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BOOK REVIEW

Papale, Claudio, ed., ***Le nuove norme sui delitti riservati: aspetti sostanziali e procedurali*** **(Quaderni Ius missionale 18), Città del Vaticano, Urbaniana University Press, 2023, 134 pp., € 16,00.**

The book is a collection of six articles, each by a different author, on the norms on the delicts reserved to the Dicastery for the Doctrine of the Faith, which were published on 7 December 2021 and entered into force on the next day. These norms are applicable to the entire Church, that is to say, the Latin as well as Eastern Churches. Except one, all articles are in Italian. These are the papers presented at the X intensive course on delicts reserved to the Dicastery for the Doctrine of the Faith, held on 9-10 May 2022, and organised by the Faculty of Canon Law of the Pontifical Urbaniana University. Besides these six articles, the book contains an introduction by the editor and an Italian translation of these norms in the appendix. Five of the authors are officials of the Dicastery for the Doctrine of the Faith and one is a professor at the Pontifical Urbaniana University. The fact that the articles are written by experts in the field raises the expectation of their reader.

From the book, we can gather a historical overview of those norms. With the motu proprio *Sacramentorum sanctitatis tutela*, on 30 April 2001, John Paul II promulgated the norms on the delicts reserved to the Congregation for the Doctrine of the Faith (CDF), which norms were explained in a letter sent by the CDF to Catholic bishops on 18 May 2001. With the approval of Benedict XVI, a revised version of those norms was published by the Congregation of the Doctrine of the Faith on 21 May 2010. Thus, the norms promulgated with the approval of Pope Francis in 2021 are the third version of those norms. The document contains a list of the delicts reserved to the DDF, and certain norms on the canonical penal process both judicial and extrajudicial.

The first article, by Matteo Visioli, examines the origin, the reasons and the main novelty of the norms published in 2021 (which we can call "SST-2021"). At the beginning, he asks three questions ("What was the path taken? Why was an update considered useful only 11 years after the previous version and twenty after the first? And what are the main innovations that the *Normae* 2021 have brought about?"

p. 7). They help the reader to look for their answers in the article, and put the reader in the context of the reform and the novelty which knowledge is important for an appraisal of other elements of the norms of SST-2021. In the article, he clearly responds to these questions. The article refers to archival material which were used as sources of this study. He states that the revision was made considering the norms given in the *Come una madre amorevole* (2016) and *Vos estis lux mundi* (2019) which guided the revision of the norms. He explains the factors which determined the revision which include the praxis and experience of the CDF, certain lacunae in the norms of 2010 and the modifications made in those norms by certain rescripts, pressure exerted by distinguished studies, and the above-mentioned two documents, etc. Among the novelties of the SST-2021, he adds a more concise and shorter title, the correspondence between the norms and the revision of penal law of CIC, reception of certain modifications in the norms between 2010 and 2021, clear distinction between judicial procedure and extrajudicial one, extension of time-limit, obligation of having an advocate or procurator, clarity on delicts judged by the CDF although not reserved to it, etc. There is some imprecision in the references to numbers of article. For example, the delict against the sanctity of the eucharist is treated in art. 3 of the SST-2021, but the article refers to it as art. 5 (p. 10).

In the second article, Jordi Bertomeu Farnós introduces and analyses art. 20 §7 of the norms which is on the obligation for the accused to have an advocate or procurator (while advocate is a defender, procurator is a representative – both these functions together are held by a legal representative (*patronus*) – p. 23-24). This is a novelty introduced by SST-2021. He explains its meaning interpreting the text of art. 20 §7 in its context, its purpose and the intention of the legislator. He demonstrates how this norm is the result of a process of improvement of procedural law and how it helps to guarantee a more just administrative penal process. The author does not fail to mention the difficulty of finding qualified personnel to be appointed as legal representatives (*patronus*), which he presents as one of the challenges in applying this norm.

In the third article, Claudio Papale examines the novelty in the norm of art. 6 n. 2 on pornographic images of minors. It focuses on the various aspects of the child pornography as it is an object of the norms of SST-2021, taking into account the modified Latin penal law on the same matter and of the VELM, highlighting the similarities

and dissimilarities between these norms. He shows that this norm was absent in the SST-2001, it was introduced into the SST-2010, and improved in the SST-2021; thus, this article goes through the *iter* of the novelty of the norm in question. He explains well the concept of minor pornography from various angles and using different examples.

In the fourth article, Andrea D'Auria examines the norm of art. 6 n. 1 on the ignorance or error on the part of the cleric regarding the age of the minor on whom a cleric commits the delict of sexual act. This is a novelty introduced in the SST-2021. He observes some difference between this norm and the norm of the CIC c. 1323 n. 2 which says "No one is liable to a penalty who, when violating a law or precept: … 2° was, without fault, ignorant of violating the law or precept; inadvertence and error are equivalent to ignorance" (translation is from the website of the Pontifical Gregorian University). In order to explain his point, he begins with the concept of *dolus* in penal law, which he explains as awareness of violating a penal law. Then he explains certain other points as a background for explaining the main point of the article. The author succeeds in bringing out the contrast between the existing general norm according to which ignorance or error can be an extenuating or exonerating circumstance, and the norm of SST-2021 art. 6 n.1 which says the opposite. In addition, he briefly notes the role of the norm of art. 6 n. 1 to impose on the cleric a duty to be extremely careful to avoid a greatly immoral act of committing a sin against chastity, by which he is morally and juridically bound, and in that way an additional help to a cleric who could face such temptations (p. 69-70). However, many examples used in the article to explain the point of invincible ignorance or error do not apply to the case of delict against chastity with a minor, because a cleric already is supposed to know that he is forbidden, not only morally but also juridically (because of his obligation to celibate chastity), to have sexual relationship not only minors but even adults, with the exception of a married pries or deacon with his wife. Perhaps the reason for such a contrary norm rests in that obligation; and thus, it may have been useful to make this point a little more explicit.

In the fifth article, Robert Geisinger studies on the moral certitude and the related problems in the field of the reserved delicts. He points specifically to complexities in praxis in the penal arena. The article is divided into three parts: 1) presentation of eight canons from CIC

which are helpful in determining the approach to be taken by those responsible for assessing whether guilt has been established; 2) a list of twenty-six specific difficulties which may emerge as concern reaching moral certitude; and 3) four case studies and commentary on moral certitude. The author makes it clear that it is not a presentation concerning what constitutes moral certitude. The mention of specific difficulties for reaching moral certitude is useful, especially because they give certain criteria for analysis. The distinction between a delict and a "bad, imprudent, sinful, and even disgusting behaviour", which need not be delict (p. 83), is useful; an act, in order to be considered a delict, has to be codified. Some of those difficulties are illustrated in four case studies and their comments which follow. The article discusses "the obstacles, nuances, influences, pressures, prejudices, realities, interpretations, and ambiguous proofs or accusations which can complicate the assessment of established guilt, or not" (p. 99), in other words the challenges involved in arriving at moral certitude in cases of reserved delicts.

In the sixth article, Krzysztof Cisek presents the delicts against faith (heresy, apostasy and schism) as they are part of the reserved delicts. It briefly presents the canonical doctrine on the delicts against faith and an analysis of different procedural questions. He makes it clear that the delicts against the faith do not fall under the category of more serious delicts. The exposition of the concept of heresy, apostasy and schism is useful to understand the process and the penalty prescribed for them. The article deals with various aspects of the norm on the delicts against faith connecting them with the norms of the codes (CIC and CCEO) which is very useful for a reader.

The book dwells on the novelty of SST-2021 rather than giving an integral commentary on the whole SST-2021. For such a commentary, a reader may have to have to look elsewhere. The articles respond to various questions which a canon lawyer could raise and, in some cases, to certain ambiguities or unclarity which are in the new norms.

Sunny Kokkaravalayil SJ