the figure of the bishop father and judge of his faithful to a pure signatory of the sentence. A papal affirmation that confirms the position taken and argued by Belfiore (p.121-126).

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The author also presents the view that judicial vicars should be careful in assessing the subjective and objective presuppositions that allow admission to the shorter trial because it must be considered as an extraordinary way. For him, the fact that the nullity is already manifest from the examination of the libel brings out in the words its exceptional character. Similarly, the fact that nullity must be supported by evidence and documents that do not require a longer investigation or instruction therefore limits the scope of its applicability (p. 105). In this regard, the passage documented which deals with art. 14, §1 of the procedural rules concerning the circumstances of fact and of persons who may favor the choice of the celebration of a shorter trial will be of interest (p. 110-120).

In a new section on the subject, the author reconstructs (Chapter V) the reception of the new legislation in Italy, referring to the evolution of the territorial organization of the system of matrimonial trials. The problem is that of the future of judicial organization based on regional courts. G. Belfiore reports and comments on the various contradictory positions assumed by the various organizations of the Holy See, the explicit clarifications provided by the Roman Pontiff with the precision concerning his *mens* of November 4, 2015 and the rescript of December 7, 2015, the two circular letters of the Conference of Italian Bishops and a letter from the Apostolic Signature, as well as the many positions expressed publicly by the Italian Regional Episcopal Conferences and other published documents (p. 137-158).

Lastly, the author who was Chancellor of the Ecclesiastical Tribunal of Syracuse, the first diocesan court having jurisdiction in matrimonial matters in Sicily (p. 137-158), reserved a study apart from this particularly sensitive chapter. According to Belfiore, the valorization of diocesan tribunals in Italy was lacking due to the absence of a clear transitional normative, which would have prevented everything from being handed over to exchanges of letters between bishops and judicial vicars, apostolic tribunals, Pontifical Council for the Legislative Texts, *mens* of the legislator and rescript, and would probably have made it possible to match the Italian matrimonial judicial system to what the *motu proprio* wanted for the diocesan tribunal, model and objective of the ecclesiastical justice of the matrimonial nullity (p. 164).

In the concluding part of this clear, brief and precise book, Belfiore states that the success of the reform will depend to a large extent on the

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operators of the courts. They will have to make their own arrangements, and even more, the principles of reform, to ensure that the service is rendered quickly and truthfully (p. 168). This is all true as the Congregation for Catholic Education published, on April 29, 2018, an Instruction on the training of court operators in the light of the reform introduced by Pope Francis.

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