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Marriage and canonical process in the digital era *

SUMMARY: 1. The Church and the technological revolution - 2. Digital family and "liquid" relationships - 2.1 Internet and social networks: "knowledge" of young couples and marriage celebration - 3. Internet, new technologies and "digital" evidence in the process for matrimonial nullity - 4. Has the time come for the remote canonical process? - 5. Conclusions.

ABSTRACT: The article proposes to deepen the role of digital technologies' effects on religious culture and on canonical substantive and procedural matrimonial law. The family is confronted with the digital revolution and the *cyberfamily* represents a demanding challenge also for the Catholic Church, which has always been committed to fostering solid relationships that unfold along existential projects that allow the opening to generativity and oblativity. Starting from the profiles related to its genesis, passing through the celebration and up to the couple's crisis and the judicial intervention, the family - and the law - has to deal with the new technologies and with the "network". The article explores the relationship between marriage nullity and digital technology with regard to the evidence system of the canonical process and presents a proposal for a "protocol", also considering some experiences emerged in the pandemic period, for the remote execution of the sessions of a canonical process of marriage nullity.

1 - The Church and the technological revolution

The interest of the Church in the internet and the digital world represents a peculiar aspect in the attention it has reserved to the means of communication in general. In the document of the Pontifical Council for Social Communications titled "*Chiesa e Internet*" (*Church and internet* t.n.) dated 22 February 2002¹, the means of communication are considered as

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the result of the historical scientific proceeding, by means of which, humanity has managed to evolve more and more in the discovery of the resources and values enclosed in the whole of Creation², persuaded with the knowledge that the means of communication are, as the II Vatican Council had already affirmed in the declaration *Inter mirifica*³, “wonderful technological discoveries”⁴ which, despite doing so much in order to satisfy the human needs, may still do more. The implications that the internet might have had for religion and, particularly, for the Catholic Church were already addressed in the 2002 document, whereas, the ethics of the digital issues were, instead, deferred to another document that was published on the same day, titled “*Etica in Internet*”⁵ (Ethics within the Internet, T.N.). The documents recalled were preceded, in 1995, by the launch of the Vatican’s website⁶, in 1996 by the launch of the Italian Episcopal Conference’s one⁷. The latter had established a National Information Technology Service in 1990⁸. During those years, catholic websites were spontaneously flourishing; especially those linked to associations, movements, religious dioceses and parishes⁹. In 2001, Saint John Paul II sent the Apostolic Exhortation “*Ecclesia in Oceania*”¹⁰ to the

¹ PONTIFICAL COUNCIL FOR SOCIAL COMMUNICATIONS, *La Chiesa e internet*, 22 February 2002, in *www.vatican.va*.

² Cfr. PONTIFICAL COUNCIL FOR SOCIAL COMMUNICATIONS, Pastoral Instruction *Aetatis Novae*, on social communications on the 20th anniversary of the *Communio et progressio*, 22 February 1992, in *www.vatican.va*, n. 4.

³ SECOND VATICAN ECUMENICAL COUNCIL, Decree *Inter mirifica*, on the means of social communications, in *AAS*, 61, 1964, pp. 145-157.

⁴ *Inter mirifica*, n. 1.

⁵ PONTIFICAL COUNCIL FOR SOCIAL COMMUNICATIONS, *Etica in internet*, 22 february 2002, in *www.vatican.va*

⁶ *www.vatican.va*.

⁷ *www.vatican.va*.

⁸ Nowadays, as St John Paul II recalled, when speaking of the mass media, it is not enough to use them to spread the Christian message and the Magisterium of the Church, but the message itself must be integrated into this new culture created by modern communication. This is a complex problem, since this culture stems, even before the contents, from the very fact that there are new ways of communicating with new languages, new techniques and new psychological attitudes. (cf. Encyclical Letter *Redemptoris missio*, 7 december 1990, in *AAS*, 83, 1991, n. 37).

⁹ Cf. A. GIRAUDDO, *Comunicazione e opinione pubblica nella Chiesa nell'epoca digitale*, in *Quaderni di diritto ecclesiale*, n.1, 2008, p. 51 ss.

¹⁰ GIOVANNI PAOLO II, Post-synod Apostolic Exhortation *Ecclesia in Oceania*, 22 November 2001, in *AAS*, 94, 2002, pp. 361-428.



worshippers in the Australian dioceses via e-mail. In the Message for the Social Communications World Day of 2002 titled *“Internet: A New Forum for Proclaiming the Gospel”*¹¹ some stimulating and prophetic research and reflection avenues were offered, in the constant attention to the historic changes that, over the centuries, had lead the Church *“to cross many cultural thresholds, each of which called for fresh energy and imagination in proclaiming the one Gospel of Jesus Christ”*¹². Thinking about the effects of the internet and to the new cultural context that the new advancing technologies were establishing in the field of communication and information, as well as in that of tradition and relationships, it was underlined that the Church was definitely on the crucial verge of the cyberspace¹³. To understand, to interpret and to give value to the Internet culture was the challenge that the Church was also called to undertake, despite the obvious mixture of perils and promises¹⁴. In the same message, some paths were indicated in order for the Church to act on the Internet, such as: to favor the passage from the virtual world to the community affinity, to offer documentation, training and catechesis courses; to draw near those who were far away from the religious experience, albeit specifying that *“electronically mediated relationships can never take the place of the direct human contact”*¹⁵.

The Catholic Church has been presumably the first religious institution to embrace the Internet, to create a website and to dictate an official policy regarding the use of the internet for the members of its community¹⁶. The digital tools and media have become a central point of critical attention for the Church, and, very often, the Messages of the Social Communications Days¹⁷ have revolved around the topic of digital communication¹⁸; eventually getting to the activation of the twitter account *Pontifex* in nine languages, which has 50 million followers; to the reorganization of the whole communication system of the Roman Curia,

¹¹ GIOVANNI PAOLO II, *Message for the World Communications Day*, 12 May 2002, in *www.vatican.va*.

¹² Cf. n. 1.

¹³ Cf. n. 2.

¹⁴ *Ibidem*.

¹⁵ Cf. n. 5.

¹⁶ Cf. H. CAMPBELL, *Digital Religion: Understanding religious practice in new media worlds*, Routledge, London, 2012, p. 90.

¹⁷ Available at the link: <https://www.comunicazione.va/it/magistero/messaggi-gmcs.html>.

¹⁸ Cf. the Messages of the years 1989, 1996, 1999, 2002, 2009, 2014, 2016, 2019.



with the institution of the Dicastery for Communication¹⁹, in which the digital communication tools have a specific role; to the promulgation of the Apostolic Constitution *Vultum Dei quaerere*²⁰ in which is handled the topic of the use of social networks from nuns and cloistered nuns.

Internet has modified the proclamation modalities of the ecclesiastic laws²¹, despite the Canon Law Code is still limited to a sole regulatory reference directed to the new social communication means²². More recently, the attention to the digital world has been the object of attention in both the *Nuovo Direttorio per la Catechesi (New Catechesis Regulation)*

¹⁹ The Dicastery for Communication was established by Pope Francis with an Apostolic Letter dated 27 June 2015, in the form of a motu proprio, The present communicative context, initially under the name of Secretariat for Communication. Following the Rescripte *ex audientia* dated 27 February 2018, the Holy Father decided for the change of the name from Secretariat for Communication to Dicastery for Communication. The Dicastery is entrusted with the communication system of the Holy See, integrating "all the realities that, in different ways, have so far been involved in communication", in order to "respond even better to the needs of the Church's mission". With this restructuring, the Apostolic See is using the Dicastery as a unitary reference point for communication processes, which are increasingly complex and interdependent in today's media scenario. The following entities have joined the Dicastery: the Pontifical Council for Social Communications, the Holy See Press Office, the Vatican Printing Office, the Photographic Service, L'Osservatore Romano, the Vatican Publishing House, Vatican Radio, the Vatican Television Centre and the Vatican Internet Service. With the aforementioned Motu Proprio, the new Dicastery took over the Twitter service of the Supreme Pontiff (@pontifex) and the institutional website of the Holy See (www.vatican.va). It is also entrusted with the management of the Pope's Instagram channel @franciscus and other new presences in the media and the social networks of the Supreme Pontiff. The Dicastery for Communication, according to the Statute dated 6 september 2016, is also divided into the following Directorates: Directorate for General Affairs, Editorial Directorate, Directorate of the Holy See Press Office, Technological Directorate, Theological Pastoral Directorate. Cfr. FRANCIS, Apostolic Constitution *Praedicate Evangelium*, 19 March 2022, in www.vatican.va, arts. 183-188.

²⁰ FRANCIS, Apostolic Constitution *Vultum Dei quaerere*, 29 June 2016, in AAS, 108, 2016, pp. 835-861.

²¹ Cf. F. GRAVINO, *Leggi ecclesiastiche e pubblicazione digitale. Le nuove frontiere della promulgazione nel diritto canonico*, in *Stato, Chiese e pluralismo confessionale*, online journal (<https://www.statoechiese.it>), n. 15, 2021, pp. 47-71.

²² CIC, can. 822: "§ 1. *Ecclesiae pastores, in suo munere explendo iure Ecclesiae proprio utentes, instrumenta communicationis socialis adhibere satagant. § 2. Iisdem pastoribus curae sit fideles edocere se officio teneri cooperandi ut instrumentorum communicationis socialis usus humano christianoque spiritu vivificetur. § 3. Omnes christifideles, ii praesertim qui quoquo modo in eorundem instrumentorum ordinatione aut usu partem habent, solliciti sint operam adiutricem actioni pastoralis praestare, ita ut Ecclesia etiam his instrumentis munus suum efficaciter exercent*".



edited by the Pontifical Council for Promoting the New Evangelization²³, which has dedicated an in-depth study to the digital culture, which is perceived more and more as real by its users, highlighting its potential and its perils (the “dark side” that can lead to loneliness, manipulations, violence and cyber bullying) and in the new *Vademecum Ecumenico*, edited by the Pontifical Council for Promoting Christian Unity²⁴, in which it was affirmed that “the internet is increasingly the means through which the face of the Church is perceived by the world”²⁵ and, in this respect, the catholic presence in the digital world must clearly demonstrate the regard that the worshippers have for the brothers and sisters of other churches, both Christian and non-Christian²⁶.

Finally, the digital drive has undergone an acceleration of the pandemic event²⁷ during which the Internet has become a new “liturgical space”²⁸, and the worship life has been transferred from the liturgical alleys to the virtual rooms/channels, or to the social networks. The People of God have “promoted” the employment of digital tools within the ecclesiastic communities²⁹ and the transmission system of the religious

²³ Cf. **PONTIFICAL COUNCIL FOR PROMOTING THE NEW EVANGELIZATION**, *Directory for Catechesis*, 23 march 2020, Libreria Editrice Vaticana, Vatican City, 2020.

²⁴ Cf. **PONTIFICAL COUNCIL FOR PROMOTING CHRISTIAN UNITY**, *The Bishop and Christian Unity: An Ecumenical Vademecum*, 5 June 2020, in www.christianunity.va.

²⁵ Cf. n. 14.

²⁶ *Ibidem*.

²⁷ Cf. **P. PALUMBO**, *Digital religious celebrations during and after the Covid-19. Limits and opportunities for regulation*, in *Stato, Chiesa e pluralismo confessionale*, cit., n. 17, 2021, pp. 77-95.

²⁸ Cf. **L.M. GUZZO**, *Il web può essere uno spazio liturgico?*, in *Moralia blog*, 8 april 2020.

²⁹ Cf. data of the survey “Religious freedom and faith at the time of Covid-19”. The survey was promoted by the “Giustino Fortunato” University, of Benevento, in cooperation with the Department of Law of the University of Campania “Luigi Vanvitelli” and the Department of Canon Law of the Pontifical Theological Faculty of Southern Italy (Section St. Thomas Aquinas) and the research team was composed of teachers Paolo Palumbo (Coordinator), Raffaele Santoro, Elvira Martini, Antonio Foderaro, Edoardo Scognamiglio and Salvatore Forte. The survey involved a total of 4,032 respondents. About 70% of the participants were women; the most commonly represented status was “married with children” (54.44%), immediately followed by “unmarried laic person” (25.89%). More than 50% of those interviewed declared that they had a direct pastoral commitment and were in the age group 51-70 and above; about 70% of participants declared themselves to be assiduously practicing Catholics. Cf. **P. PALUMBO**, *Libertà religiosa, lockdown della fede e celebrazioni digitali*, in R.A. SMOLLA, L. ALBINO (ed.), *Diritto ed economia nello Stato di emergenza. Mutamenti strutturali nella (della) realtà sociale*, Wolters Kluwer-Cedam, Milan, 2021, pp. 247-256; **ID.**, *Libertà religiosa e fede al*



functions/activities on TV or social media, which have favored, in time of tough restrictions, the communion between the worshippers and the feeling of being “Church”.

The internet in religious creeds, though, was already popular, and many religious groups, in order to spread the knowledge of their worship, have been using the digital tools and religious apps for years³⁰, up to reaching cutting-edge experiences of virtual religious communities³¹ animated by robot priests³², the worshippers of which only meet in 2.0 churches³³.

The Catholic Church has long recognized the importance of the new digital technologies and how they produce effect on the religious culture³⁴, and, more generally, on society, since:

“It is an ever more commonly held opinion that, just as the Industrial Revolution in its day brought about a profound transformation in society by the modifications it introduced into the cycles of production and the lives of

tempo del Covid 19, in I. D’AMBROSIO, P. PALUMBO (ed.), Diritto, Economia e società dopo la pandemia, Editoriale scientifica, Naples, 2021, pp. 279-318.

³⁰ Cf. **R. SANTORO, F. GRAVINO**, *Internet, culture e religioni. Spunti di riflessione per un web interculturale*, in *Stato, Chiese e pluralismo confessionale*, cit., n. 20, 2020, pp. 99-118.

³¹ H.A. Campbell is one of the leading scholars of the so-called *Digital religion*; E. Larsen has been studying the *Cyber faith*. Cf. **C. HELLAND**, *Online Religion as Lived Religion. Methodological Issues in the Study of Religious Participation on the Internet*, in *Online Heidelberg Journal of Religions on the Internet*, n. 17, 2005, p. 1 ss.

³² Mindar, the Buddhist robot minister.

³³ VR Church, the first virtual reality church

³⁴ Cf. **FRANCIS**, *Address to participants in the plenary assembly of the Pontifical Council for the Laity*, 7 December 2013, in *www.vatican.va*: «The internet is a widespread and complex ever evolving reality, and its development raises the perennially relevant question of the relationship between faith and culture. Already, during the early centuries of the Christian era, the Church wanted to measure up to the extraordinary legacy of the Greek culture. Faced with philosophies of great depth and an educational method of exceptional value, though steeped in pagan elements, the Fathers chose not to close themselves off to comparison nor did they compromise with certain ideas contrary to the Faith. Instead, they were able to recognize and assimilate concepts of a higher order, transforming them from within by the light of the Word of God. They implemented what St Paul asked: “test everything; hold fast what is good” (1 Thess 5:21). Amid the opportunities and dangers of the internet, we need to “test everything”, knowing that we will certainly find fake coins, dangerous illusions and traps to avoid. But, guided by the Holy Spirit, we will also discover precious opportunities for leading men and women to the luminous Face of the Lord».



workers, so today the radical changes taking place in communications are guiding significant cultural and social developments”³⁵.

The presence of the various ecclesial expressions in the wide world of the internet is certainly a positive fact, but digital culture goes way beyond that. It touches the root of the anthropologic issue. Digital technology has become the environment to inhabit, an extension of the human mind, a way that intertwines with the real world and that has entailed a real social restructuring of the human experience, deeply restating the creation of new identities and relationships that result to be more and more “liquid”³⁶, but that, way too often, do not build a real “us”, instead, they usually dissimulate and amplify that same individualism which expresses itself in xenophobia and in the loathing of the weak³⁷ risking to exploit our weakness and bring out the worst in people³⁸. It is necessary, then, to assume behaviors that manifest the responsibility of the worshippers, and a communication style that is able to best interpret the challenges of the digital world:

«Emails, text messages, social networks and chats can also be fully human forms of communication. It is not technology which determines whether or not communication is authentic, but rather the human heart and our capacity to use wisely the means at our disposal. Social networks can facilitate relationships and promote the good of society, but they can also lead to further polarization and division between individuals and groups. The digital world is a public square, a meeting-place where we can either encourage or demean one another, engage in a meaningful discussion or unfair attacks. [...] The internet can help us be better citizens. Access to digital networks entails a responsibility for our neighbor whom we do not see but who is nonetheless real and has a dignity which must be respected. The internet can be used wisely to build a society which is healthy and open to sharing. Communication, wherever and however it takes place, has opened up broader horizons for many people. This is a gift of God which involves a great responsibility. I like to refer to this power of communication as “closeness”»³⁹.

³⁵ **BENEDICT XVI**, *Truth, Proclamation and Authenticity of Life in the Digital Age*, Message for the 45th World Communications Day, 5 June 2011, in *www.vatican.va*.

³⁶ In the words of the Polish philosopher and sociologist Zygmunt Bauman.

³⁷ Cf. **FRANCIS**, Encyclical letter *Fratelli tutti*, on fraternity and social friendship, 3 October 2020, in *www.vatican.va*, n. 43

³⁸ Cf. **CONFERENCE OF THE CATHOLIC BISHOPS OF AUSTRALIA**, *Making it real: genuine human encounter in our digital world*, November 2019, n. 5.

³⁹ **FRANCIS**, *Communication and Mercy: A Fruitful Encounter*, Message for the 50th World Communications Day, 24 January 2016, in *www.vatican.va*.



2 - Digital family and “liquid” relationships

Even the family, intended as institution, has found itself, and still is, facing the digital revolution⁴⁰, so much as to be able to define the family as basically a computerized society: family is where a computer is⁴¹. Virtual reality has entered the family and constitutes, today, an inseparable aspect of it. The pressure exercised by the framework of information and digital has radically changed the ways in which people perceive reality, elaborate fantasies, think and act in their social and affective relationships. The 2017 CISF report on the family in Italy⁴² has identified four types of families in relation to the use of ICT (marginal, forced, adapted or hybridized). Particularly, the *hybridized family* is a different form of a relational nature, which does not enhance the connections amongst the members of a family, since; the fact of being always connected does not always mean to be in a relationship. Authors such as Tonino Cantelmi⁴³ talk about the technoliquid family, in which the digital revolution and the digital transformation of reality intercept, glorify, and shape some features of the liquid being: narcissism, velocity, ambiguity, the research of emotions and the need to entertain limitless light-hearted relationships. Starting from these observations, in the 2020 CISF Report⁴⁴, Cantelmi himself underlines:

“Se l’identità è liquida, anche il legame interpersonale diventa liquido, cangiante, mutevole, individualista e dunque fragile. L’uomo del terzo millennio sembra rinunciare alla possibilità di un futuro e sembra concentrarsi sull’unica opzione possibile, quella del presente occasionale, del momento, dell’istante [...] Nell’epoca di Facebook, l’identità si virtualizza, come anche le emozioni, l’amore e l’amicizia [...] Ecco dunque la metamorfosi della famiglia”⁴⁵.

⁴⁰ Cf. E. MARTINI, P. PALUMBO, R. DE LUCA PICIONE, *Modern Family: between tradition and new (post-family) narratives*, in *International Journal of psychoanalysis and Education*, 2, 2020, pp. 38 - 49.

⁴¹ Cf. P. DONATI, *La famiglia nella società relazionale. Nuove reti e Nuove regole*, FrancoAngeli, Milan, 1991, p. 335.

⁴² Cf. CENTRO INTERNAZIONALE STUDI FAMIGLIA, *Le relazioni familiari nell’era delle reti digitali*, San Paolo, Cinisello Balsamo, 2017.

⁴³ Cf. T. CANTELMi, *Tecnoliquidità. La psicologia ai tempi di internet: la mente tecnoliquida*, San Paolo, Cinisello Balsamo, 2013.

⁴⁴ Cf. CENTRO INTERNAZIONALE STUDI FAMIGLIA, *La famiglia nella società post-familiare*, San Paolo, Cinisello Balsamo, 2020.

⁴⁵ T. CANTELMi, *La famiglia tecnoliquida: decostruzione dei legami e metamorfosi dell’amore*, in CENTRO INTERNAZIONALE STUDI FAMIGLIA, *La famiglia nella società post-familiare*, cit., pp. 223-224; cfr. ID., *Relazioni tecno liquide: l’amore e l’amicizia ai tempi*



The *cyberfamily* represents an important challenge even for the Church, which has always worked to favor solid relationships, which unfold along existential projects that allow the opening toward generativity and total self-donation. Instead, today's reality seems to witness an exasperated individualism triumph in families⁴⁶, as well as a culture of what is temporary⁴⁷, which shows symptoms:

«of the speed with which people move from one affective relationship to another. They believe, along the lines of social networks, that love can be connected or disconnected at the whim of the consumer, and the relationship quickly "blocked"»⁴⁸

arriving to the point of dismantling the concept of intimacy. However, the digital technologies are certainly able to offer positive prospects to the families that have to be conveniently enhanced:

“The educational process that occurs between parents and children can be helped or hindered by the increasing sophistication of the communications and entertainment media. When well used, these media can be helpful for connecting family members who live apart from one another. Frequent contacts help to overcome difficulties”⁴⁹.

It must always be clear that- Pope Francis continues - that virtual reality can never substitute or replace

«the need for more personal and direct dialogue, which requires physical presence or at least hearing the voice of the other person. We know that sometimes they can keep people apart rather than together, as when at dinnertime everyone is surfing on a mobile phone, or when one spouse falls asleep waiting for the other who spends hours playing with an electronic device. This is also something that families have to discuss and resolve in ways which encourage interaction without imposing unrealistic

della rivoluzione digitale, in **AA. VV.**, *Matrimonio e processo: la sfida del progresso scientifico e tecnologico*, Libreria Editrice Vaticana, Vatican City, 2016, pp. 263-272. The author asserts: «C'è da chiedersi se non potrebbe essere proprio il recupero della dimensione spirituale ad accompagnare l'uomo post moderno verso una nuova ultramodernità dell'umano [...] In piena epoca tecno liquida l'amicizia e l'amore, nella loro autenticità, potranno sopravvivere al "click" del mouse e dei loro sucedanei attraverso il recupero di dimensioni estetiche e spirituali rinnovate, capaci di restituire l'umanità all'essere umano» (p. 271).

⁴⁶ Cf. **FRANCIS**, Post-synod apostolic exhortation *Amoris laetitia*, on love in the family, 19 March 2016, in *AAS*, 108, 2016, n. 33.

⁴⁷ *Ivi*, n. 39.

⁴⁸ *Ibidem*.

⁴⁹ *Ivi*, n. 278.



prohibitions. In any event, we cannot ignore the risks that these new forms of communication pose for children and adolescents; at times they can foster apathy and disconnect from the real world. This “technological disconnect” exposes them more easily to manipulation by those who would invade their private space with selfish interests»⁵⁰.

2.1 - Internet and social networks: "knowledge" of young couples and marriage celebration

Starting from the profiles related to its origin, passing through the celebration and up to the couple crisis till the judiciary intervention, family must confront itself with the new technologies and with the “net”. The Preparatory Document to the Youth Synod stated:

“it is very important to focus on how the experience of technologically mediated relations might structure the conception of the world, reality and interpersonal relationships. On this basis, the Church is called upon to evaluate her pastoral activity, which needs to develop an appropriate culture [...] has been previously mentioned, the world of the new media deserves special attention, since, especially in the case of younger generations, it really occupies a major place in their lives. The new media offer many new opportunities, especially with regard to access to information and creating relations with those in distant places. However, they also pose risks (such as cyber-bullying, gambling, pornography, hidden dangers in chat rooms, ideological manipulation, etc.)”⁵¹.

And, at the same time, Benedict XVI, in 2013, had already written that the virtual world was: «*helping to create a new “agora”, an open public square in which people share ideas, information and opinions, and in which new relationships and forms of community can come into being*»⁵². The post synod exhortation *Christus vivit* clarifies even more the terms of the issue to young people and to all the People of God⁵³. In it, is highlighted how the new generations live in a widely digitalized culture that has a deep impact

⁵⁰ *Ibidem*.

⁵¹ **SYNOD OF BISHOPS**, *Young People, the Faith and Vocational Discernment*, Preparatory document of the XV Ordinary General Assembly, 13 January 2017, in *www.vatican.va*, parts 1 e 3.

⁵² **BENEDICT XVI**, *Social Networks: portals of truth and faith; new spaces for evangelization*, Message for the 47th World Communications Day, 12 May 2013, in *www.vatican.va*.

⁵³ Cf. **FRANCIS**, Post-synod apostolic exhortation *Christus vivit*, 25 March 2019, in *www.vatican.va*.



on the notion of space and time, on the perception of self, of the others and of the world, on the way to communicate, to learn, to acquire information, to enter in relation with the others and to love. The internet and the social networks, which have created a new way to communicate and to build relationships, risk creating confusion between communication and simple virtual contact, obstructing the development of authentic interpersonal relationships. In a document prepared by 300 young people from every part of the world, before the Youth Synod of 2018⁵⁴, it was already stated how online relationships may become inhuman and that the immersion in a virtual world favors distancing from the family, from the religious and cultural values, which leads many people toward loneliness and self-invention, up to experiment a lack of roots⁵⁵.

It is, however, part of “living life” the fact that, today, a huge number of people meets virtually on the internet before meeting in person and giving life to new romantic relationships. Oftentimes, for example, cases of failed marriages are filed before the ecclesiastic court of the Catholic Church, between parties who had met on the internet and particularly on social networks or dating websites⁵⁶. By this, we do not mean to say that such modality of online meeting or virtual beginning of a romantic relationship has an automatic link to matrimonial nullity. The change in styles and relationships that the digital communication has determined has effects in any field of human life, even in the romantic one, where the “connection” often constitutes the new privileged form of interpersonal relationship. Statistics⁵⁷ affirm, indeed, that by now a third of all romantic relationships starts through virtual meetings.

For the Catholic Church it is very important, in the evaluation of the request for matrimonial nullity⁵⁸, to ascertain the modality in which

⁵⁴ Cf. Final document of the pre-synod meeting, Rome, 19-24 March 2018, available on the web.

⁵⁵ Cf. n. 4.

⁵⁶ Some specialize in choosing Catholic partners: Match.com, catholicingles.com, catholicmingle.com, catholicdatingforfree.com, catholicfriendsdate.com, catholicmatch.com, canticodeicantici.com, amiciziecattoliche.com, singlecattolici.it, iktoos.com.

⁵⁷ Cf. **S. PASQUALOTTO**, *Una relazione su 3 nasce online e le app di dating valgono 4,6 miliardi*, in *www.ilsole24ore.com*, 14 February 2018. The phenomenon exploded at the time of the Covid-19 pandemic and the relationships formed between people living far, or very far, apart increased by 65%.

⁵⁸ Cf. H. FRANCESCHI, M.A. ORTIZ (ed.), *Ius et matrimonium II. Temi processuali e sostanziali alla luce del Motu Proprio Mitis Iudex Dominus Iesus*, Edusc, Rome, 2017; E. OKONKWO, A. RECCHIA (ed.), *Le riforme introdotte dal motu proprio Mitis Iudex Dominus Iesus*, Urbaniana University Press, Vatican City, 2016; P. PALUMBO (ed.), *Matrimonio e*



the romantic relationship between the parties has started and what the quality of it was. Every matrimonial nullity is founded on some “vice” regarding consent or legal or natural ability of the spouses⁵⁹, which is determined, or is present, in the antecedent and concurrent phase of the marriage service. Some simplifications in the field of canonical marriage may help to understand the different relevance of the situations during the Canonical Court process: a connection started through a social network, that has soon transformed into a classic engagement in which the parties have had the time to know each other and to spend time together up to the point of getting married; a connection started from a dating website,

processo per un nuovo umanesimo, Giappichelli, Turin, 2016; **M.J. ARROBA CONDE**, *Le “Litteræ motu proprio datæ” sulla riforma dei Processi di nullità matrimoniale: prima analisi. Alcuni aspetti delle nuove Norme sulle Cause di nullità del Matrimonio*, in *Apollinaris*, 2, 2015, p. 553 ss.; **M.J. ARROBA CONDE**, **C. IZZI**, *Pastorale giudiziaria e prassi processuale nelle cause di nullità del matrimonio - Dopo la riforma operata con il Motu proprio Mitis Iudex Dominus Iesus*, San Paolo, Cinisello Balsamo, 2017; **G. BELFIORE**, *I processi di nullità matrimoniale nella riforma di papa FRANCIS*, Grafiser, Enna, 2017; **G. BONI**, *La recente riforma del processo di nullità matrimoniale. Problemi, criticità, dubbi (prima parte)*, in *Stato, Chiese e pluralismo confessionale*, cit., n. 9, 2016, p. 1 ss.; **ID.**, *La recente riforma del processo di nullità matrimoniale. Problemi, criticità, dubbi (seconda parte)*, in *Stato, Chiese e pluralismo confessionale*, cit., n. 10, 2016, p. 1 ss.; **ID.**, *La recente riforma del processo di nullità matrimoniale. Problemi, criticità, dubbi (terza parte)*, in *Stato, Chiese e pluralismo confessionale*, cit., n. 11, 2016, p. 1 ss.; **M. CANONICO**, *Il riformato processo matrimoniale canonico*, in *Diritto e religioni*, 2, 2016, p. 17 ss.; **L. SABBARESE**, *I processi matrimoniali e il Vescovo «giudice tra i fedeli a lui affidati»*, in *Nuove norme per la dichiarazione di nullità del matrimonio*, Edizioni Dehoniane, Bologna, 2016; **H. WARNINK**, *Il motu proprio Mitis Iudex. Opportunità, sfide e potenziali insidie*, in *Concilium*, 5, 2016, p. 115 ss.; **S. BUENO SALINAS**, *La reforma de los procesos canonicos de declaracion de nulidad de matrimonio. La celeridad del proceso*, in *Revista generalde derecho canonico y derecho eclesiastico del Estado*, *www.iustel.com*, XL, 2016, p. 16 ss.; **M. DEL POZZO**, *L'organizzazione giudiziaria ecclesiastica alla luce del m.p. “Mitis Iudex”*, in *Stato, Chiese e pluralismo confessionale*, cit., n. 36, 2015, p. 1 ss.; **J. LLOBELL**, *Alcune questioni comuni ai tre processi per la dichiarazione di nullità del matrimonio previsti dal m.p. “Mitis Iudex”*, in *Ius Ecclesiae*, XXVII, 2016; **M. FERRANTE**, *Riforma del processo matrimoniale canonico e deliberazione*, in *Quaderni di Diritto e Politica Ecclesiastica*, 2, 2016, pp. 313-336; E.B.O. OKONKWO, A RECCHIA (ed.), *Tra rinnovamento e continuità. Le riforme introdotte dal motu proprio Mitis Iudex Dominus Iesus*, Urbaniana University Press, Vatican City, 2016; P. PALUMBO (ed.), *Le sfide delle famiglie tra diritto e misericordia. Confronti ad un anno dalla riforma del processo di nullità matrimoniale nello spirito di Amoris laetitia*, Giappichelli, Turin, 2017; GRUPPO ITALIANO DOCENTI DI DIRITTO CANONICO (ed.), *La riforma del processo canonico per la dichiarazione di nullità del matrimonio*, Glossa, Milan, 2018.

⁵⁹ Cf. **L. SABBARESE**, *Il matrimonio canonico nell'ordine della natura e della grazia. Commento al Codice di Diritto Canonico Libro IV, Parte I, Titolo VII*, Urbaniana University Press, Vatican City, 2019; R. SANTORO, C. MARRAS (ed.), *I vizi del consenso matrimoniale*, Urbaniana University Press, Vatican City, 2012.



following which there has been an online courtship and, only after a certain period of online interactions, there has been a real in-person meeting that lead to marriage after a short engagement; a long distance engagement in which the relationship is supported by the employment of digital communication tools in which, though, the real time spent together by the couple is really short, even though, despite all, at the end the two decide to get married; a marriage arranged via web by a specialized agency⁶⁰.

In the first case (online meeting and classic engagement) there are no specific issues in relation to how the connection was established. If a marriage, in which the connection between the spouses has started through the web or through a social network, is declared null, the reason of such nullity will be definitely need to be searched elsewhere. In the second case (connection through a dating website or app), it has sometimes been demonstrated in court that such connection modality hid some sort of insecurity, more or less deep, in one or both parties: anonymity, use of fake information, online courtship with procrastination of a real encounter, are all useful circumstances, as well as other evidence, as well as, where necessary, an expert evidence investigation⁶¹, in order to endorse an emotional immaturity or narcissistic trait of one or both parties

⁶⁰ The lawfulness of matrimonial proxenics has long been debated in the civil law doctrine. The activity is considered illicit when it makes the conclusion of a marriage between third parties the object of economic speculation. This is not the case if the activity is limited to the mere bringing together of possible brides and grooms, where the agreed remuneration for the intermediary activity is due regardless of the celebration of the marriage. Law No 69 of 19 July 2019 introduced into the Italian criminal code Article 558 bis, which regulates the crime of "coercion or induction into marriage". The Court of Pavia, in its ruling dated 4 April 2019, has, in fact, ruled out that the activity of a television program, which trains ideal couples who agree to celebrate a "marriage at first sight", cannot be qualified as a proxy activity, since, in this case the will of the contracting parties cannot be considered to be in any way affected, and they cannot, therefore, invoke its invalidity under the Civil Code.

⁶¹ In the process of matrimonial nullity, in cases of impotence, or lack of consent caused by mental illness, or the incapacities mentioned in canon 1095, the judge must make use of the services of one or more experts, unless this is clearly unnecessary in the circumstances (can. 1678, § 3, art. 203 DC). The judge must not omit to ask the expert if one or both parties, at the time of the marriage, suffered from a particular abnormality which was habitual or transitory; what was its gravity; when, for what causes and in what circumstances this abnormality originated and manifested itself. In his report, the expert must respond in accordance with the percepts of his own technique and science to the individual questions posed in the judge's decree, avoiding making judgments that exceed the limits of his assignment.



such as to determine a discretion fault in the judgment (of the intellectual and willful sphere), as the cause of the nullity of the marriage. The third case is also very common in proceedings (distance engagement conducted through online meetings facilitated by software or other instant messaging tools), and it has been possible to verify that this modality has been proposed, in more than one case, by the party that had filed for the nullity of the marriage, on the basis of the so-called *causa simulandi*, that is, on the basis of the doubts regarding the future marriage, that had determined them to exclude the indissolubility of the bond, considering that the engagement period, conducted at a distance, and characterized mostly by virtual meetings, had not offered the occasion for a deeper connection with the other party. So the couple had decided to enter into a “trial” marriage, in order to verify the goodness of that relationship, which had not been tested in real life. In other cases, instead, such will has been expressed through a real agreement against indissolubility by both spouses, aware of the limits that the pre-nuptial period had had, relatively to the opportunity to allow a deep knowledge of the other in view of the wedding. Finally, the last hypothesis, that is, the marriage combined via web and celebrated in a very short time, for example with the aim of obtaining citizenship, or for financial reasons, may create a nullity hypothesis known as total simulation of consent, in which, the spouse excludes the marriage itself, since the celebration is but an occasion to realize an extrinsic purpose, compared to that of a proper Christian wedding.

If, on one side, these simplifications demonstrated how irreversible is the change that the internet has determined in relational dynamics, for the Church, the value of the engagement period as a real life, physical experience remains crucial, considering that the higher the projective and delusional component (which can be favored by the virtual life) the higher will be the risk of a corruptible will or of a lack of matrimonial awareness. On this point, Pope Francis expresses himself very clearly:

“Certainly it is a beautiful thing that young people today can choose to marry on the basis of mutual love. But the very freedom of the bond requires a conscious harmony in the decision, not just a simple understanding of the attraction or feeling, for a moment, for a short time ... it calls for a journey [...] The covenant of love between man and woman - a covenant for life - cannot be improvised. It isn't made up one day to the next [...] Engagement is a path of life that has to ripen like fruit; it is a way of maturing in love, until the moment it becomes marriage”⁶².

⁶² FRANCIS, *Family*, Audience dated 27 May 2015, at www.vatican.va.



The Pope is even more direct in the exhortation *Amoris laetitia* in which he invites fiancées to think about the time of engagement as a journey meant:

“to realize the wisdom of breaking off a relationship whose failure and painful aftermath can be foreseen. In their initial enchantment with one another, couples can attempt to conceal or relativize certain things and to avoid disagreements; only later do problems surface. For this reason, they should be strongly encouraged to discuss what each expects from marriage, what they understand by love and commitment, what each wants from the other and what kind of life they would like to build together. Such discussions would help them to see if they in fact have little in common and to realize that mutual attraction alone will not suffice to keep them together. Nothing is more volatile, precarious and unpredictable than desire. The decision to marry should never be encouraged unless the couple has discerned deeper reasons that will ensure a genuine and stable commitment. In any event, if one partner clearly recognizes the other’s weak points, he or she needs to have a realistic trust in the possibility of helping to develop the good points that counterbalance them, and in this way to foster their human growth. This entails a willingness to face eventual sacrifices, problems and situations of conflict; it demands a firm resolve to be ready for this. Couples need to be able to detect danger signals in their relationship and to find, before the wedding, effective ways of responding to them. Sadly, many couples marry without really knowing one another. They have enjoyed each other’s company and done things together, but without facing the challenge of revealing themselves and coming to know who the other person truly is”⁶³.

Because it is not enough to proceed along digital “tracks”, that is, simply being connected, but it is important that the connection is accompanied by a real encounter⁶⁴.

Allow us to point out the importance that digital means have within the celebration of the marriage itself, in terms of form of the marriage. For the Catholic Church, the Canon Law Code in force states that:

“§ 1. Ea tantum matrimonia valida sunt, quae contrahuntur coram loci Ordinario aut parrocho aut sacerdote vel diacono ab alterutro delegato qui assistant, necnon coram duobus testibus, secundum tamen regulas expressas in canonibus qui sequuntur, et salvo exceptionibus de quibus in cann. 144, 1112, § 1, 1116 et 1127, §§ 1-2. § 2. Assistens matrimonio intellegitur

⁶³ FRANCIS, Post-synod apostolic exhortation *Amoris laetitia*, cit., nn. 209 e 210.

⁶⁴ Cf. M.A. ORTIZ (ed.), *Ammissione alle nozze e prevenzione della nullità del matrimonio*, Giuffrè, Milan, 2005.



tantum qui praesens exquirat manifestationem contrahentium consensus eamque nomine Ecclesiae recipit”.

With art. 6 of the Apostolic Letter in the form of a *motu proprio De concordia inter Codices* dated 31 May 2016, promulgated on 15 September 2016⁶⁵, a third paragraph has been added to can. 1108 CIC, ruling that only the priest can validly assist a wedding between two eastern parties, or between a Latin party and a catholic or non-Catholic eastern party. The nuptials form provides, then, that the spouses are present at the same time, both in person or in the person of a legal representative⁶⁶, that they manifest consent by word or, if they are not able to talk, with other signs (can. 1104). Some authors remind us that, in order to constitute a canonical wedding, donation and acceptance must be reciprocal, so as to form one consensual deed:

“Di regola è ciò che avviene quando gli interessati sono simultaneamente presenti fisicamente allo scambio del consenso [...] Tale presenza dei contraenti risulta coerente con la natura sacramentale del matrimonio e costituisce una garanzia della contemporaneità della manifestazione del consenso coniugale da parte loro ma non è tuttavia una esigenza assoluta, proprio perché è prevista la possibilità della loro azione mediante procuratore. Sono dunque esclusi, e risulterebbero certamente nulli, il matrimonio a distanza, quello per telefono, mediante registrazione o per lettera”⁶⁷;

so, in general, the Canon case law deems the manifestations of consent expressed by means of remote communication to be inefficient. More specifically, all the sacraments administered by the Catholic Church require personal presence, that is, physical presence⁶⁸.

⁶⁵ FRANCIS, *Apostolic letter m.p. De Concordia inter Codices*, 31 May 2016, in AAS, 108, 2016, pp. 602-606; Cf. F. CATOZZELLA, *Le modifiche in materia di forma canonica del matrimonio introdotte dal Motu Proprio De Concordia inter Codices*, in *Stato, Chiesa e pluralismo confessionale*, cit., n. 6, 2017, pp. 1-40; L. SABBARESE, *La concordanza tra i codici. Con il testo integrale del motu proprio De concordia inter Codices*, Edizioni Dehoniane, Bologna, 2017; U. RHODE, *Alcune questioni circa il motu proprio De Concordia inter Codices*, in *Periodica de re canonica*, 108, 2019, pp. 551-589.

⁶⁶ The regulation of which could be the basis for an in-depth examination of the online celebration of canonical marriages.

⁶⁷ A. D'AURIA, *Il matrimonio nel diritto della Chiesa*, Urbaniana University Press, Rome, 2007, p. 238.

⁶⁸ During the pandemic, Monsignor Krzysztof Nykiel, regent of the Apostolic Penitentiary, when asked whether, in an emergency situation, the telephone or email could be considered, in exceptional cases, suitable instruments for confession, replied: “Sacramental confession cannot be made by telephone or email or other means of



It does not work this way for the Islamic religion, for example, where some countries (India in particular) provide the possibility to access the so-called *cybernikah*, that is, a marriage celebrated via sms, or via VoIP⁶⁹ or *chat line*⁷⁰. Staying on the same topic, with ruling no. 15343 dated 2016⁷¹ the Italian Civil Court of Cassation has recognized as valid a marriage celebrated remotely, via web. The day of the wedding, indeed, the bride had connected through the internet in the presence of two witnesses, while the groom was present to the celebration conducted by the Pakistani authority, which registered the deed a few days later. The refusal of the Civil Registrar to register the marriage in Italy has been deemed to be illegitimate by the Court, considering that, where the matrimonial deed is valid for the foreign authority, being it considered fit to represent the matrimonial consent in full awareness, it may not be considered to be in contrast with the public order just because it was celebrated in a form that was not provided by the Italian system, also given the fact that the same Italian Law provides exceptions to the presence of both spouses before the celebrant. The Italian system expressly provides that the nuptial celebration be solemnly conducted, prior to the fulfillment of the publications (art. 93 c.c.) in the city council hall (art. 106 c.c.) in the presence of two witnesses and of the civil registrar who receives personally, from the parties, one after the other, the declaration that they want to be man and wife and that, subsequently, declares that they have been united in marriage (art. 107 c.c.). However, part of the civil tenet notes that, if the objective of such provisions is to grant the publication of the marriage and to give certainty of it, *de iure condendo*,

communication, for reasons linked to the protection of the Sacramental Seal, and, above all, the physical presence of the penitent is required". If this is the rule, in an article published in *Vita*, in one of the darkest periods of the pandemic, when the intensive care units were unfortunately full and many people left earthly life alone, Prof. Giorgio Giovanelli suggested, instead, in a very extraordinary way, and for well-defined cases, the possibility of being administered confession via telephone: "Non un cambiamento della prassi sacramentale ma il dare una risposta ad una situazione nuova nella quale dobbiamo considerare sempre la *suprema lex* della Chiesa che è la salvezza delle anime".

⁶⁹ The term deserves a clarification: if, from a technical point of view, the term normally refers to all those forms that use the IP protocol for remote connection, it should be noted that Muslim jurists use the term to indicate all remote connections. In short, the term identifies every kind of virtual service that uses the Net and allows the employment of techniques of direct confrontation by means of microphone and web-cam.

⁷⁰ Cf. **M. EQUIZI**, *Il Cyber matrimonio e Sari'a: quando il diritto incontra la tecnologia*, in *Contratto e Impresa*, 1, 2009, pp. 242-253.

⁷¹ Cf. Cass., 25 July 2016, n. 15343, in *Giur. It.*, 2017, p. 1069 ss.



“non si vede come essa non possa effettivamente ritenersi soddisfatta dalla compresenza telematica dei nubendi, dei testimoni e dell’ufficiale dello stato civile. Con la precisazione, tuttavia, che il collegamento telematico deve essere visivo, al fine di consentire un effettivo accertamento del consenso e scongiurare, o quanto meno ridurre, la ricorrenza di eventuali vizi della volontà”⁷²,

which would recall the opportunity, as in the case cited law, to verify at least the means of communication really used to celebrate the wedding before proceeding to the transcription of the marriage in Italy, in order to grant a more complete public order compatibility judgment.

3 - Internet, new technologies and "digital" evidence in the process for matrimonial nullity

Today, the relationship between matrimonial nullity and social networks is significant in relation to the evidential system of the canonical trial, which is inspired to the general principle of freedom in proposing and admitting all the accessible means of evidence for the rational verification of the facts and for the research of the truth regarding the matrimonial experience of the parties.

The canonical system recognizes, first of all, the rights and dues that are strictly linked to the proceeding: the right to legitimately defend and claim one’s own rights before the competent ecclesiastic Court⁷³, the right to be judged according to the provisions set out by law to be applied with fairness⁷⁴ and the right, protected by can. 220, to the protection of one’s good name and to the protection of one’s intimacy⁷⁵. In the case of a matrimonial nullity process, though, the protection of intimacy is always

⁷² S. NARDI, *La famiglia e gli affetti nell’era digitale*, Edizioni Scientifiche Italiane, Naples, 2020, p. 29. The Governor of New York State, in the midst of the Covid 19 pandemic, issued an executive order allowing people to obtain marriage licenses remotely, and employees to conduct ceremonies via video. Similar measures were adopted in Colorado and Ohio. Citizens of the Arab Emirates can also get married online after uploading the required documents onto a platform created by the Ministry of Justice.

⁷³ Cf. CIC, can. 221, § 1: *“Christifidelibus competit ut iura, quibus in Ecclesia gaudent, legitime vindicent atque defendant in foro competenti ecclesiastico ad normam iuris”*.

⁷⁴ Cfr. CIC, can. 221, § 2: *“Christifidelibus ius quoque est ut, si ad iudicium ab auctoritate competenti vocentur, iudicentur servatis iuris praescriptis, cum aequitate applicandis”*.

⁷⁵ Cfr. CIC, can. 220: *“Nemini licet bonam famam, qua quis gaudet, illegitime laedere, nec ius cuiusque personae ad propriam intimitatem tuendam violare”*.



to be arranged with the public asset of marriage, with the good of the parties and with the specific relationship that has been created between the parties the moment in which, getting married, have freely and responsibly chosen to give themselves to the purpose of creating a married life. This is particularly relevant in the evidence production instance within the investigation process.

Can. 1527, § 1, affirms that, in the trial, "*Probationes cuiuslibet generis, quae ad causam cognoscendam utiles videantur et sint licitae, adduci possunt*", expressing the objective of "massimizzare la ricerca della verità"⁷⁶. In the canonical trial, all kinds of evidence can be provided in absolute and unlimited ways, whether it is judicial or extrajudicial, typical or atypical, with guarantees for full evidence or imperfect, with their sole limits linked to their usefulness and their lawfulness. The notion of usefulness is to be intended in an ample sense, considering useful, that is, pertaining the cause, anything regarding the credibility of the parties and of the witnesses and of the single elements of proof, both direct and indirect⁷⁷. Such assumption highlights the danger of an over proliferation of evidential material, which could get to the point of losing sight of the object of judgment. It will only be up to the wisdom and the intelligence of the Judge to stop such phenomenon⁷⁸. The issue of the notion of lawfulness appears to be more delicate, since, admitting unlawful evidence could lead to the invalidation of a whole trial⁷⁹. The tenet has long appeared to be divided between those who sustained the opportunity to not limit the acquisition of evidence where it had not proved to be useful to prevent a ruling that was contrary to the objective truth⁸⁰ and

⁷⁶ M. J. ARROBA CONDE, *Funzione veritativa delle norme sulla prova*, in G. DALLA TORRE, C. GULLO, G. BONI (ed.), *Veritas non auctoritas facit legem. Studi di diritto matrimoniale in onore di Piero Antonio Bonnet*, Libreria Editrice Vaticana, Vatican City, 2012, p. 79.

⁷⁷ Cf. C. GULLO, *Prassi processuale nelle cause canoniche di nullità del matrimonio*, Libreria Editrice Vaticana, Vatican City, 2001, p. 124 ss.

⁷⁸ Cf. CIC, can. 1553.

⁷⁹ Cf. G. MIOLI, *Prove lecite, prove utili e poteri del giudice istruttore alla luce della Dignitas connubii*, in *Stato, Chiese e pluralismo confessionale*, cit., November 2008, p. 6

⁸⁰ Cf. M.J. ARROBA CONDE, *Prova e difesa nel processo di nullità del matrimonio canonico. Temi controversi*, coll. *Pro Manuscripto*, n. 12, Lugano, 2008, p. 37; A. INGOGLIA, *Inammissibilità di prove illecite (art. 157 "Dignitas Connubii")*, in J.E. AVILA, C. GNAZI (eds.), *Matrimonium et ius, Studi in onore del Prof. Avv. Sebastiano Villeggiante*, Libreria Editrice Vaticana, Vatican City, 2006, p. 390, which broadly interprets the concept of lawfulness (with the sole limitation of unnecessary impairment to the dignity of the person) in order to favor the search for truth as much as possible.



those⁸¹ who maintained that the concept of unlawfulness beyond *quoad substantiam* also referred to *quoad modum acquisitionis* of evidence. The Instruction *Dignitas connubii*⁸², in art. 157, § 1⁸³, has declared that the notion of unlawfulness is both about the proof in itself and about the way it is acquired. Consequently, for some authors, any evidence acquired by violating a legal regulation should be unlawful, both in the canonical system and in the system of the government of reference⁸⁴; for others, who deem possible to amplify the field of the possible evidential acquisitions, it should be unlawful even in the case in which the evidence is contrary to mandatory law provisions⁸⁵; finally, others maintain that the evidence can be considered unlawful only in case it contrasts with human dignity⁸⁶.

The types of evidence that can be produced during a trial, with the aid of modern technologies could be the most various: *email*, digital files, text messages, *web pages*⁸⁷, *social networks*, instant messaging software, audio recordings⁸⁸ or videos⁸⁹. For part of the tenet, this evidence could be

⁸¹ Cf. C. GULLO, A. GULLO, *Prassi processuale nelle cause canoniche di nullità del matrimonio. Terza edizione aggiornata con l'Istr. "Dignitas Connubii" del 25 gennaio 2005*, Libreria Editrice Vaticana, Vatican City, 2009, pp. 143-146.

⁸² PONTIFICAL COUNCIL FOR LEGISLATIVE TEXTS, Instruction *Dignitas connubii*, 25 January 2005, in *Communicationes*, 37, 2005, pp. 11-92.

⁸³ Cf. DC, art. 157, § 1: "*Probationes cuiuslibet generis, quae ad causam cognoscendam utiles videantur et sint licitae, adduci possunt. Illicitae autem probationes, sive in se sive quoad modum acquisitionis, ne adducantur neque admittantur (cf. can. 1527, § 1) "*.

⁸⁴ Cf. G. MIOLI, *Prove lecite*, cit., p. 7.

⁸⁵ Cf. A. INGOGLIA, *Inammissibilità di prove illecite*, cit., p. 390 ss.

⁸⁶ Cf. M.J. ARROBA CONDE, *Funzione veritativa*, cit., p. 79.

⁸⁷ In the Italian civil procedure, some authors have suggested the solution, for example, of using a public official, such as a notary, who would certify the conformity to the original of both a printout of the web page and its certification in electronic format, or the testimony of a third party who, burdened with the obligation to tell the truth and aware of the criminal sanctions relating to perjury, would report on the conformity to the original which he had already seen on the web.

⁸⁸ An audio file, for example, is a technical tool and, therefore, in order to exclude the possibility of alteration of the original file or its tampering, a computer check should be carried out by a computer expert, especially where the evidence is particularly useful for the case and where it is not recognized by the persons involved in the conversation.

⁸⁹ Media that may contain relevant digital data may include: computers, notebooks, external HDs, USB pen drives, memory cards, camcorders, CDs/DVDs, optical media, etc. And also: fax machines, print servers, printer memories, burglar alarm systems, household appliances, cars, bitcoin wallet access keys, etc. Also remotely accessible digital data: web pages, remote servers, data accessible from the cloud.



classified as documentary evidence (can. 1539)⁹⁰, for others it should be classified as “atypical evidence”⁹¹, others, deeming mandatory the list of means of evidence present in the Codes, exclude their acceptance⁹², others, finally, deem appropriate to respect the specificity of such tools and to consider them as valid as any digital file/archive, to be admitted as such, despite the regulation is vague about it⁹³.

The trials held before ecclesiastic courts see, today, a generous presence, in the documents, of digital evidence. Waiting for a specific intervention of the legislator, we want to share the position of those who think that, when faced with this type of evidence: “[...] it should not be risked that the life of the people, which is by now transferred on these tools that are almost becoming an extension of one’s body and of one’s relationships, is left out”⁹⁴. However, no one ignores the danger of a

⁹⁰ Cf. **R. PALOMBI**, *Valore probatorio dei mezzi di comunicazione elettronica nel processo matrimoniale canonico*, in G. DALLA TORRE, C. GULLO, G. BONI (eds.), *Veritas non auctoritas facit legem. Studi di diritto matrimoniale in onore di Piero Antonio Bonnet*, cit., p. 388.

⁹¹ Cf. **D. HORAK**, *La prova documentale*, in **AA. VV.**, *I mezzi di prova nelle cause matrimoniali secondo la giurisprudenza rotale*, Libreria Editrice Vaticana, Vatican City, 1995, p. 33: «non sembra che la sottoscrizione sia in ogni caso un elemento essenziale (si pensi ai libri contabili); comunque, possiamo affermare che, nell’intenzione del legislatore, gli oggetti adatti a provare, ma distinti dalla scrittura, non costituiscano propriamente dei “documenti”, nonostante siano in grado di rappresentare i fatti più espressivamente ed immediatamente di uno scritto»; calls them “atypical” evidences: **E.B.O. OKONKWO**, *L’istruzione della causa di nullità matrimoniale fra il diritto e la prassi giudiziale*, Urbaniana University Press, Vatican City, 2020, p. 111 ss. In Italian civil proceedings, for example, e-mail, when it contains legally relevant acts, facts or data, is qualified as an electronic document (see Art. 1 of the Digital Administration Code).

⁹² Cf. **A. D’AURIA**, *La prova per documenti (Dignitas Connubii: artt. 183-192)*, in P.A. BONNET, C. GULLO (ed.), *Il giudizio di nullità matrimoniale dopo l’istruzione “Dignitas connubii”*: Parte terza: la parte dinamica del processo, Libreria Editrice Vaticana, Vatican City, 2009, p. 362 ss.

⁹³ Cf. **A. GIRAUDDO**, *Prove e nuove tecnologie nel processo canonico*, in **AA. VV.**, *Matrimonio e processo: la sfida del progresso scientifico e tecnologico*, Libreria Editrice Vaticana, Vatican City, 2016, p. 277.

⁹⁴ *Ibidem*. It has been appropriately observed that: “L’applicazione della *digital forensics* anche in ambito canonistico appare oggi sempre più necessaria, proprio allo scopo di garantire l’integrità della prova digitale. In questo caso, infatti, non si ritiene sufficiente il ricorso al riconoscimento del documento davanti al giudice (can. 1542 *c.j.c.*), potendo essere stata la parte stessa ad aver deliberatamente depositato una prova manipolata. Questo aspetto assume una rilevanza ancora maggiore in caso di accordo tra le parti, come peraltro avviene nel *processus brevior* a norma del can. 1693 *c.j.c.*, potendo queste essere parimenti interessate nel produrre prove digitali manipolate in grado di rendere manifesta la nullità al fine di ottenere la pronuncia di una sentenza affermativa” (**R.**



possible manipulation of such evidence, and of privacy violation regarding the way it is acquired. Therefore, it should be a concern not only of the parties and of the patrons to be careful to not impair the genuineness of the elements gathered, but also of the Judge to verify their authenticity and integrity, even recurring to judicial inspection⁹⁵ regarding the technical specifications of the file, or providing a technical evaluation⁹⁶ avoiding, as much as he can, that the principle of inner conviction supersedes totally a proper analysis of the technical data that could lead to the defectiveness of information that was superficially gathered.

As for *text messages* and MMS, which is today possible to save and play despite the fact that they are not used as much anymore, the main peril is that they might be altered. It is therefore important to proceed, during the process, to a recognized certification of the messages and their content, after verification regarding the lawfulness of their acquisition, should they not be exchanged between the parties but between one of them and a third party. In the case of *email*, certainly only certified mail grants the integrity of the messages, their safe transmission, the delivery to the recipient and the conformity between the message sent and the one received. Thank God, though, it never happens that they are exchanged between people involved in a romantic relationship to confirm their reciprocal love. Emails are presented, normally, in printed copy and, therefore, any possible falsifications are excluded. Even in the case in which the Judge can use the property credential of the email, the issue of their attribution to a certain author, and the possible judicial non-recognition will never actually be resolved⁹⁷. For sure, as for lawfulness,

SANTORO, F. GRAVINO, *Web e matrimonio canonico: prospettive di analisi della perizia nelle dinamiche processuali*, in *Diritto e Religioni*, 2, 2019, p. 32). This would certainly require specific training of court practitioners, and of judges and defenders of the bond in particular, on the subject, often with little computer knowledge.

⁹⁵ Cf. CIC, cann. 1582-1583.

⁹⁶ The Permanent Episcopal Council of the Italian Episcopal Conference (CEI), at its meeting on 14 November 2018, approved the determinations, effective as of 1 January 2019, regarding the scoring of cases, the contribution of the parties, expert reports, rogatory letters and costs eligible for contribution for venues in relation to Italian ecclesiastical courts in matrimonial nullity matters. They also set out the fees for computerised expert reports ordered by the court and liquidated by the head of the panel of judges, taking into account the complexity of the assessment and the possible need for the expert to make use of the contribution of other specialists.

⁹⁷ It is specified that: "il disconoscimento deve essere chiaro ed univoco, con esplicita allegazione di elementi attestanti la non corrispondenza tra realtà fattuale e realtà prodotta" (**R. PALOMBI**, *Valore probatorio*, cit., p. 383). In the Italian judicial system, the



the acceptance of an email in the case in which the access to the PC it has been recovered from has happened by violating the password, and, therefore, the right to privacy, is problematic⁹⁸. Even in case of printed copies of the contents of a social network page or a sequence of tweets it would be better to have a judicial inspection of the users' profiles in order to verify the authenticity of the evidence, while the lawfulness profiles remain problematic when the contents have been made public on the same social networks, except for the case in which there is a violation of the owner's account with an abusive access to the contents that could be limited for visualization from specific people. In the hypothesis of instant messaging, for example, *WhatsApp* or *telegram*, the simple production of a

probative value of email is to be found in Article 2712 of the Civil Code (as amended by Article 23-quater of the CAD), according to which, computer reproductions shall be deemed to be full evidence of the facts and things represented only if the person against whom they are produced does not promptly challenge them by disavowing their conformity with the facts or things in question.

⁹⁸ Interesting enough, to the purposes of our investigation, are some rulings in which the communication through electronic mail as a valid *medium probationis* has played an important role, not to say crucial, in view of the achievement of the *certitudo moralis* about the nullity of the bond. A decree coram Sable of 19 May 2004 confirms the affirmative decision made, in the first instance, for the exclusion of fidelity: in *acta* showed the immoral conduct of the man and his numerous infidelities that were confirmed "etiam ex c. d. 'e-mail' ab amica actoris conscripta et Tribunali missa". The decision is also based, therefore, on this element, which is considered a valid means of evidence capable of corroborating all the findings, which are, in any case, already clear. Perhaps also for this reason, neither its nature as a means of proof nor its lawfulness is questioned. It is worth mentioning, moreover, undecreto coram Erlebach of 24 June 2011 in which the issue concerning the lawfulness is treated in a singular way: in the case in question, the party had filed private communications that were certainly unlawful, but had been admitted because of the specific weight they had against the author of the non-standard production for the purposes of the decision. Specifically, the case arrived to the Rota after two levels of judgment, and, upon appeal, the nullity of the marriage was declared, due to the exclusion of fidelity, introduced *tamquam in prima instantia*. The defendant - who opposed the *pro nullitate* declaration - falsely dated the spouse's infidelity back to a time long after the wedding celebration, a time that was largely postnuptial, and reported having discovered the e-mail correspondence *cum pluribus puellis*. The woman, however, had not only entered her husband's private communications, but had also prepared a memoir in which she recounted her husband's immoral behavior, sending the information via e-mail to the plaintiff and his mother. The defendant, probably thanks to an unlawful intrusion into her husband's sphere of confidentiality, had taken possession of private documents, which she had then produced, also putting on record communications between her husband and other women. Therefore, it was certainly unlawful evidence *quoad modum acquisitionis*, but in the trial it was the other party who could benefit from it, for the purposes of the declaration of nullity.



printed copy remains a text that can be manipulated. A way to avoid text manipulation could be to

“l’invio, in sede di ispezione giudiziale, dello stesso contenuto della chat ad un indirizzo e-mail del tribunale così che in atti si possa riprodurre il file digitale ed il corrispondente testo stampato con la garanzia che coincida con quanto presente sull’*iphone* o *smartphone* al momento dell’udienza”⁹⁹.

As for lawfulness, it will be a different case when a chat/private or group conversation, considering that, in this case the contents may not be deemed to be classified unless the access to the chat room is violated.

It is clear that digital evidence distinguishes itself for immateriality and vulnerability; as is certain that it requires gathering methods for which specific technical skills are required, and these skills are different from those that ecclesiastic Judges normally employ for other evidential results. It is necessary, however, without distorting the principles of reference of the canonical marriage process, to not overlook the modern results of the relation between information technology and law in the process to declare the nullity of marriage.

4 - Has the time come for the remote canonical process?

If we intend the remote canonical process as a system of electronic services meant to substitute most record office, deposit and judicial deed notification operations, we can rightly assume that it is a reality in many ecclesiastical Courts in Italy already. Different regulations of Italian ecclesiastic Courts provide, for example, that the notifications have to be conducted preferably via certified e-mail sent to the lawyer or the legal representative, in case a legal representative is nominated instead of a lawyer, or directly to the party, should they expressly request it (when unable to hire a lawyer or legal representative)¹⁰⁰. It seems that, not long from now, there will be a so-called “*electronic file of the process*” available even in the halls of the ecclesiastic Courts, as a dematerialized version of the office file, containing all the documentation of the trial, the electronic documents or the electronic copies of the documents, should they have been deposited in paper, to be transmitted, following the publication of

⁹⁹ A. GIRAUDDO, *Prove e nuove tecnologie*, cit., p. 292.

¹⁰⁰ Cf. the Regulations, available on the web, of the Sicilian, Neapolitan, Benevento and Sardinia’s ecclesiastical courts.



the deeds, through certified mail, and to be completed with the deeds of the court hearings and decision making phase. The production of electronic files will be of great help even for the dematerialization of the physical archives of the ecclesiastic Courts, in which, interpreting the provisions set out by the *Saepe saepius* Decree of the Supreme Tribunal of the Apostolic Signatura¹⁰¹ in line with this possibility, only: "*sententiae definitivae, decreta confirmatoria, decisiones vim sententiae definitivae habentes et, si quae sint, pronuntiationes interlocutoriae*" can be saved in paper copy.

More recently, the attention of the ecclesiastic Courts has been placed on the remote judicial hearing in videoconference. Such instances had already occurred in some American ecclesiastic Courts¹⁰²: once drawn the interrogation report in videoconference, the Court would transmit the deeds to the physical address of the party (and witness), enforced online, asking for their restitution after having read and undersigned them. In other cases they have done without the underwriting of the witness/party, using the interrogation recording system and its subsequent transcription, in light of the provision set out by can. 1567, § 2¹⁰³, which stated that there was no need *ad validitatem* of the declarant's undersigning deeds¹⁰⁴. Other Courts, following the reform of the matrimonial nullity processes in 2015, have used the system of remote hearings, with the objective, save for the privacy guarantee, to reach all the worshippers requiring the help of ecclesiastic Justice, even recurring to this new "virtual" proximity, where the physical one, because of geographic distance or for financial issues of the parties or of the witnesses, is particularly difficult to realize.

The Covid 19 pandemic has done the rest. The experiences of these last few years have been various¹⁰⁵, recalling the urgency, considered the many excesses, of a unitary minimal regulation that can offer few and

¹⁰¹ SUPREME TRIBUNAL OF THE APOSTOLIC SIGNATURA, *Decretum generale exsecutorium "Saepe saepius" de actis iudicialibus conservandis*, 13 August 2011, in AAS, 103, 2011, pp. 626-628.

¹⁰² Cf. M. NOBEL, *The Use of Electronic Media in Church Structures*, in CANON LAW SOCIETY OF AMERICA, *Proceeding of the Seventy-Seventh Annual Convention*, October 12-15 2005, CLSA, Pittsburgh, 2016, p. 196.

¹⁰³ CIC, can. 1567, § 2: "*Admitti potest usus machinae magnetophonicae, dummodo de in responsiones scripto consignentur et subscribantur, si fieri potest, a deponentibus*".

¹⁰⁴ Cf. E.B.O. OKONKWO, *L'istruzione della causa*, cit., p. 120 ss.

¹⁰⁵ Cfr. the Magazine's Theme Dossier *Quaderni di Diritto Ecclesiale*, 3, 2021, pp. 323-359.



clear rules/guidelines, for a correct conduction of remote hearings¹⁰⁶. Considered the cann. 1528¹⁰⁷, 1558, § 3¹⁰⁸, and 1691, § 3¹⁰⁹, as well as the presence of a just cause (impossibility, serious inconvenient, urgency ...) the remote hearing is definitely allowed¹¹⁰. The technical issues, instead, comply with the realization modalities of the remote judicial examination and are those that require a general regulation, regarding the videoconference platform to be used, the location of the remote examination for the investigating judge, the Notary, the party/witness, the patrons, the Defender of the Bond as well as the cautions to be taken to preserve the privacy of the judicial exam.

We can suggest, meantime, some protocol good practices for remote hearings in the canonical marriage process: the writ of summons to a remote hearing must state the just cause that has forced the Judge to proceed in such way. In specifying the day, time and modality of the online connection, the link to be used will be provided via certified e-mail (for those assisted by a patron, in case of possession of personal certified or verified e-mail), and the lawyers and the parties/witnesses will be required to provide a telephone number through which it will be possible for the Notary to contact them in case of malfunctioning of the systems used. Also, the parties/witnesses who are not assisted by a patron will have to specify whether or not they will be in need of technical assistance and, in this case, specify the name of the assistant that will have to personally declare that they will keep the secret (can. 1470, § 1). The judicial exam is to be managed by the Court offices with the presence of the investigative Judge and the Notary. It is preferable that the

¹⁰⁶ In Italy, following legislative decrees 34/2020 and 137/2020, which provided for and regulated the possibility of holding hearings remotely, a number of protocols have been approved by the Superior Council of the Magistracy and implemented in collaboration with the National Forensic Council on how to hold civil and criminal hearings in the emergency period and remotely.

¹⁰⁷ CIC, can. 1528: "*Si pars vel testis se sistere ad respondendum coram iudice renuant, licet eos audire etiam per laicum a iudice designatum aut requirere eorum declarationem coram publico notario vel quovis alio legitimo modo*".

¹⁰⁸ CIC, can. 1558, § 3: "*Iudex decernat ubi audiendi sint ii, quibus propter distantiam, morbum aliudve impedimentum impossibile vel difficile sit tribunalis sedem adire, firmis praescriptis cann. 1418 et 1469, § 2*".

¹⁰⁹ CIC, can. 1691, § 3: "*In ceteris quae ad rationem procedendi attinent, applicandi sunt, nisi rei natura obstet, canones de iudiciis in genere et de iudicio contentioso ordinario, servatis specialibus normis circa causas de statu personarum et causas ad bonum publicum spectantes*".

¹¹⁰ Cf. **SUPREME TRIBUNAL OF THE APOSTOLIC SIGNATURA**, letter, 5 October 2020, prot. n. 4036/20 SAT; letter, 18 March 2021, prot. n. 3356/21 SAT.



parties/witnesses be connected from the office of the patron or, should there not be one, from a place provided by the Curia (or similar) or, eventually, from their own home. The Judge is the one that starts the connection and admits the participants (the platform employed will have to provide the “waiting room” option or similar, so as to be able to admit, in the hearing, only those authorized by the Judge). In the minutes, the Judge will report the place from which the participants to the hearing are connected, acknowledges the declarations of identity of the parties/witnesses with direct visualization of the ID document, confirmed by the patron and with the consignment of the digital document in the messaging room of the platform in use; acknowledges any possible absence, in the room the connection is established from, of further subjects not legitimized to participate. The Judge communicates the need to keep the video function active for the whole duration of the hearing, and will regulate the employment of the audio function, to the purpose of giving the floor to the patrons or to the parties/witnesses. The Judge will also inform that it is forbidden to record the hearing, except for the case in which the Judge himself will require it to the purpose of the subsequent drawing of the minutes. For the production, during the hearing, of the documents that is not been possible to deposit at the Court or via certified e-mail, it is preferable to use share screening tools, with the need to subsequently regularize the deposit in Court. In case of malfunctioning, involuntary connection problems and impossibility to restore the connection, the Judge will have to postpone the hearing, giving mandate to the Notary to communicate it to the parties and writing it in the hearing’s minutes. The presentation of questions from the patrons or the Defender of the Bond can happen only by private chat with the Judge, who will assess the appropriateness of it. In conclusion, the Judge will read the minutes and will report, in the document, the declarations of the patron/s stating that they have effectively participated to the hearing and that it was held regularly. When the hearing is over, the participants must take care of not exiting the meeting/hearing, instead, they will have to wait for the Judge to proceed to the “clearing/closing of the virtual room”.

Regarding the signing of the deed (can. 1569, § 2¹¹¹), considering the practice *ex* can. 1567, § 2¹¹², not valid, some suggestions can be offered. In

¹¹¹ CIC, can. 1569, § 2: “[...] *actui subscribere debent testis, iudex et notarius*”.

¹¹² The Instruction *Dignitas Connubii* specifies that even where recording tools are employed, a document attesting this must be drawn up, bear the signatures of the respondent, the judge and the notary, as well as the defender of the bond and, if they were present, the promoter of justice and the lawyers (Arts 173 and 175).



case the examination of the party or of the witness is held in the presence of the patrons, it will be possible to send the minutes to their certified e-mail address, so that the professionals can print them, have them signed by the party/witness (and sign it themselves) and, finally, return it to the Court via certified e-mail. All of this must happen during the course of the same hearing. Another way to do this is by recurring to the so-called electronic signature system. The party or the witness, once finished the examination, sends, from his/her own e-mail address to the address of the records office/section, a declaration in which he/she affirms to undersign the deposition record. Such declaration, (which states the name and surname of the party/witness) is printed and attached to the minutes. In the minutes, indication will be given regarding the declaration. After this, the minutes are closed. Should it not be possible to have the deed signed by the party/witness, the Notary will report the fact in the minutes¹¹³ but, according to can. 1437¹¹⁴ and art. 62¹¹⁵ of the *Dignitas Connubii*, the deed that is signed by the Notary is to be deemed valid anyway.

It is important not to forget the help that remote hearings could offer in the execution of rogatories; in the deposition of priests and professionals (ex. General Practitioners), whom, normally, are often unable to take part in the hearings; or for sworn appraisals or the subsequent explanatory request, and, exceptionally, despite the Apostolic Signatura¹¹⁶ excluded this possibility during the pandemic period, even for voting sessions, according to the provisions set out by can. 1609, which states that, in the Collegial Court, the president establishes the date and time in which the Judges will have to meet for the decision, and, unless a *causa peculiar* (*special reason*) does not suggest otherwise, the meeting will be held in the Court premises themselves.

¹¹³ Cf. DC, art. 89: “*Quoties in actis iudicialibus partium aut testium subscriptio requiritur, si pars aut testis subscribere nequeat vel nolit, id in ipsis actis adnotetur, simulque iudex et notarius fidem faciant actum ipsum de verbo ad verbum parti aut testi perlectum fuisse, et partem aut testem vel non potuisse vel noluisse subscribere (can. 1473)*”.

¹¹⁴ CIC, can. 1437: “§ 1. Cuilibet processui intersit notarius, adeo ut nulla habeantur acta, si non fuerint ab eo subscripta. § 2. Acta, quae notarii conficiunt, publicam fidem faciunt”.

¹¹⁵ DC, art. 62: “§ 1. Cuilibet processui intersit notarius seu actuarius, adeo ut nulla habeantur acta, si non fuerint ab eo subscripta (cf. can. 1437, § 1). § 2. Acta, quae notarii in exercitio sui muneris et servatis sollemnitatibus iure praescriptis conficiunt, publicam fidem faciunt (cf. cann. 1437, § 2; 1540, § 1)”.

¹¹⁶ *Ibidem*.



5 - Conclusions

In the message for the 2016 World Communications Day¹¹⁷, Pope Francis wrote “*It is not technology which determines whether or not communication is authentic, but rather the human heart and our capacity to use wisely the means at our disposal*”, so in life, in the ecclesiastical and family reality, and in the matrimonial substantial and procedural Canon.

There are many positive contributions (but they still need to be studied in depth), that the digital will be able to offer, in a streamlining view of the canonical matrimonial process, contributing to the simplification of the procedures and the rapidity of the trials¹¹⁸. To limit a priori the admissibility of the digital evidence or of the contribution of remote connections would be anachronistic and inadequate compared to the primary role recognized, from the magisterial documents themselves, to the technological tools in the life of the people. However, it is necessary, as also recalled in other sectors regarding the digital in the Church¹¹⁹, to indicate/share a method, and to regulate a technical conduction practice in the field of canon law, starting from a specific training of the operators of the Courts: Judges, Records Officers and, most of all, Notaries, on the basic *digital forensic* techniques and on the management of electronic services. It could be beneficial, *mutatis mutandis* from the Italian judicial experience¹²⁰, to create, near the Dicastery of the Roman Curia, or near the Italian Episcopal Conference a mixed Commission composed by Judges, IT and IT law experts, with the objective of promoting the spreading of the IT culture in Ecclesiastical Courts, of verifying their good practices or the

¹¹⁷ FRANCIS, *Communication and Mercy: A Fruitful Encounter*, Message for the 50th World Communications Day, 24 January 2016, cit.

¹¹⁸ Cf. writings on the subject in the volumes: P. PALUMBO (ed.), *Matrimonio e processo per un nuovo umanesimo*, cit.; ID. (ed.), *Le sfide delle famiglie tra diritto e misericordia. Confronti ad un anno dalla riforma del processo di nullità matrimoniale nello spirito di Amoris laetitia*, cit.; A. STANKIEWCZ, *La celerità nelle cause di nullità matrimoniale: aspetti operativi*, in H. FRANCESCHI, M.A. ORTIZ (ed.), *Ius et matrimonium*, Edusc, Rome, 2015, pp. 217-236.

¹¹⁹ Cf. P. PALUMBO, *Digital religious celebrations*, cit., pp. 77-95.

¹²⁰ In Italy there are district magistrates for innovation and information technology (RID), as experts in these matters in the districts, in collaboration with the Superior Council of the Magistracy, of which they are the proximity bodies on the territory for technological innovation, cooperating with the Presidents of the Court of Appeal, the General Prosecutors and the managers of the judicial offices of the district. In each district, a district IT contact person is appointed for the civil sector, one for the criminal judiciary and one for the prosecution sector. They constitute the District Innovation Office (D.I.O.).



criticalities in terms of treatment and acquisition of “digital” evidence, of coordinating the initiatives and the projects related to the computerization and automation of the services in the offices, of knowing the specific needs of each court for the best employment of the IT tools.

The frontiers of substantial and procedural matrimonial law, even by effect of the internet, are more and more fluid and moving, yet, even through the internet goes that reform¹²¹ of the people and of the structures so wished for by Pope Francis¹²², which makes us brave and aware citizens of the digital world¹²³ without letting us be won over

“[...] by the temptation of attachment to a glorious past; let us instead form a great team to better respond to the new challenges in communications that today’s culture demands of us, without fear and without imagining apocalyptic scenarios”¹²⁴.

¹²¹ «We must not be afraid of this word. Reform is not just “whitewashing over things”: reform is giving another form to things, organizing them in another way. And it must be done intelligently, kindly, but also, also - allow me to use the word - with a bit of “violence”, but good, soft violence, in order to reform things. It is in full reform since it is a new reality that is taking steps that are now irreversible»: **FRANCIS**, *Address to the participants to the first plenary assembly of the Secretariat for Communication*, 4 May 2017, in *AAS*, 109, 2017, p. 478.

¹²² Cf. **FRANCIS**, *Address to the Italian Bishops’ Conference*, 20 May 2019, in *www.vatican.va*.

¹²³ Cf. **FRANCIS**, *Communication to the Service of an Authentic Culture of Encounter*, Message for the 48th World Communications Day, 1 June 2014, in *www.vatican.va*.

¹²⁴ **FRANCIS**, *Address to the participants in the first plenary assembly of the Secretariat for Communication*, 4 May 2017, cit., p. 478.