

Editorial

The choice of Bishops is of utmost importance for the life of the Church because, as successors of the Apostles by divine institution, they play a central role in the hierarchical structure of the Church. The selection of suitable candidates for the episcopal ministry is a matter of vital interest to the entire ecclesial community and is undoubtedly a current issue. Not surprisingly, after the Second Vatican Council, various components of the ecclesial community, including several Bishops and more than one Episcopal Conference, requested an update to the procedure for the designation of episcopal candidates. The press also took an interest, especially following initiatives approved by the competent ecclesiastical authorities intended to allow non-hierarchical entities of the people of God to express their opinion on the pastoral needs of a particular diocese. The issue of selecting episcopal candidates not only garnered media attention but was also the subject of in-depth historical, theological, and legal research, which contributed to illustrating both the constant aspects in doctrinal reflection and practice regarding the designation and election of Bishops, as well as the considerable variety, especially in procedure, between different periods in the Church's history and between the disciplines proper to the Eastern and Western Christian traditions¹.

The article by Mons. Felipe Heredia Esteban, Auditor of the Tribunal of the Roman Rota, falls within the scope of reflections on the role of Bishops as protagonists of the reform desired by Pope Francis, who, addressing the dramatic situation faced by many lay faithful, chose to review the procedure for the declaration of nullity of marriages

¹ Anticipating the Second Vatican Council, Blessed Antonio Rosmini already advocated for the implementation of the maxim of Saint Leo the Great, *Qui praefuturus est omnibus ab omnibus eligatur* ("He who is to preside over all must be elected by all"), emphasizing the importance of the election of those who will hold authority and responsibility involving all those over whom they will exercise that authority. A. Rosmini, *Delle cinque piaghe della Santa Chiesa*, Città Nuova, Roma, 1998, p. 302 (*Appendice. Lettera III. Al Sig. Canonico Giuseppe Gatti Dottore in Teologia, a Casale*).

through two well-known texts, *Mitis Iudex Dominus Iesus* and *Mitis et misericors Iesus*. The reform of the matrimonial process, while reclaiming the essential properties of the sacrament of marriage, sought to bring ecclesiastical justice closer and more agile, explicitly referring to the role of the Bishop in the administration of justice within the context of diocesan family pastoral care, implementing and promoting synodal action in the Church's judicial activity².

Another contribution, which we can read in the light of episcopal co-responsibility, are the reflections of Mons. Jordi Bertomeu Farnós, Official of the Dicastery for the Doctrine of the Faith, addressing the complex issue of combating abuse. Pope Francis has openly addressed the issue of sexual abuse in the Church, recognizing the seriousness of the problem and personally taking responsibility for fighting it. He has established special commissions, met with victims, and promoted concrete measures to prevent future abuses and ensure justice and transparency in handling reported cases. Despite these efforts, many challenges remain because the implementation of policies and repressive and preventive measures varies greatly from one diocese to another and from one country to another, highlighting the need for a more coherent and global approach, respecting all parties involved in these procedures.

Synodality also requires the conversion of judicial structures, among which are the ecclesiastical tribunals, which must necessarily be integrated into the ordinary pastoral care of dioceses to provide a true service of judicial pastoral care, performed in obedience to the jurisprudential unity reaffirmed in art. 200 § 1 of the Apostolic Constitution *Praedicate Evangelium* of March 19, 2022. In its exercise, the ecclesiastical tribunal is called to collaborate in pastoral activity, offering the faithful «a specialized, efficient, qualified, and transparent service provided by prepared staff and competent, expert, and welcoming judges»³. The contribution of Rev. Paolo Lobiati, Judge of the Regional Ecclesiastical Tribunal of Lombardy in Italy, starting from the significant increase in cases of matrimonial nullity based on a grave defect of discretion of judgment,

² A. Arellano Cedillo, *L'agire sinodale nell'attività giudiziaria della Chiesa*, in H. Franceschi and A. Sammassimo, *Sinodalità e processo canonico*, Libreria Editrice Vaticana, Città del Vaticano, 2023, pp. 9-20.

³ *Ibidem*, p. 12.

retraces the evaluation criteria of the so-called “seriousness” that characterizes this type of incapacity to consent, conducting his reflections in light of the doctrine and jurisprudence of the Tribunal of the Roman Rota.

Benedict XVI, on the occasion of the address of January 26, 2008, reminded that *«Rotal jurisprudence should be seen as an exemplary work of juridical wisdom carried out with the authority of the tribunal stably constituted by the Successor of Peter for the good of the entire Church»*⁴; and exhorting to pray for the Tribunal of the Roman Rota, he recalled that through the Tribunal of the Roman Rota *«the Bishop of Rome exercises his primatial concern for the administration of justice in the entire People of God»*⁵. The reflections of the beloved recently deceased emeritus pontiff guide us in presenting the jurisprudence section of this volume, which opens with the address of Pope Francis to the Tribunal of the Roman Rota of January 27, 2023, this year aimed at emphasizing the importance of rediscovering the permanent meaning of marriage, a true bond of love, a precious reality for the spouses themselves, for their children, for the families with whom they are related, for the whole Church, and for all humanity.

The sentence proposed in this issue is by Mons. Francesco Viscome, Auditor of the Roman Rota, addressing the issue of the invalidity of marital consent from the perspective of the defect of discretion of judgment and the incapacity to assume the essential obligations of marriage according to can. 1095 nn. 2-3 in a decision of November 6, 2020. Although it concerns a marriage celebrated under the Pian-Benedictine Code, the Ponente evaluates it according to the current normative provisions in line with the common and constant Rotal jurisprudence that in this case applies the new Code even to marriages contracted under the old Code since can. 1095 expresses principles of natural law implicitly contained even in the repealed codicial text. The sentence is followed by a brief note by myself, intending to make it more immediately accessible to legal practitioners.

I take this opportunity to extend, on behalf of the editorial team of the Journal, our most filial wishes to His Excellency Mons.

⁴ Benedictus PP. XVI, *Ad omnes participes Tribunalis Romanae Rotae die 26 Ianuarii a. 2008*, in *Acta Apostolicae Sedis* 100 (2008), p. 87.

⁵ *Ibidem*, p. 88.

Denilson Geraldo SAC. On January 25, 2023, His Holiness Pope Francis appointed him Auxiliary Bishop of Brasília, conferring on him the title of Lamsorti. On April 15 of this year, he was consecrated in the Cathedral of Christ the King of Cornélio Procópio by his Pallottine confrere, His Excellency Mons. Júlio Endi Akamine SAC, Archbishop of Sorocaba, assisted by His Eminence Cardinal Paulo Cezar Costa, Metropolitan Archbishop of Brasília, and His Eminence Cardinal Odilo Scherer, Metropolitan Archbishop of São Paulo. This journal would never have been born without the will and guidance of Mons. Denilson Geraldo, who tirelessly directed it until 2022. We pray that the Holy Spirit may accompany and support him in this new apostolic mission, and I personally trust that he will not fail to be paternally close to me in the role of director of the Journal, a position entrusted to me from this issue onwards.

Vincenzo Fasano