

A DIECI ANNI
DALLA PROMULGAZIONE
DEL MOTU PROPRIO
MITIS IUDEX DOMINUS IESUS

I processi breviores di nullità matrimoniale al Tribunale
Interdiocesano Flaminio

Massimo Mingardi

Sommario

Il contributo presenta l'esperienza di applicazione del processus brevior di nullità matrimoniale in un tribunale locale, offrendo alcuni dati statistici circa questi processi e alcune scelte effettuate per la loro trattazione; si evidenziano poi i vantaggi e le problematicità emerse, suggerendo infine di procedere a una verifica della normativa in proposito dopo ormai dieci anni di attuazione.

Parole chiave: nullità matrimoniale; processus brevior; Mitis Iudex Dominus Iesus.

Summary

The Processus Brevior in Marriage Cases at the Flaminian Inter-diocesan Tribunal

This paper presents the experience of applying the processus brevior in matrimonial cases in a local tribunal, offering statistical data about these processes as well as some choices that were made in treating them. The advantages and problems that emerged are highlighted, and suggesting at its conclusion how to proceed with an evaluation of legislation in

this regard after ten years of implementation.

Keywords: nullity of marriage; processus brevior; Mitis Iudex Dominus Iesus.

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El processus brevior en el Tribunal Metropolitano de Madrid. A los diez años del Mitis Iudex Dominus Iesus

Roberto Serres López de Guereñu

Sumario

El artículo estudia el modo en el que ha sido comprendido y aplicado por el Tribunal Eclesiástico Metropolitano de Madrid el processus brevior, que constituye la novedad más relevante introducida por el motu proprio Mitis Iudex Dominus Iesus, de cuya promulgación y entrada en vigor se cumplen ahora diez años. La actividad del Tribunal Metropolitano de Madrid pone de manifiesto el carácter excepcional del proceso breve, cómo se han aplicado las peculiaridades propias de esta forma procesal y sobre todo cómo se ha entendido la consistencia del soporte probatorio de los hechos expuestos en la demanda, y que debe ser también indicado en la misma demanda, de manera que no se requiera una instrucción más precisa.

Palabras clave: processus brevior; aplicación de la forma procesal; soporte probatorio.

Summary

The processus brevior in the Metropolitan Ecclesiastical Tribunal of Madrid. Ten years after Mitis Iudex Dominus Iesus

This article studies the way in which the Metropolitan Ecclesiastical Tribunal of Madrid has understood and applied the *processus brevior*, which constitutes the most relevant modification introduced by the *motu proprio Mitis Iudex Dominus Iesus*, whose promulgation and entry into force occurred ten years ago. The activity of the Metropolitan Tribunal of Madrid highlights the exceptional nature of the brief process, how the peculiarities of this procedural form have been applied and, above all, how the consistency of the evidentiary support of the facts set out in the application has been understood (which must also be indicated in the petition itself), so that a more precise instruction is not required.

Keywords: *processus brevior*; application of the procedural form; evidentiary support.

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A 10 años
del *Mitis Iudex Dominus Iesus*
en la archidiócesis de Santiago, Chile

Cristián Montes Ortúzar

Sumario

A diez años del *Mitis Iudex Dominus Iesus*, este artículo analiza críticamente su aplicación en la arquidiócesis de Santiago. Se destacan avances como la agilización procesal y la gratuidad, junto con desafíos prácticos en el proceso breve, formación de jueces y rol efectivo del obispo en la administración de justicia.

Palabras clave: *Mitis Iudex Dominus Iesus*; proceso breve;

tribunal de la arquidiócesis de Santiago de Chile.

Summary

10 years of *Mitis Iudex Dominus Iesus* in the Archdiocese of Santiago, Chile

Ten years after *Mitis Iudex Dominus Iesus*, this article critically analyzes its application in the Archdiocese of Santiago. It highlights advances such as procedural streamlining and gratuity, along with practical challenges in the brief process, the formation of judges, and the bishop's effective role in the administration of justice.

Parole chiave: *Mitis Iudex Dominus Iesus*; briefer process; tribunal of the archdiocese of Santiago de Chile.

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LA RATIO ESSENDI DEL DELITO: HACIA UNA REINTERPRETACIÓN DEL OBJETO DE TUTELA PENAL DESDE LA PERSONA*

Marcelo Gidi, S.J.

Sommario

El artículo examina el concepto de “objeto jurídico” del delito, basado en la idea de que todo delito protege “algo” que pertenece a “alguien”. Se contrastan dos teorías: la de los derechos subjetivos, que concibe el delito como una violación de un derecho individual; y la del bien jurídico, dominante en

la doctrina, que lo interpreta como una lesión al orden público. Esta última ha relegado a la víctima a un papel marginal, reduciéndola a mera espectadora. El artículo propone una relectura que reintegre a la persona humana como centro del derecho penal, reconociendo la violación del derecho subjetivo como el núcleo de la ofensa, especialmente en los delitos con víctima. Este enfoque implica consecuencias significativas: el delito debe entenderse como una ofensa tanto al orden social como a los derechos individuales; en el proceso penal, la víctima debería asumir un papel activo y gozar de legitimación procesal, pudiendo activar la jurisdicción y obtener una tutela judicial efectiva; en la determinación de la pena, la lesión al derecho subjetivo de la víctima debería tener un peso considerable, orientando la sanción hacia una función reparadora y garantista.

Palabras clave: delito; persona; derechos subjetivos; bien jurídico; víctima; derecho canónico; proceso penal; pena; justicia restaurativa; tutela.

Summary

The ratio essendi of the Crime: Toward a Reinterpretation of the Object of Criminal Protection from the Perspective of the Person

This article explores the “legal object” of crime, based on the idea that offenses protect “something” that belongs to “someone.” It contrasts two theories: subjective rights, viewing crime as a violation of individual rights; and legal good, dominant in doctrine, defining crime as harm to public order. The latter marginalizes the victim. The article proposes an integrative view that re-centers the human person, especially in crimes with individual victims, where the core

harm is to a specific right. This approach entails important implications: crime must be understood as an offense both to social order and to individual rights; in criminal proceedings, the victim should transition from a mere witness to an active party with procedural standing, able to trigger jurisdiction and obtain effective judicial protection; in sentencing, the violation of the victim's subjective right should meaningfully influence the outcome, guiding the sanction toward a restorative and rights-based function, consistent with the principles of restorative justice.

Keywords: crime; person; subjective rights; legal good; victim; canon law; criminal process; penalty; restorative justice; protection.

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N O T A E

PORNOGRAFIA E CONSENSO MATRIMONIALE.

La fruizione di pornografia oggi e il suo influsso sul consenso
matrimoniale canonico.

Un aggiornamento

Emanuele Albanese

Sommario

A distanza di più di dieci anni dalla pubblicazione dello studio dottorale sull'influsso della fruizione patologica di pornografia in coloro che contraggono matrimonio, l'articolo propone un aggiornamento sulla questione con una rapida esposizione

della più recente ricerca scientifica a livello psicologico e psichiatrico, e della dottrina canonistica sul tema. Si propone poi una rassegna delle recenti decisioni rotali che hanno trattato in modo significativo la tematica, con alcune considerazioni dal punto di vista probatorio ricavabili dalla disamina delle sentenze analizzate.

Parole chiave: matrimonio; dichiarazione di nullità; pornografia; incapacità psichica; consenso matrimoniale; dipendenza comportamentale.

Summary

Pornography and matrimonial consent. The use of pornography today and its influence on canonical matrimonial consent. An update

More than ten years after the publication of a doctoral study on the influence of pathological pornography usage on those who intend to contract marriage, this article offers an update on the issue with a summary exposition of the most recent scientific research on both the psychological and psychiatric levels and of the canonical doctrine on the subject. The article then offers a review of the recent Rotal decisions that have significantly addressed the issue, with some considerations from the evidentiary point of view that can be drawn from the examination of the sentences analyzed.

Keywords: marriage; declaration of nullity; pornography; psychic incapacity; marital consent; behavioral addiction.