

BOOK REVIEWS

Velacherry, Alex, *Briefer Judicial Process of Matrimonial Nullity: The Role of the Eparchial/Diocesan Bishop as Personal and Sole Judge in the Reformed Matrimonial Nullity Process of Mitis et Misericors Iesus and Ratio Procedendi*. Dharmaram Canonical Studies 29, Dharmaram Publications, Dharmaram College, Bengaluru, 2022, Pp. xx+ 463.

Pope Francis, brought a reform of the matrimonial procedural regulations related to the declaration of nullity of marriage in the Eastern Churches and in the Latin Church by two *Motu proprio Mitis et misericors Iesus* (MMI) and *Mitis Iudex Dominus Iesus*, (MIDI) respectively, published in 2015 as a concrete response to the anxieties raised by the fathers gathered together in the III extraordinary Synod of Bishops in 2014. Through this reform, Pope Francis sought a juridical solution to the pastoral problems of the divorced and the separated. The goal of this reform was to make a more accessible, faster, less expensive, and simpler tribunal procedure. Through the introduction of a new legal provision, the *briefer matrimonial process before the bishop*, Pope wanted to ensure a faster matrimonial nullity procedure in clearly evident cases. In order to implement it more effectively and to handle it responsibly without any laxism, he entrusted the same to the care of the bishop who is the sole judge in this judicial process. The book, *Briefer Judicial Process of Matrimonial Nullity* is an in-depth study of the theme especially, on the role of the bishop in this process.

The first chapter depicts the genesis of *Motu proprio* MMI and that of the briefer judicial process. The historical scenario behind the genesis of MMI was characterized by the constant request for a faster and simpler matrimonial procedure. This pressing need of the time was sensibly understood by Pope Francis. This first chapter brings out all the details regarding the formation of MMI and MIDI, starting from the pre-synodal discussions, the reflections, and suggestions of the III Extraordinary General Assembly of the Synod of Bishops which is the real source of the reform, and the work of the drafting commission established by the Pope. After a comprehensive study of the formative phase of the briefer judicial process, the author observes that though most of the bishops recommended an extraordinary judicial process or a streamlined summary process, placing the bishop as the judge in such a process was not actually the synodal suggestion. It might be the

choice of the legislator as a guard against the probable laxism of a speedy judgment.

The second chapter, introducing the *Motu proprio* analyses the various changes brought out by the reform, seeking to ascertain the role of the bishop in these changes. The bishop, as the main pastor, who knows best the situation of his wounded faithful is asked to design a structure for the prejudicial or pastoral investigation which is an important mission of pastoral accompaniment to the divorced and separated. Further, this chapter is a scholarly study of the general changes brought out by the new *Motu proprio*, with an elaborative discussion and evaluation of the abolition of the double conformity of sentences for executing a sentence of nullity of marriage. It is to be noted that though this chapter is not directly related to the role of the eparchial bishop in the briefer process, it really gives its reader a comprehensive picture of the changes effected by the reform and it is treated in such a way that it helps the reader to better understand the role of the bishop in the briefer process.

The third chapter brings out all the characteristics of the briefer process and lists the similarities and differences based on the legal antecedents of this provision. The author explains certain legal antecedents of the briefer judicial process like *Lex propria* of STAS, oral contentious process, and the documentary process, etc. This chapter also examines the procedural development of the briefer process up to the decisional phase. The author is critical with his keen observations in evaluating the draft of the new provision. For example, CCEO explicitly provided that we cannot substitute the summary (oral) contentious trial (cc.1343-1356/ CCEO) with the ordinary contentious process, in cases excluded by law, for declaring the nullity of marriage. The defect of consent cases was thus excluded by law. However, through scientific analysis, he points out the fact that this new provision of the briefer judicial process is much more indebted to the provisions of the oral contentious process for its formation. Many of its provisions are exactly similar, not only in contents but even in their wordings too. Despite all these, the author does not fail to expose the novelties and advantages of the new provision.

While evaluating and commenting on the salient features of this process, especially those two pre-requisites, namely, the explicit consent of the parties and the manifest nullity, and also the discussions related to article 14 of RP which simply presents some examples of

circumstances that may point towards a ground of nullity, the author shows his canonical expertise and logical sharpness and they contribute substantially to the canonical literature. So too, while explaining the instruction which is to be completed in a single session and the discussion of the case consisting in the written *animad versiones* of the defender of the bond and the defences of the parties (optional) avoiding the oral discussion and the publication of the proofs, the author is very keen to point out the probable risks that could endanger a fair hearing of the case.

The Fourth chapter is an extensive study, legal and pastoral, concerning the role of the eparchial bishop as a judge in the briefer process. The personal exercise of the judicial function of the bishop as founded on the mandate given to the Apostles by Christ, the historical practice of the first millennium, and the theology of the Second Vatican Council are explained beautifully well to substantiate the idea of the personal exercise of the judicial role of the bishop. More than a choice, it is a grave obligation for him as he is the pastor and the first judge of the eparchial community. The author practically explains the necessity of a genuine commitment that an eparchial bishop should have in the decisional phase of the briefer process to enliven the letter of law. It gives fresh insights and warns against the dangers if the bishop is not serious in his decision-making process.

In concluding the study, as the author elaborates on certain basic presumptions upon which this new provision is founded, those points of concern that may negatively affect the implementation of this legal process and those ambiguities to be cleared. Moreover, the result of the survey made among the tribunals of the Syro Malabar Church is a data-based analysis to know the implementations of the process on the eparchial level.

The primary and secondary sources referred to in the book reveal the authenticity of the author. An extensive list of the bibliography given elucidates the depth of the study. This book would be of very much helpful for the students, teachers, tribunal personnel, and for all those who are interested in Canon Law.

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