

**Pontifical University of the Holy Cross
School of Canon Law**

PROGRAM OF ONGOING FORMATION
FOR THOSE WHO WORK IN ECCLESIASTICAL TRIBUNALS

**7th Renewal Course of
Marriage Law and
Canonical Procedure**

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>> for exclusive use of course participants <<

SUMMARY OF PRACTICAL CASE STUDY

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7th Renewal Course of Marriage Law and Canonical Procedure

Practical Case on the Identification of Titles of Competence

Msgr. Davide Salvatori

First cause. The plaintiff man introduces a cause for annulment of marriage for serious lack of discretion of judgment of the woman, defendant.

The Judicial Vicar of the Court of First Instance, having established jurisdiction for the plaintiff's quasi-domicile, admits the libellus and sues the defendant and the Defender of the bond.

The defendant woman, having read the libellus, finds it very offensive towards her, and she also knows that the man does not live in the indicated quasi-domicile. The son of the parties, in fact, had told her that the plaintiff had tried to get a fictitious quasi-domicile because they had advised him that court, since he was faster in the instruction of cases.

The woman, therefore, opposing the request, promptly writes to the court contesting the content of the libellus and raising the exception of relative incompetence, denouncing the quasi-domicile fictitious of the man. However, she does not provide evidence to support her thesis, but only *voces atque rumores*.

The Judicial Vicar, who has only requested the vote of the defender of the bond, rejects *in limine* the plea of incompetence and proceeds *ex officio* to reconcile the doubt with the decree. The woman then, having received the decree of concordance of the doubt together with the rejection *in limine* of her *exceptio*, lodges an appeal. The Judicial Vicar, constituted the College of Judges, refers the matter to the College. The Head of the College, who is the same Judicial Vicar, requests only the observations of the Lawyer of the plaintiff and the Defender of the bond and the College confirms the decision of the Judicial Vicar, thus declaring himself competent.

Questions: *Has the way of acting of the Judicial Vicar been corrected?*

What would be the competent judicial body to judge the appeal against the decree of the Judicial Vicar?

While the appeal to the College was pending, the woman contacted the parish priest of the actor's quasi-domicile and explained the matter to him. The parish priest, full of pastoral zeal, met the family at which the actor claimed to have acquired a quasi-domicile. The parish priest does not believe his ears: the family contacted claims to know the actor and declares that the man never lived with him; he had asked that family to collect for him any mail that would come from the ecclesiastical court. The parish priest has a sworn declaration issued by the head of the family, who is signed, whose signature is authenticated by the parish priest.

While the parish priest was searching, the woman was notified of the rejection of her appeal to the College. The woman, immediately informed by the parish priest of the above facts (within ten days of the notification of the Collegial Decree), files a complaint of nullity of both the decree of the Judicial Vicar and the collegial decree and contextually requests *restitutio in integrum*. The reasons for the complaint of nullity are based on can. 1620, n. 7 (i.e. *ob ius defensionis denegatum*) and the

reasons for *restitutio in integrum* are based on the fact that the plaintiff's quasi-domicile would be fictitious. The court chosen by you is the appeal court, based on the combined provisions of can. 1646 § 2 and 1645 § 2, no. 4 and here the questions are dealt with.

Questions: *Which court is competent, in the case, to receive the complaint of nullity together with the restitutio in integrum?*

In answering the question, it should also be borne in mind that the Lawyer of the woman interprets the lack of quasi-domicile as «failure to comply with a law that is not merely procedural» (cf. can. 1645 § 2, n. 4), since these are – it is said – questions that are related to administrative law. Is this interpretation correct?

Would it not rather be a malice perpetrated and therefore fall into the case of can. 1645 § 2, n. 3?

If, therefore, the second hypothesis proposed is valid, which of the two courts would then be competent: the court of first instance or the ordinary court of appeal (cf. can. 1646)? If no one objected to the incompetence according to the facts of can. 1646, would the decision be valid or null? What if incompetence is contested?

Second cause. Nine months have passed since the woman had filed the complaint of nullity together with the *restitutio in integrum*, without receiving a reply. Since the arrears were considerable and since the woman did not recognize the jurisdiction of the court chosen by the plaintiff, she introduces a new libellus, this time at the competent court of the domicile of both parties. The ground of nullity requested is the serious lack of discretion of judgment by the defendant in question.

The court seised, being unaware of the other proceeding, proceeds ritually. The Judicial Vicar, therefore, having ascertained the jurisdiction of the court, cites the man (this time defendant) and the Defender of the Bond, notifying him of the libellus. The man, after having received the convocation of the court, is very surprised, also because the other case in the meantime had been suspended by the court because of the complaint of nullity and the request for *restitutio in integrum*. Through his lawyer, the man communicates his opposition to the case and makes it known that the marriage annulment case was already pending in another court. He raises an exception of absolute incompetence, based in the case on the criterion of prevention.

The Judicial Vicar, judging that the case must be dealt with by ordinary process, immediately establishes the College. The Head of the College, who was the Assistant Judicial Vicar, in turn refers the matter to the College itself, which, having received the observations of the Defender of the Bond, of the Promoter of Justice and both parties, declares itself competent.

Questions: *Which are the reasons for which the College declares itself in the competent case?*

Isn't this an error in decernendo?

Is the way of acting of the Judicial Vicar to refer the question to the College correct?

Was there any other way to go?

In this case, can the Head of the College agree to the doubt?

Against the collegial decree, by which the court declares itself competent, the defendant man appeals to the court of appeal (which is or are in the case the court or

courts of appeal?). This court, taking into account that the woman actually lives in her canonical domicile, declares the court of the woman's domicile competent.

Questions: *What does Dignitas connubii require to prove domicile or quasi-domicile?*

What is necessary to do in case of doubt?

Are the requirements of the Education in this regard still binding? Why?

At this point the parties receive the response of the court on the complaint of nullity and *restitutio in integrum* (first case): the court declares that the decree of the Judicial Vicar of the court of first instance that had agreed on the doubt is not null and void, while it recognizes the nullity of the Collegial Decree that rejected the appeal of the defendant woman and at the same time grants the *restitutio in integrum*.

Questions: *Is it correct from a procedural point of view to acknowledge the nullity of the Collegial Decree and at the same time also grant the restitutio in integrum?*

Would the reasons for granting restitutio in integrum be justified, if so?

Is it possible that the Court of Appeal, in the present case, has jurisdiction to deal with the complaint of nullity when no appeal has been interposed?

While the question of the complaint of nullity and the request for *restitutio in integrum* of the first case was pending, both courts conduct the investigation of the case in parallel: the parties and the texts are heard and in addition the respective courts order an ex officio expert report on the parties.

When the competent court for the first case receives the response of the court of appeal granting *restitutio in integrum*, the court of the first case declares itself incompetent and the plaintiff renounces the claim.

It should be noted that the first case had come to the conclusion of the investigation with the issue of the decree of publication of the documents, while the court of the second case had yet to finish the investigation.

Third cause. At this point the parties make peace and, talking to each other, decide that the best thing to do is to arrive at the resolution of the cause as soon as possible. After consulting with the lawyer of the plaintiff man, the parties decide to root the case at the forum of the celebration, initiating the procedure of the *processus brevior*. Both sign the libellus for serious lack of discretion of judgment by the woman, same ground of nullity of the first case.

The bishop of the place, having ascertained the jurisdiction of the court, starts the procedure of the *processus brevior* and assumes the acts of the first case, the preliminary investigation having already been completed. No one had made it known to the Bishop that the second cause was pending. However, when the case is decided, the Bishop becomes aware of the question of the two cases. After consulting with his Judicial Vicar, the Bishop decides to go to judgment for pastoral reasons and for the economy of the process.

After one month from the deposit of the libellus, a sentence of nullity of marriage is issued by *processus brevior*, recognizing the nullity of the marriage for serious lack of discretion of judgment by the woman. Since no one appeals within the usual time limits, the sentence becomes enforceable.

A few months after the judgment of the *processus brevior* also the court of the second case gives its judgment: it consists of the nullity of marriage for serious lack of discretion of judgment by the man.

Questions: *Have the two courts acted legitimately?*

Are the two sentences valid?

Appellate judgment. The man, after having received the sentence of the second case, does not agree with the reasons: he agrees to ask for the annulment of the marriage, but he does not like that the annulment of the marriage be attributed to him. Therefore, relying solely on these reasons, it immediately appeals against the judgment in the second case and, within the prescribed time limits, continues its appeal. The *prosecutio appellationis* does not contain reasons in law or in fact, but only complaints about the non-opportunity of that ground of nullity, because it would undermine his image of manager accredited and affirmed.

After receiving the appeal and the *prosecutio appellationis*, the Judicial Vicar of the ordinary Court of Appeal, having verified the jurisdiction of the Court, constitutes the Judicial College for the handling of the case in accordance with can. 1680 § 2.

The Head of the College, however, obtained the vote of the Promoter of Justice, the Defender of the Bond and, analyzed the matter in depth, declares the impossibility to proceed, decreeing in case the archiving of the case. The reasons for the decree are based on two arguments: a) there is no interest in acting, as required by can. 1501; b) there is no actress.

Questions: *Is it possible that a competent court is "unable" to act?*

Are the reasons given by the Head of the College correct?

7th Renewal Course of Marriage Law and Canonical Procedure

Practical Case on the Challenging the Sentence¹

Msgr Paolo Bianchi

The fact

I. On 25th May 2016 a local court (no matter if diocesan or interdiocesan) publishes an affirmative judgment of first instance declaring the nullity of the marriage of Mr. Claudio Rossi and Mrs. Alessia Martini.

The (permanent) Patron of the defendant receive the judgment on 7th June 2016.

II. On 28th June 2016, the defendant personally (i.e. not through the Patron and anticipating him by *fax* on the same date) filed an appeal, claiming to have received only on that day news and notification of the judgment. That is the text of his act of appeal:

Esteemed Court of [...]

Subject: Appeal against the judgment in the n.m. Rossi v Martini case

Excellent court,

as you will easily ascertain, I, Alessia Martini, have only been able today to collect from the post office of [...] the registered letter containing the judgment in question.

The stable Patron who was assigned to me at the time, was not able to contact me to inform me of the publication of the sentence and send me the text: for this reason he sent it to me by registered letter, which I received only today.

I hereby – feeling burdened by the affirmative sentence, which I do not agree with and which has disregarded my procedural position and the reasons I have given – express my desire that my marriage case be subject to further review at second instance of judgment.

Therefore, I hereby declare *to appeal* against the judgment of first instance issued by this court that declared null and void the marriage I had contracted with Mr. Claudio Rossi.

I designate as the court of appeal the court of [...], the ordinary court of appeal of that court of first instance.

I ask that you expressly confirm to me the official defence of the Patron who has assisted me in the first instance.

I reserve the right to present to the appellate court within the prescribed time limit the reasons why I am calling for the reform of the decision at first instance.

Thank you for your attention and best regards

[...], 28th June 2016

Alessia Martini

III. The Court of First Instance communicates the interposition of appeal both to the Defender of the bond and to the Patron of the plaintiff.

While the Defender of the bond is silent, the Patron of the plaintiff on 30th June 2016 filed a petition, in which he asked that the defendant's appeal interposition be rejected because it was filed out of time. Here is your instance in which you develop your argument:

Rev.mo mons. Judicial Vicar
Court of [...]

Subject: Placing of an appeal by the defendant

¹ I thank Monsignor G.P. Montini for his help in finding this exercise. The names of the parts have been changed from the original documents.

Rev. Monsignor Judicial Vicar,

Having taken note of the appeal against the judgment of nullity of marriage in the Rossi/Martini case, published on 25th May 2016, made by the defendant on 28th June 2016;
- The judgment in question was validly notified to the defendant's Patron on 7th June 2016;
- whereas can. 1630 § 1 CIC indicates a peremptory period of fifteen days from the notice for such an appeal, to be brought before the *referring* court;
- considering that the expiry of the aforementioned peremptory term of fifteen useful days (the *dies a quo* is not counted) must be considered as having taken place on 24th June 2016;
- the defendant having sent its application for a declaration of invalidity no less than four days after the expiry of that period;

I request that the defendant's application to bring an appeal *be declared late because it was made out of time* and, therefore, *tamquam non esset*.

In anticipation of your determinations, I offer my sincere respects.

[...], 30th June 2016

lawyer [...]

IV. For the convenience of the participants, the calendar for June 2016 is shown:

Giugno 2016

	Lunedì	Martedì	Mercoledì	Giovedì	Venerdì	Sabato	Domenica
23			1 S. GIUSTINO MARTIRE	2 FESTA DELLA REPUBBLICA - S. MARCELLINO	3 S. CARLO L.LIST	4 S. QUIRINO VESCOVO	5 S. BONFACIO VESCOVO
24	6 S. NORBERTO VESCOVO	7 S. ROBERTO VESCOVO	8 S. MEDARDO VESCOVO	9 S. PRIMO, S. EPREM	10 S. DIANA, S. MARCELLA	11 S. BARNABA AP.	12 S. GUIDO, S. GIONFRIO
25	13 S. ANTONIO D.A.P.	14 S. ELISEO	15 S. GERMANA, S. VITO	16 S. AURELIANO	17 S. GREGORIO B., S. ADOLFO	18 S. MARINA	19 S. SERVASIO, S. ROMUALDO AB.
26	20 S. SILVERIO PAPA, S. ETTORE	21 S. LUIGI GONZAGA	22 S. PAOLINO DA NOLA	23 S. LANFRANCO VESCOVO	24 NATIV. S. GIOVANNI B.	25 S. GUGLIELMO AB.	26 S. VIGILIO VESCOVO
27	27 S. CIRILLO D'ALESS.	28 S. ATTILIO	29 SS. PIETRO E PAOLO	30 SS. PRIMI MARTIRI			

Topics to be studied in the discussion

As to the *nature of the matter*:

1.1. Is it correct to frame it as a question *de iure appellandi*, therefore to be decided *expeditissime* and by the court of appeal, according to the norms of the oral litigation process (cf. can. 1631)?

In that case, what does the Court of First Instance have to do? For example: refrain from any decision and send all acts to the court of second instance, only declaring suspended the time limit for prosecution until the question of the admissibility of the interposition is clarified?

1.2. If the Court of First Instance is convinced that the interposition has taken place out of time, can it proceed to issue the decree of execution in accordance with can. 1651?

2. The defendant distinguishes in its writing between when its Patron received the sentence (June 7) and when it received it itself (June 28).

As far as the defendant does not use this argument, could it be argued that the *time of the beginning* of the calculation of the time-limits for the appeal begins to run from the time at which you personally received the judgment concerning you?

If not, why not?

3. Assuming that the valid notification of the judgment to the defendant (also in relation to the calculation of the time limits for appealing) has taken place with its transmission to his Patron; and taking into account that (given can. 203 § 1) the day of receipt of the notification of the judgment is not counted, we would have that the calculation of the time limits for appeal begins from the day 8th June 2016. But, that said, *how are the terms for the interposition of appeal to be calculated?*

In this regard, three possible interpretations are envisaged:

3.1. The defendant's argument is that the days on which the court closes should be excluded from the calculation of useful days, i.e. Saturdays and Sundays (there are no other public holidays in the period of our interest). So, with Saturdays and Sundays off, Tuesday 28th June would actually be the last day for the appeal.

And, if so, would the advance by *fax*, as done by the defendant, be sufficient or would be required the proof that she also sent (e.g. via a post office) the notice of appeal on the same day?

3.2. The position of the Patron of the plaintiff party, on the other hand, assumes that Sundays alone should be considered as unhelpful days: he therefore maintains that the deadline for the submission of the appeal expired on Friday 24th June.

3.3. Finally, it could be argued that – since the defendant has not demonstrated a specific impediment to acting in due time (cf. can. 201 § 2), nor since his Patron has not appealed after notification to him of the sentence (cf. can. 1486 § 2 and art. 107 § 2 DC) – the calculation of the time limits is to be done continuously and would therefore expire on Wednesday 22nd June, not coinciding with a day of closure of the court, in which case it would be extended *ex lege* to the first following non-holiday day, as per can. 1647.

Which count do you think is right?

4. Assuming that the appeal proposed is considered to be beyond the *fatalia legis* and is therefore not procedable: what can the defendant do once the enforceability of the sentence is declared?

4.1. Would it be possible for you to ask for a *new examination of the case*, given the principle of the non-legibility of cases on the state of persons (cf. can. 1643 and art. 289 § 1)?

4.2. Should the defendant necessarily propose such a request to the court of third instance, as it would appear from the text of the renewed can. 1681 or could the defendant do it elsewhere?

*Further proposal (in case of time overruns)
of questions for discussion
on issues that seem to me to still offer a space for debate*

1. On the subject of *complaint of nullity*.

Does the Commission share the view that the illegitimate use of the short trial could cause the nullity of any affirmative judgment?

Why is this doctrinal hypothesis accepted or rejected?

2. Still about the topic of *appeal*.

2.1. Do you share the view that the peremptory nature of appeal periods should be restricted to affirmative judgments only? If not, why not?

2.2. Do you agree with the approach that restricts the possibility of confirmation by decree *ex can.* 1680 § 2 to only affirmative judgments? If not, why not?

2.3. Does you share the so-called integral comprehension of the possible *dilatory* quality of an appeal, i.e. that which (regardless of the appellant's subjective intentions) compares grounds of burden, the reasoning of the appealed judgment and acts of case, having as the diriment criterion the moral certainty of the nullity of the appellate judges?

3. On the subject of *appeal in the short trial*.

3.1. Beyond the terminological differences of the two canons, the discipline of canons 1680 § 2 and 1687 § 4 is considered homogeneous:

- both from a substantive point of view, i.e. in understanding the concept of a purely dilatory appeal and its criteria and means of evaluation?

- and from the point of view of procedure, in the sense that before reaching a decision on the matter, the steps prescribed by the first part of *can.* 1680 § 2 must be implemented, even in the case of the short trial?

3.2. If the appeal is considered not to be purely dilatory and therefore admissible, which court will deal with the case under consideration at the next level of justice?

7th Renewal Course of Marriage Law and Canonical Procedure

Practical Case on the Affective immaturity

Prof. Giacomo Bertolini

I. Presentation

After reading the expert report of Dr. Maria Teresa Bianchi and the sentence dated June 28, 2019, redact the Defender of the Bond's act of appeal, identifying the reasons for challenging the sentence (doctrinal or jurisprudential unfoundedness, errors in fact or in law, manipulation of the proofs, factual unfoundedness, methodological issues, omission of the subjective-clinical and/or objective-normative criteria in the evaluation of the incapacitating significance of the diagnosed psycho-affective immaturity as per can. 1095).

II. Peritia on Lucia Rossi and Renzo Verdi

Dr. Maria Teresa Bianchi

Psychologist - Psychotherapist

Sex Therapist

Family Mediator

Court Consultant

Technical Consultant for the Ecclesiastical Tribunal

REGIONAL ECCLESIASTICAL TRIBUNAL

Causa "nullitatis matrimonii"

ROSSI-VERDI

The undersigned Dr. Maria Teresa Bianchi, psychologist, was nominated by the Rev. Judge *Ponens* of the Regional Ecclesiastical Tribunal, as court-appointed *peritus* in "causa nullitatis matrimonii."

Lucia Rossi – Renzo Verdi

The following questions were posed:

THE *PERITUS* SHOULD REPORT:

- 1) How did the *peritus* confirm the identity of the parties? What psycho-diagnostic tests were performed on the parties, and how did the *Peritus* select the methodology employed?
- 2) Is it possible to describe the psychological state of the parties and their personalities at the time of the wedding? Was any disorder, anomaly, or psychological illness present? If so, what? What was its cause? And its severity?
- 3) What influence did the situation as diagnosed in # 2 have, at the time of the wedding, on the parties' superior logical, critical and discretionary faculties, and on their will and therefore their internal and external freedom, as this specifically relates to the decision to marry? Were these capacities seriously jeopardized or was it only a matter of difficulty?
- 4) Did the diagnostic situation as in # 2 have an influence on the capacity of the parties to assume or to carry out the following single, specific essential obligations of marriage: a) assuming the conjugal state of life; b) the procreation and education of children; c) the permanence of the bond; d) reciprocal conjugal fidelity? If yes, for what reasons?

- 5) If the answer was affirmative, please indicate whether and why the diagnostic situation would have entailed impossibility or mere difficulty in assuming or carrying out the above-stated conjugal obligations, considered singularly?
- 6) If the answer was affirmative, on the basis of what precise circumstances and/or concrete proofs and/or clinical-scientific arguments is the *peritus* able to apply her judgement retroactively to the time of the wedding, as in questions 2-5?
- 7) At present, what is the psychological and personality situation of the parties? Does it differ from the time of the wedding? If the parties were to request marriage in the Church, what problems might arise?
- 8) Are the conclusions of the *Peritus* scientifically certain with respect to the parties evaluated? Or are they to be considered hypotheses, or merely plausible conclusions?
- 9) Does the *Peritus* have any other information to add?

Ms. Rossi and Mr. Verdi came for evaluation in September of 2018. Ms. Lucia Rossi underwent psychodiagnostic tests, which were administered by Dr. Neri.

This expert report is a synthesis of the acts of the cause, the psychological history of the evaluated party, the story of the couple, and the clinical picture, including the results of the psychodiagnostic testing. Conclusions are reported in response to the questions posed.

Acts from the First Instance

The entirety of the acts of the first cause were transmitted by the Regional Ecclesiastical Tribunal.

Witnesses presented by the Petitioner:

The witnesses confirm the narrative of the facts as proposed by the Petitioner, but demonstrate an indirect and superficial knowledge of the facts regarding the relationship, marriage and common life of Rossi and Verdi.

Aside from Ms. Rossi's mother, the witnesses never met Verdi. They report what the Petitioner had told them: Verdi was a free spirit, and his wife took care of everything. "*She had idealized him. Lucia was longing for a man who would be close to her, who would truly love her and with whom she could start a family.*" The relationship between Verdi and the parties' first child seems to be poor, to the point that she calls her dad "Mario."

In all of the depositions, Rossi is described as an independent, strong and determined woman who "*has always broken her back working*" and who "*knows how to do jobs that men would usually do,*" "*a work horse,*" a "*woman-man*".

Rossi's mother describes her as a "*rebellious daughter*" who needs to be restrained. Other witnesses affirm that the mother was severe, not very affectionate, and seemed to nurture a preference for her second-born. Even today, Rossi would prefer to go visit her father rather than both parents.

LUCIA ROSSI

Deposition of the Petitioner (summary)

Lucia Rossi grew up in a family that was "*normal, like so many,*" composed of the mother (a very severe woman with whom the Petitioner does not have good communication), the father (less strict but not very present in the home), and a brother who is seven years younger, with whom Rossi never developed a relationship due to the difference in age.

After getting an accounting diploma from a technical high school, Lucia began to do different temporary jobs and was able to become economically independent and move out on her own at just 19 years old. In 1990, she received a job at the company she works for today. She describes herself as a "*strong, independent and determined*" girl.

At age 19, she began a relationship and cohabitation with a drug addict 8 years her senior, but ended the relationship after the man left the rehab community he had joined.

At age 22, Lucia met Renzo Verdi, a Sicilian guy in the Merchant Marine who was temporarily stationed in _____ for a 15-day training course. The two began a relationship. After one month, Verdi set off to sea for six months and the two remained in contact via letter. Lucia describes how, in the months he was away, she was unable to leave the house because of his profound jealousy. After one year of dating, Lucia travelled to Sicily to meet his parents and, on that occasion, Renzo's mother began applying strong pressure on the couple to get married in order to not attract gossip from the townspeople. Lucia's parents were concerned that their future son-in-law would often have to travel for work, but they had no reservations about him as a person.

The couple approached marriage with enthusiasm and light-heartedness. Lucia took care of the preparations while Renzo was at sea. There were no arguments before the wedding because, in the little time they had spent together, both tried not to fight. Renzo returned on June 11, 1992 and the two were united in marriage on June 13.

During their honeymoon, the couple fought about Renzo's irritability, but the following months proceeded peacefully. After one year of marriage, Lucia suffered a miscarriage shortly after becoming pregnant. Renzo blames her for what happened and insists that the couple have another child immediately until, four months later, Lucia once again becomes pregnant, against the advice of her gynecologist to wait. Lucia spent the following months bedridden due to a high-risk pregnancy, and informed Renzo that, after the birth, he can either choose to go out to sea again and accept however she would raise their daughter or find a land job and contribute to her upbringing. Renzo left his position as a long-standing official and found a job as a security guard at the port of Genoa. Renzo did not like this new job, and blamed his wife for the decision.

In 1994, Giovanna was born, and the couple's life changed radically: the two no longer go out, Renzo stopped helping around the house. His "almost maniacal precision became obsessive," he got irritated about anything and everything, he seemed bothered by the daughter and jealous of the attention paid to her by her mother. Lucia tried as much as possible to take care of their daughter on her own, creating as little of a disturbance for Renzo, but arguments became frequent. Lucia proposed couples counseling but, after the critiques raised against him during the first sessions, Renzo refused to continue. In 1996, the couple found a lawyer to begin the process of separation but, while waiting for a hearing with the judge, cohabitation continued for another year (Lucia did not wish to throw her husband out, and expected him to find and set up a rental home). On the final day of cohabitation, Renzo assaulted Lucia in the presence of their daughter.

Initially, Renzo hardly ever saw his daughter. Then, little by little, he began to pick her up without warning, as he wanted, but never paid child support. Giovanna is currently seeing a psychologist, and at age 4/5 she was taken to the children's hospital for a gastro-esophageal reflux problem caused by stress related to her relationship with her father. The girl, who is now 23, has not seen her paternal grandparents for 19 years. Her paternal grandmother, a widow, is trying to reconnect with her granddaughter. Despite a strongly negative initial reaction from Giovanna, who felt abandoned, the two now have a relationship via telephone. Lucia, too, remained in contact with her mother-in-law, who is not happy about her son's new relationship. Renzo is currently civilly remarried and has two children, but never visits Giovanna.

After two years of separation, Lucia began a 16-year relationship with Mario, from which one daughter, Anna, was born in 2001. After 10 years of cohabitation, Mario began drinking due to problems at work and began to be violent toward Lucia who, unable to get him to quit drinking, left him. She has been in a relationship with Leonardo, her colleague of 30 years, for four years. They do not cohabit, so as to not disrupt the daughters.

Lucia presented the cause for nullity, prompted by her desire to receive the Sacraments. She maintains that her bond with Renzo no longer exists, seeing as Renzo is remarried and has two children.

Personal History

Lucia Rossi was born in a family composed of father, mother, and a brother 7 years younger. She states that her father worked long shifts at the port and, consequently, was seldom present at home. Her mother worked for the police. Lucia did not, and still does not, have a good relationship with her younger brother (married and subsequently separated at age 30) due to his mother's favoritism towards him.

Lucia describes having to have spent her childhood "outside the home" and to have been "raised by strangers" since her mother, despite working part-time, sent her to daycare starting when she was two months old. Following, she grew up "raised by daycare staff, school staff, and after-school care." Nor were her grandparents significant figures in her upbringing; they only took care of her exceptionally, if she was sick.

Lucia's relationship with her mother was always conflictual: "affectively-speaking, it is nonexistent. I was never able to talk about my problems. We didn't have communication. I could never create a mother-daughter relationship, meanwhile she was inseparable from my brother." At age 16, Lucia runs away from home for two days and her mother makes no effort to look for her.

"Even today, we aren't in touch unless I'm the one to call her. I learned to accept her as she is, but she was never there. If I have a problem, rather than turning to my mom I ask my friends for help." She hypothesizes that the mother inherited "faulty DNA" from her grandfather, and explains that her maternal uncle is schizophrenic and bipolar and her maternal aunt received inpatient psychiatric care for depression and a nervous breakdown.

Currently, Lucia sees her father almost daily but, throughout her childhood, he was never emotionally present due to his job and the fact that he was dominated by a "dictatorial" wife who made all the decisions. Lucia describes that, as a girl, she would try to get her mother's attention by playing pranks on her; in the evening, her mother would tell her father, who would "beat me almost every day."

Lucia relates that her younger brother was unplanned. Her father would not have wanted a second child. Her mother, in response, took special care throughout the pregnancy and upbringing of her second child, not sending him to daycare but leaving him with her own mother and "raising him in a different way." She adds that her brother's lack of rules created numerous problems: he never finished accounting school, accumulated around 300,000 euros in debt, and lives dissolutely.

Lucia states that, at age 17, she suffered a shock when her brother, with whom she shared a bedroom, tried to touch her while she was sleeping. "It was a problem because, given the symbiotic relationship between my brother and my mother, I couldn't say anything because I was the black sheep of the family. I was the rebellious one and I wouldn't have been believed." For six months after, Rossi slept in the living room, sleeping on three chairs. "No one ever noticed anything because I would go in there when they were already sleeping." After this episode, the home environment got even worse because her brother, afraid of being turned in, tried to pit her against his mother. "I had this thing inside me that I couldn't tell to anyone, that was making me restless, and that had made it even more difficult to live in a house where I already felt alone. Any problem that I had, I had to handle it on my own because my mother was old-fashioned and I just found a wall there."

Years later, Rossi told her mother about the episode, but was not believed. When this Expert pointed out that the episode is not present in the acts of the cause, Rossi affirmed that it is something she has forgiven and doesn't want to dwell on.

Once she turned 18, Rossi decided to leave home "for survival" and started working for a cleaning company, attending accounting school at night. Initially, "to get out away from home" Rossi moved into the house of a boy that she had been dating for about a year, but after a few months she discovered that he had begun doing drugs. After making various attempts to help him get sober, she ended the relationship and moved out of the apartment. "I was on my own for a while because that relationship was traumatic. He sold everything that I had, and I found myself without enough money to eat." On that occasion, her father, against his wife's will, intervened, providing

her with an apartment that he owned, since the girl could not afford to pay rent. Rossi started to live alone and to work as a barista. Two years later, she meets Renzo Verdi.

Rossi explains that, at that time, she was lonely, she was seeking affection everywhere and often idealized the people she met even if they didn't deserve it. "I was looking to find balance in a person who, in reality, couldn't give me anything." "Growing up, I was looking on the outside to find that I hadn't had at home and seeking to build the family that I didn't have. Not having had a good example in my family, I looked for the wrong things."

Because of his work, Verdi alternated between six months at sea and two months on land. During his time at sea, the two kept in touch by letter, and spoke on the telephone once every ten days. During the rare moments that Verdi spent in Genoa, the relationship proceeded serenely: "We were trying not to bicker for the little time that we spent together, and it is almost impossible to not get along when you don't see each other."

The couple decided to get married, driven by pressure put on them by Verdi's parents who, according to Rossi, attributed great importance to appearances ("The next time you two come back to Sicily you should be married because people talk and we feel uncomfortable"). "We organized this wedding in a hurry. Renzo had gone to sea. We only went to two meetings for the pre-marriage course. I organized everything on my own, and he got back the day before the wedding."

"Before the wedding we spent so little time together that we hadn't had time to speak about children or anything else". "I didn't have any psychological problems. If I did, I would have jumped off a bridge!"

Regarding Verdi's behavior as a husband and father, Rossi affirms that once the relationship entered in crisis her husband refused to complete the steps proposed to them by the Conflict Resolution Center and that "he probably was with another woman, and besides he hated his daughter because she was a child who didn't sleep, didn't eat and was hyperactive." "After the separation, he never paid child support. In the beginning, he was supposed to have it taken directly from his paycheck, but since he changed jobs so often, I took out a loan on the house in the name of my daughter. I had to withdraw the loan because if he hadn't sold the house privately he would have ended up on the street. For four years now he hasn't contributed to the medical or university expenses of Giovanna."

After her separation from Verdi, Rossi had a relationship that lasted 16 years, from which her second daughter was born. The relationship ended because of her partner's problems with alcoholism; he had become irritable and violent.

Rossi states that, currently, her older daughter attends university, and that in the past she was seeing a psychologist to work through both her father's abandonment (since he disappeared completely for 7/8 years) and the fact that her mother's second partner, whom she had viewed as a father, was an alcoholic. Rossi states that she was very worried that her daughter would repeat the mistakes that she had made, choosing the wrong people to be at her side and justifying their mistakes for fear of ending up alone. "She was dating a crazy guy who hit her. I lit so many of those little candles in church so that they would break up..."

Giovanna has recently reconnected with her paternal grandmother, with her father (who initially didn't respond to her messages) and with her half-siblings.

Rossi's second daughter is 17 years old.

After breaking up with her second partner, Rossi spent two years without any romantic relationships and undertook a spiritual itinerary, accompanied by Father Luca, in order to find herself. She began to participate in the Communion and Liberation group and traveled repeatedly to Medjugorje.

"Sooner or later I need to see a therapist myself but first I had my youngest daughter go, then my oldest, and now in a little bit it's going to be my turn".

Currently, Rossi is in a romantic relationship but does not cohabitating. "I am waiting for my daughters to be okay, but if the relationship proceeds, I would like to get married, even though I'm trying to get some direction from Fr. Alessandro because I don't want to make the same

mistakes as before. Now I'm being seen. Before I do anything, I get advice and move forward with extreme caution. The annulment was suggested to me by Fr. Alessandro for my interior peace." She adds that she wants to feel free, since now she feels uncomfortable when she goes to church and can't receive the Eucharist.

Clinical Presentation

Rossi's attitude was cordial and willing. She responded to requests for further information with a good level of collaboration, even though we note a general critical flattening and difficulty adhering to the questions proposed.

Attached are the results of the psychodiagnostic evaluation (Rorschach Test) performed by Dr. Neri; everything that emerged during the clinical interviews was validated by the psychodiagnostics.

The following emerges from the records:

"Intellectual capacity is adequate but shows a cognitive rigidity and a tendency to censure emotive elements." "There is a tendency to overvalue her own resources and an insufficient propension to take on points of view different from her own."

"The elements related to the affective and relational sphere express experiences of vulnerability regarding her image of Self, with the need to put on a mask. The development of affection and emotions appears disharmonic, characterized by elevated impulsivity and an insufficient ability for self-control, which she tends to handle by becoming strongly anchored to reality and through a strong sense of conventionalism."

"Object relations appear immature, characterized by narcissistic vulnerability and a tendency to hide behind a false Self. This condition tends to preclude a harmonious development of the personality and of the more differentiated psychological aspects"; "problems linked to primary feelings of abandonment of a regressive type"; "a personality framework characterized by impulsivity and instability in interpersonal relationships."

"Defense mechanisms appear to be primarily centered around repression, excessive control, with limited potential for more authentic expression. This approach indicates a condition of immaturity and emotional fragility, with fear regarding interpersonal emotional involvement."

Conclusions

Our reflections on this case primarily keep in mind Rossi's description of her family of origin: Rossi has the perception that she spent her childhood *"outside the home,"* that she was *"raised by strangers,"* and that she grew up in a toxic environment from which she had to *"escape" "to survive."* Speaking about her childhood, the word *"solitude"* is recurrent. Her constant experience is that of the impossibility to communicate, accompanied by the sensation of being invisible (*"I was the black sheep of the family." "No one ever noticed anything"; "I had this thing inside that I couldn't tell anyone about because I wouldn't have been believed"; "Any problems that I had, I had to handle on my own because I just found myself in front of a wall."*)

This family context inevitably contributed to the formation of an insecure-avoidant attachment style: a pattern characterized by the individual's conviction that, if they ask for help, not only will they find the figure of attachment unavailable, but they will actually be rejected by them. The child creates their own experiences by relying exclusively on himself, without the love and support of others, searching for self-sufficiency at the emotional level (Ainsworth, 1969). Cfr. patient file: "The elements relating to the affective and relational spheres demonstrate experiences of vulnerability regarding the image of Self, with the need to mask. The development of affect and emotions appears disharmonious."

At age 16, Rossi ran away from home for two days and her mother did nothing to look for her. *"Even today, we don't talk unless I am the one to call her."*

According to Bowlby, avoidant parents have difficulty helping their child to develop the ability to be alone: the young child will inhibit his feelings of need, with the resulting inability to mature their solitude as a moment of exploration of self and of the external world.

Moreover, there is a very characteristic dynamic on account of which Rossi, as a child, tried to get her mother's attention by pulling pranks on her. The mother would tell the father about this each evening, and he would *"beat [her] almost every day."*

This search for attention takes on a dimension of rituality, a true and proper grouping of behaviors that are repeated in the same way, to the point that they become difficult to stop, above all because they give rise to a dynamic of daily interaction that crystalizes over time (Christopher and Lloyd, 2000). Cfr. patient file: "Object relations appear immature, characterized by narcissistic vulnerability and a tendency to hide behind a false Self. This condition tends to preclude a harmonious development of the personality and of the more differentiated psychological aspects"; "problems linked to primary feelings of abandonment of a regressive type."

After leaving the family home, Rossi states that she was lonely, that she sought affection anywhere and often idealized the people that she met. One of the witnesses affirms: *"Lucia was longing for a man who would be close to her, who would truly love her and with whom she could start a family"*. Rossi herself affirms: *"Growing up, I was looking on the outside to find that I hadn't had at home and seeking to build the family that I didn't have. Not having had a good example in my family, I looked for the wrong things."*

Her early experiences of emotional deprivation, instability and distrust contributed to the development of very strong, maladaptive mental frameworks of "submission" and "self-sacrifice", which make her prone to assume the role of a martyr, becoming involved in relationships that may also be highly self-destructive (partners with drug or alcohol dependencies, or abusive behaviors) and to constantly place the needs of others before her own, forgetting to take care of herself (A. Viola, 2016).

Illustrative of this point are the fact that during courtship Rossi could not leave the house because of Verdi's profound jealousy; the fact that she took on another pregnancy a few months after her miscarriage in order to please her husband despite her gynecologist's advice; the fact that, after Giovanna's birth, Rossi states that she *"did everything possible to take care of [their] daughter on her own, so as to disturb Renzo as little as possible."*

The extreme level of time and energy investment in her partner is nothing other than the need to fill the void left during her childhood and adolescence by inadequate family figures. Making partners happy, never disagreeing, and pleasing them is the way in which affectively dependent persons attempt to have control, nourish a hypertrophic self-esteem, and achieve emotional fulfillment.

In this sense, it is clinically significant that: Rossi's first cohabitation continued for a year despite her partner's drug addiction; after filing for separation, Rossi continued to live for an additional year with Verdi because she did not want to *"kick [the husband] out of the house"* despite his aggressive behavior; and finally, that she waited six years to separate from her partner Mario, despite his problems with alcoholism and his violent behavior in the presence of her two daughters.

In personalities inclined toward affective dependence or co-dependence, submission to the other person or the renunciation of one's need for autonomy in favor of the satisfaction of their need for attachment, that is for love, lead the subject to remain bound in dysfunctional relationships rather than remaining alone, since the latter seems like the confirmation of their own imperfection or undesirability.

Regarding Rossi's degree of awareness at the time of the wedding, the undersigned retains that, from what emerged in the interview, we can deduce the superficiality of the relationship between the Petitioner and Mr. Verdi and their scarce knowledge of one another (*"Before the wedding we spent so little time together that we hadn't had time to speak about children or anything else"*); *"We organized this wedding in a hurry. Renzo had gone to sea. We only went to*

two meetings for the pre-marriage course. I organized everything on my own, and he got back the day before the wedding”).

The time spent together before the wedding was fairly limited (Verdi alternated between six months at sea and two months on land; during his time at sea, contact between them was almost exclusively by letter); moreover, in the rare moments that Verdi spent on land, the relationship was distorted by the fact that both of them tried to avoid confrontation and conflict and to push back their own negative emotions (“*we were trying not to bicker for the little time that we spent together, and it is almost impossible to not get along when you don’t see each other*”). Rossi herself affirms that she was unaware of the commitment that she was to take on and that she had not sufficiently evaluated the “*compatibility*” of the couple. She also states that, despite the birth of a daughter, the couple never created an authentic “*communion of life*.”

Finally, it is clinically relevant that the greater part of the traumatic facts that emerged during the interview and reported here were omitted in the deposition contained in the acts. Rossi employs the defense mechanism of repression, abstaining from recounting painful episodes (her brother’s sexual advance and the miscarriage) and diminishing the weight of their emotional consequences (“*Rossi affirms that these are things she has forgiven and that she doesn’t want to dwell on*”). She also employs the mechanism of rationalization, that is to say the attempt to “*justify*” a fact or relational process that the person found to be distressing (Rossi hypothesizes that her mother inherited “*faulty DNA*” and that this justifies certain behaviors).

These two defense mechanisms (Freud 1937) are considered archaic/primitive, typical of a personality that is immature and not very structured. Cfr. patient file: “*Defense mechanisms appear to be primarily centered around repression, excessive control, with limited potential for more authentic expression. This approach indicates a condition of immaturity and emotional fragility, with fear regarding interpersonal emotional involvement.*”

Currently, Rossi seems to have acquired a greater awareness of her own difficulties (“*Sooner or later I need to see a therapist myself*”; “*I don’t want to make the same mistakes as before. Now I’m being seen, before I do anything I get advice and move forward with extreme caution*”; she affirms that she was very worried about her daughter making the same mistakes, choosing the wrong people to be by her side and justifying the faults of others out of fear of remaining alone).

Still, some marks of immaturity seem to remain (“*Giovanna was dating a crazy guy who hit her. I lit so many of those little candles in church so that they would break up...*”; “*I didn’t have any psychological problems. If I did, I would have jumped off a bridge!*”). The request for *nullitatis matrimonii* also seems to have been undertaken without full awareness of the evaluative itinerary that it entails (“*The annulment was suggested to me by Fr. Alessandro for my interior peace*”) and without awareness of the context in which it is carried out (during the interview, Rossi repeatedly used the familiar/informal verb form “*tu*” with the undersigned; the choice of witnesses also reveals a certain level of naivete, since they have only an indirect and superficial knowledge of the relevant facts).

RENZO VERDI

Respondent’s Deposition

Mr. Verdi is favorable to the cause and confirms that the affirmations made by Rossi in her introductory *libellus* correspond to the truth.

Renzo Verdi was born and raised in Sicily, in a peaceful family with good relationships. He has one younger sister but, because he was a boy, he was his parents’ favorite child. Before meeting Lucia Rossi, he had never had a significant romantic relationship. “*As for my character, I am kind of unpredictable.*” “*Maybe I can’t really connect to my family. I recognize that it is hard for me to show affection. I don’t express it.*”

He states that Rossi grew up in a “normal and peaceful” family, even though she was not very attached to her family members and that she always had a strong, independent personality. He adds that he does not know any details about her previous relationships.

Verdi gives the same narration of the facts as his ex-wife, confirming that their courtship proceeded without arguments, misunderstandings or doubts and that his mother, opposed to cohabitation, pushed them to marry. He does not remember any arguments on the honeymoon.

Verdi states that he suffered a lot because of the miscarriage of their first child and does not deny that he may have said something to make his wife feel guilty about it because “*she was pretty shaken up.*” He confirms that the birth of Giovanna did affect the conjugal life, since his wife spent a lot of time with their daughter, neglecting him. Relations ceased completely when the child was about three years old. Moreover, Verdi maintains that his dissatisfaction at work also played its role in the crisis of the marriage, and that if he would have continued to go off to sea, the couple would not have separated. In reference to the final period of his marriage with Rossi, Verdi admits that he was irritable and that he came close to putting his hands on his wife.

After the separation, Giovanna did not willingly spend time with her father, who maintains that he never expressed his affection for his daughter and that he noticed the distance between them, which is perhaps linked to his character.

After the separation, Verdi began a romantic relationship with Chiara, with whom he has two children. He does not know the current relationship status of his ex-wife.

Personal History

Renzo Verdi was born and raised in a peaceful environment. His family was composed of a father, mother, and a sister six years his junior. The father (deceased years ago) worked at the port and the mother was a housewife. Verdi studied at a nautical institute and subsequently began working in the Merchant Marine. He alternated between periods of 4/6 months at sea, throughout the world, and periods on land.

At age 23, during a formation course, he met Lucia Rossi. After six months of dating, the two began cohabitating at Ms. Rossi’s home in Genoa.

Verdi states that the first six months of the relationship were good, although the relationship was not continuous on account of his long periods at sea. He estimates that, during that period, the couple actually spent only a total of about three months together. After the decision to cohabit, Verdi requested a transfer to Lucia’s region in order to work exclusively on the Mediterranean Sea and be closer to his partner.

“I liked Lucia’s character. She didn’t even seem like the typical girl from Genoa. She seemed more like she was from Southern Italy. She took care of her home, she knew how to cook, and she was strong, resourceful and hard-working.”

At age 24, after one year of cohabitation, the couple decided to marry. The wedding was organized exclusively by Ms. Rossi because, during that period, Verdi was at sea. He disembarked on June 11, 1992 and married Rossi on the 13th of the same month. *“In that moment, I believed in marriage. My parents are from Sicily and they are religious; it was important to them that I regularize the situation.”*

Regarding his in-laws, Verdi affirms that they are great people. He was closer to his father-in-law than to his mother-in-law, but he adds that he has not been in contact with them since the separation.

Mr. Verdi agrees with the affirmations made by the Petitioner in her *libellus*. *“It was a relationship between two young people who got caught up in the anxiety to be married and have children right away. I can’t say that it was bad, but we did things too quickly.” “I don’t know if I can say we were immature, but we moved quickly and I was always at sea...”*

Upon explicit questioning from the Expert, Verdi explains that, on the first wedding anniversary, Rossi spent about a month at sea with him and that upon returning to land she suffered a miscarriage.

Subsequently, Rossi became pregnant again and Giovanna was born in 1994. She is currently 24 years old. After the child's birth, Verdi retired from his post and began to work in port security. *"Initially, during the times we consistently lived together and on my breaks from work we got along, but when I decided to switch jobs to spend more time at home, we started to see some differences that we hadn't previously addressed."*

Verdi states that, over the course of the relationship, there were arguments related to the fact that both parties had very strong characters. *"I am stubborn, and I am clear-cut and precise like a scale. I do things my own way and am bothered by many things. For example, at that time I was annoyed that our daughter slept very little and would cry."*

"There are relationships that last and relationships that don't. Psychologically, I was stable. We might have had disagreements, but nothing serious. We were lucid. I don't even smoke! There was nothing that could have made me unbalanced."

"It seemed to me like our characters meshed well. We understood each other. But after a little while, that understanding was gone. Maybe because of our daughter's birth and the problems that came with that, or because I left my job...I would still like to go back to sea. I considered my job at the port to be step down and that brought some friction into the home."

After 4-5 years, the couple decided to separate. *"At the beginning there was a lot of conflict with the separation. Our daughter was more attached to her mother than to me and she didn't understand."*

With respect to the relationship with his first daughter, Verdi affirms that the two have decided to have *"a sort of long-distance relationship."* He states that his daughter is studying architecture and that *"I'm not totally sure but maybe she's starting to cohabit with someone."* *"As a father, I wasn't very present because Giovanna was always with Lucia, and then she had another partner and he was always more present than me."*

"I have heard through the grapevine that Lucia has started to go back to church and that she goes on pilgrimages. Maybe her new religiosity led her to ask for this annulment. If they give the annulment, okay, but if not that's okay too!"

Currently, Verdi works for a shipbuilding company, and he tests ships for seaworthiness. He met his second wife in 2000. After nine years of cohabitation, Verdi and his partner had their first child (Alessio, 18 years old). They married in 2006 and subsequently had a second child (Filippo, 9 years old). Verdi does not currently feel any need to marry according to the canonical rite, even if he were to have that possibility.

Clinical Presentation

Renzo Verdi arrived at the interview on time, well-groomed, and was very collaborative. However, despite his willingness, fluidity of speech and cordial attitude, he was not always able to respond to requests for deeper answers in a sufficiently informative way. He demonstrated superficiality and a scarce understanding of the reasoning behind the interview.

Conclusions

Verdi does not present a clinical profile with psychiatric relevance. In many ways, he appears to be a "psychologically adequate" person. However, from what emerged in the acts and from the clinical interview, his personality framework seems to be characterized by psychological immaturity, egocentricity, superficiality, introspective difficulty, and a not very developed emotional life.

From the clinical interview and our examination of the acts, Verdi appears to be a *"free spirit,"* a man who delegates the responsibilities of common life and children to his *"hardworking"* partner. (*"I liked Lucia's character. She didn't even seem like the typical girl from Genoa. She seemed more like she was from Southern Italy. She took care of her home, she knew how to cook, and she was strong, resourceful and hard-working"*).

Verdi's needs seem to have absolute priority in the relationship: it is enough to think that during his months at sea, Rossi couldn't leave the house because of his profound jealousy. This dynamic would be frequently repeated in the couple's relationship: Rossi organized the wedding by herself and would be the one to take care of and raise their daughter.

Verdi does not seem able to take on any responsibility, and even less to bear any sort of frustration. Hence laying blame or guilt on his wife for certain episodes such as: the miscarriage (he doesn't deny that something he said might have made his wife feel guilty because "*she was pretty shaken up*"; his dissatisfaction at work (he affirms that if he had continued to go off to sea the couple would not have separated); and the crisis of his marriage (affirming that his wife spent a lot of time with their daughter, neglecting her husband).

His tendency to not assume responsibility for his own actions and his defensive attitude against any potential blows to his own value, to which he reacts with a sense of arrogance and superiority, are distinctive traits of a narcissistic personality. Moreover, from Verdi's narrative we can infer a generalized feeling of powerlessness and an attitude of passivity, with a tendency to withdraw into depression and a vulnerability of moods.

People who are culturally and psychologically delayed are unable to take on the shared life of a couple and of a family in a mature way, which requires renunciation. The person must impose rules on himself, respect the other person's rules, and assume responsibility for their spouse and children. This immaturity, in serious cases, can give way to a grave defect of discretion of judgment, since the person can be incapable of deliberating sufficiently on the reality of marriage.

We emphasize, to this end, that Verdi had not had any significant romantic relationship before meeting Rossi, and that in the interview he demonstrated a very superficial understanding of the family dynamics of his former partner and of the experiences related to them ("*Rossi grew up in a normal and peaceful family*") and of her prior romantic relationships.

Moreover, there is another feature of infantility and immaturity that relates to his affective dependence on his parents, who seem to have played a central role in this story due to the pressure they placed on their son and his girlfriend to get married ("*The next time you two come back to Sicily you should be married because people talk and we feel uncomfortable*"; "*My parents are from Sicily and they are religious; it was important to them that I regularize the situation*").

As for his role as a father, Verdi does not seem to assume his parental responsibilities. He admits that he was a mostly absent father and that he never expressed affection for Giovanna. What he recounts confirms the marked tendency to delegate parental responsibility to Ms. Rossi's new partner ("*Giovanna was always with Lucia, and then she had another partner and he was always more present than me*"). After the separation he did not pay child support, nor did he respect the visitation agreement. He does not seem to regret the fact that he has a poor relationship ("*a sort of long-distance relationship*") with his daughter, whom he seems to know hardly at all ("*I'm not totally sure but maybe she's starting to cohabit with someone*").

In sum, the narrative shows a strong level of disinterest on Verdi's part in maintaining a relationship with his daughter Giovanna. There is no continuity in his role as a father and he does not seem to have any sense of guilt or responsibility. We can hypothesize that this attitude can be attributed to a personality profile characterized by a poor and immaturity affectivity, by object relations marked by narcissistic dimensions and egocentricity and by a lack of empathy.

His affective realm seems poor and immature, with an inability to communicate with himself and with others. In fact, he demonstrates a certain level of difficulty expressing himself at the level of emotional experiences; instead he limits himself to providing a synthetic and detached report of events and seems to actively refute topics with a strong emotional value, such as for example Rossi's miscarriage. Verdi spoke about this only briefly and after being explicitly asked about it by the Expert.

Verdi demonstrates a sort of inability to emotionally invest in anything outside of himself. This incapacity seems to exclude, or at the very least limit, the reciprocal nature of a relationship, the assumption of a decentralized position, and the capacity for rêverie (Bion, 1962) as a spouse and

parent, with prevalent projective rather than introjective processes, as though his relationship with his wife or daughter served to remedy his own narcissism (“Maybe I can’t really connect to my family. I recognize that it is hard for me to show affection. I don’t express it”).

His capacity for empathy seems deficient as well. Verdi seems to have a hard time placing himself in his wife’s shoes, understanding her experiences, and functioning as an affective container.

In order to live an emotionally balanced life, certain characteristics of emotional competence are necessary. Among these is the self-awareness of one’s own emotional state, i.e. the capacity to be familiar with and know how to express one’s own feelings, to understand one’s strengths and weaknesses (Goleman, 1995).

Despite repeated requests from the undersigned, Verdi was not able to identify or express the reasons that had connected him to his ex-wife or even the reasons for the marital crisis, revealing deficiencies in his critical and introspective capacity, superficiality in his personal analysis, and a scarce capacity for re-elaboration. (“*There are relationships that last and relationships that don’t. Psychologically, I was stable. We might have had disagreements, but nothing serious. We were lucid. I don’t even smoke! There was nothing that could have made me unbalanced*”. “*It seemed to me like our characters meshed well. We understood each other. But after a little while that understanding was gone*”; “*when I decided to switch jobs to spend more time at home we started to see some differences that we hadn’t previously addressed*”).

Over the course of the interviews, Verdi describes a series of activities that he did with his partner, but he does not refer to the itinerary of getting to know one another, nor to the growth of their bond or the process of building a deep and intimate relationship, which are all at the base of a mature and aware relationship.

What appears is a deficiency in the capacity to mentalize, which can be traced back to a not very structured evolutive level. Verdi does not seem to fully understand the seriousness of this examination. He collaborates superficially (“*If they give the annulment, okay, but if not that’s okay too!*”) and his understanding of some stimuli proposed by the undersigned appears lacking (Expert: “*When did you deepen your knowledge of each other during courtship?*” Verdi: “*From meeting to cohabitation, six months, but after a year of cohabitation we got married,*” using the length of the relationship as a measure of its depth.

In sum, although no true and proper incapacity is found in Verdi, it can be supposed that when he decided to marry he did not appropriately evaluate his choice due to psychological immaturity, the scarce consciousness of what a marital undertaking entails and his difficulty accessing a mature object relation.

Response to the Questions

Having examined the acts and conducting clinical interviews with Renzo Verdi and Lucia Rossi, the undersigned is able to respond to the questions posed by the Ecclesiastical Tribunal.

- 1) The Expert ascertained the identity of the parties by ID. The Expert conducted clinical interviews with the parties. Projective personality tests were administered to Ms. Rossi to complete the inquiry and are attached. As for Mr. Verdi, the clinical evaluation obtained in the interviews was deemed comprehensive.
- 2) From the clinical examination and a reading of the acts, it is possible to indicate the psychological and personality situation of the parties at the time of the wedding. Mr. Verdi did not present psychiatrically relevant traits and in many ways appeared to be a “psychologically adequate” person. However, his personality framework seemed to be characterized by psychological immaturity, egocentricity, superficiality, difficulties with introspection, and a not very developed emotional life. For the Petitioner, it is possible to hypothesize that, at the time of the wedding with Mr. Verdi, she presented a framework with immature personality development, an insecure-avoidant attachment style, and an affective dependence linked to her early experiences of emotional

deprivation, instability and distrust in her family of origin, which contributed to her development of very strong maladaptive mental schemes of “submission” and “self-sacrifice”.

The full treatment of the case as contained in the acts motivates this hypothesis of level of functioning at the time of marriage.

Even if no elements of a de-structured personality emerge for Verdi, it can be supposed that such marked personality characteristics might have negatively influenced his capacity to reason with regard to the decision to contract the marriage bond.

As for Ms. Rossi, the diagnosed situation is such that it would have rendered her discretionary, critical, evaluative and volitional capacities and her self-determination insufficient for the knowing assumption of the conjugal obligations. It was prejudicial to her capacity, and not merely difficulty.

- 3) The diagnosed situation had an influence on Mr. Verdi’s capacity to assume and fulfill the essential obligations of marriage: a) due to the psychological immaturity, there is a low level of awareness regarding what a conjugal project entails and a difficulty accessing mature object relations. Moreover, there was a serious difficulty on the Petitioner’s part establishing an oblational affective relationship. b) Verdi shows a desire for generativity, accompanied however by the rejection of his responsibility to educate his children. c), d) not necessarily compromised. The diagnosed situation had an influence on Ms. Rossi’s ability to assume and fulfill the essential obligations of marriage: a) the decision to marry was made in a psychological context where the perception and choice of the other party were unrealistic due to her normal psycho-affective development being compromised. b) c) d) not necessarily compromised.
- 4) The personality framework of Mr. Verdi negatively influenced his capacity to assume and fulfill the obligations of marriage cited above, since there was a state of affective and personal immaturity present, with a compromised capacity to enter into an authentic interpersonal and conjugal relationship due to his egocentricity. The situation diagnosed entailed mere difficulty rather than impossibility.
The diagnosed situation for Ms. Rossi, on the other hand, as amply described above, entailed the impossibility and not mere difficulty to assume the conjugal obligations cited above. There is a personality state present that made her the bearer of a strong feeling of inferiority and affective dependency, a psychological fragility and affective immaturity that made it impossible for her to knowingly assume the obligations of marriage.
- 5) The personality framework observed in Ms. Lucia Rossi was certainly formed during the years of her childhood and youth, since it is linked to the intra-family dynamics described and to her relationship with her parental figures. The ample discussion of the case contained in this report motivates this hypothesis of functioning with regard to the time of dating and of the decision to marry.
- 6) The current status and psychological situation of Mr. Verdi are not substantially different with respect to the time of the wedding. He does not appear to have gained awareness of the weaknesses in his personality that influenced the decision for and evolution of the marriage, nor of his own incapacity to adequately carry out the role of husband and father. Evident egocentric and infantile traits remain, and are difficult to treat with therapy. If Mr. Verdi were to desire to marry again, the same difficulties illustrated above would probably present themselves again.
The current status and psychological situation of Ms. Rossi are partially different with respect to the time of the wedding, given the maturation and greater level of self-awareness that she demonstrates. The expert maintains that, if she were to carry out adequate therapeutic treatment, Ms. Rossi could probably be able to access important memories and emotions, take stock of her weaknesses, and elaborate problems that emerge, arriving to a full awareness of her own

choices. So, if Ms. Rossi were to intend to marry again, this intention could be taken into consideration subsequent to another evaluation of her psychological state.

- 7) Within the realm and limitations of the specialized tests conducted, the undersigned has reached the necessary certainty regarding all that has been affirmed, having completed everything with technical correctness epistemologically, methodologically and deontologically.
- 8) The undersigned retains the above considerations sufficient for the description of the case.

Dr. Maria Teresa Bianchi

_____, October 10, 2018

III. Sentence

Regional Ecclesiastical Tribunal _____

DEFINITIVE SENTENCE

Mons. Luciano Benassi, Ponens

In the Name of the Lord. Amen.

Under the Pontificate of Pope Francis
on the 28th of June 2019, the Reverends

- _____ - _____ - _____

Judges in the cause of nullity of the marriage celebrated on the 13th of June 1992 in the Church of _____ of the Parish of _____ in _____, Province and Diocese of _____, between

Lucia Rossi

Petitioner

Born in _____

And

Renzo Verdi

Respondent

Born in _____

With the intervention of _____ as Defender of the Bond;

Have pronounced the following definitive sentence.

FACTI SPECIES

1. – Lucia Rossi, Petitioner in this cause, and Renzo Verdi, Respondent, met in the year 1990.

At that time, Renzo was a sailor taking a 15-day class in Livorno and Lucia was a waitress at the restaurant where the young man would regularly go to eat.

Renzo was born in Sicily and grew up in a peaceful environment composed of a father, mother, and a sister six years his junior.

Lucia is from Livorno, and was born into a family composed of a father, mother, and a brother seven years her junior.

Lucia described a painful history: her father worked long shifts at the port and thus was rarely present. Her mother worked in the police force, and was imposing and non-existent from an affective point of view. Lucia never had a good relationship with her younger brother, perceiving that her mother favored him over herself.

At age 16, it seems that Lucia ran away from home. Also on this occasion did she perceive her mother's indifference. However, it was not until age 18 that she stably moved away from the home, thanks to her job at a cleaning company and an apartment provided by her father.

After a few years, Lucia met Renzo.

After one month of dating, the young man set sail abroad for work. The relationship proceeded by letter, since at that time there were neither cell phones nor internet.

Throughout the first year of the relationship Lucia began to limit the times she left the house since Renzo was very jealous and controlling of his girlfriend, even from a distance. Then, the man decided to request an internal transfer in order to work exclusively on the Mediterranean Sea. When possible, Lucia would meet up with him, and the two cohabited in her home during the very brief periods that he spent on land.

The premarital life did not allow them to think about their reciprocal defects or to evaluate the situation.

Riding the waves of enthusiasm and pushed by pressures applied by Renzo's parents (who seem to have attributed great importance to appearances) given the irregular situation, the couple began to plan the wedding. It was organized by Lucia alone because at that time Renzo was at sea.

The wedding was celebrated on the 13th of June 1992 in the Church of _____ located in the Parish of _____ in _____, Province and Diocese of _____.

The relationship continued on in the same way as the courtship: on the occasion of their first wedding anniversary, Lucia spent about one month at sea together with her husband. Upon their return she suffered a miscarriage.

Subsequently she became pregnant again, and Giovanna was born in 1994.

After the child's birth, Renzo left his post and began to work as a port security employee. It was a fairly unsatisfying job for a long-time official who had previously been served and respected by his crew.

Their married life was marked by a lack of communication, which not even couples's therapy, undertaken to save the union, was able to fix.

The couple separated *de facto* in 1997.

The legal separation, which was consensual, was approved by the Court of _____ on the 17th of March 1998; the same Court, on the 1st of September 2006 pronounced the sentence declaring the cessation of the civil effects of marriage. After the separation, Lucia had another relationship which lasted 16 years, from which her second daughter was born; it was subsequently broken off due to her partner's problems with alcoholism.

THE PROCESS

2. – (omissis)

...With a Decree dated 1 February 2018, having verified that the Defender of the Bond had received the *libellus* and that the Respondent, in particular, had certainly received the *libellus* as evidenced by the delivery receipt dated 16 January 2018, though without giving information about his own position relative to the cause, the doubt was joined according to the following formula:

“If the nullity of the marriage in question is proven due to the defect of discretion of judgment and/or due to the incapacity to assume the obligations of marriage, on the part of one and/or the other spouse, in accordance with can. 1095 n. 2-3 CIC.”

With the same Decree, in consideration of the ground of nullity invoked, it was decided that the cause be handled according to the ordinary process.

Having composed the College, 10 days were conceded for any possible objections or observations, subsequent to which the phase of instruction was immediately opened.

The Petitioner, the Respondent and four witnesses were deposed.

With a Decree dated 21 March 2018, Dr. Maria Teresa Bianchi was nominated as Court-appointed Expert witness.

omissis

IN IURE

3. – With specific reference to the cause “*de qua*”, the following reflections will be developed with respect to the doubt joined, i.e. to the request for nullity of marriage ex can. 1095 n. 2 and n. 3.

The hypothesis considered in n. 2 of c. 1095 regards the invalidity of a marriage celebrated by those who prove to be affected by a grave defect of discretion of judgement regarding the rights and obligations of marriage to be mutually given and accepted.

The capacity to bring about a valid conjugal bond presupposes not just the sufficient use of reason and voluntary deliberation, but also an adequate maturity of judgment in the spouses with regard to both the importance and characteristics of the marital contract.

With specific reference to marriage, it is indispensable that the spouses have a critical or evaluative capacity, which implies a projection for the present but above all for the future, with regard to the conjugal relationship and the obligations that derive from it.

As to the different aspects that compose the “*discretio iudicii*”, doctrine commonly highlights the presence of three essential elements:

A) a sufficient intellectual (abstract) knowledge regarding the object of consent;

B) a sufficient evaluation (or critical knowledge) that is proportionate to marriage (practical-practical judgment);

C) the existence of internal freedom, i.e. the capacity to deliberate in the absence of specific internal impulses and to sufficiently ponder one’s motivations and the choices to be made.

So, the discretion of judgment must be understood as a capacity to adequately evaluate the object of consent. It is more than a simple cognitive capacity and cannot be reduced to the sole theoretical knowledge of what marriage, with its properties and rights and obligations, is; rather, it includes the critical or evaluative capacity as a necessary and particular element.

With regard to marriage, a merely abstract knowledge is not sufficient. It is necessary that the person make a concrete and personal evaluation of the circumstances that marriage entails.

4. – The defect of discretion of judgment is defined as “grave”. The adjective utilized indicates that not just any sort of psychological lacuna is sufficient, but that it is necessary that this generate a grave defect of discretion. However, a total absence of discretion of judgment is not required in order to result in the nullity of marriage.

This gravity must always be concretely determined with reference to the singularity and specificity of the conjugal relationship that exists between two specific people. The concept of gravity, then, also includes “...a relative or subjective aspect...and this relativity means that it must relate to the concrete subject...” with whom the marital state of life is established (A. D’AURIA, *Il difetto di libertà interna nel consenso matrimoniale come motivo di incapacità per mancanza di discrezione di giudizio*, Roma, 1997, pag. 80. Cfr. contra, M. F. POMPEDDA, *Il difetto di discrezione di giudizio*, in AA. VV., *Curso de derecho matrimonial y procesal canonico para profesionales del foro*, vol. 14, Salamanca, 1998, pagg. 67-69).

5. – The discretion of judgment is placed in relation to the “*iura et officia matrimonialia mutuo tradenda et acceptanda*”: at the moment that consent is given, the rights and obligations deriving from the conjugal bond must become concrete and present in the intellect and will of the party.

The essential rights and obligations of marriage, as a totality, are found in the indications contained in canons 1055 (*consortium totius vitae, ordinatio ad bonum prolis and ad bonum coniugum*) and 1056 (unity and indissolubility) of the current codification.

6. – Passing to the second ground of nullity, i.e. can. 1095 n. 3, we read: “*Sunt incapaces matrimonii contrahendi... 3. qui ob causas naturae psychicae obligationes matrimonii essentielles assumere non valent.*”

Firstly, it is opportune to highlight the concept of “inability to assume.” The subject must have the capacity to fulfill the essential obligations that the marital commitment entails. If this ability is lacking, that person will be incapable of assuming these obligations, and the consent given will be objectively devoid of content.

It is a situation that regards only the object of consent, as opposed to the invalidity contemplated in numbers 1 and 2, which regard the subjective psychological act of consent. The incapacity here is understood as the unsuitability of the subject to enact, in that situation, a true and proper conjugal life.

The contracting parties must not only be able to know and evaluate marriage; they must also will what marriage signifies and be able to bring that to fulfillment. If they are not capable of this, due to a cause of a psychological nature, then their consent is invalid and the marriage null.

This form of incapacity is founded on a principle of natural law – “*Nemo ad impossibilia obligari potest*” – according to which it is inconceivable that someone commit to doing something of which he is incapable or which exceeds his abilities.

7. – With regard to the parenthetical clause “*ob causas naturae psychicae*”, it must be observed that the cause of the incapacity to assume is of a psychological nature. The person is affected by an anomaly, though not necessarily a pathology. It is agreed that it must be a form of anomaly that can be traced back to the psychological realm of the person, so affecting the subject’s personal nature itself.

A cause of a psychological nature that renders the person incapable is anything that precludes or makes it impossible for them to enact those behaviors and obligations that characterize the conjugal state of life.

Pope John Paul II, in one of his speeches pronounced on the occasion of the solemn inauguration of the judicial year of the Tribunal of the Roman Rota, also addressed the complex problem of marital nullity deriving from psychological anomalies, addressing matters of substantial and procedural law. The Pontiff called to mind that “...incapacity alone, and not difficulty in giving consent and in realizing a true community of life and love, invalidates a marriage,” while difficulties and weaknesses are part of the life of man. Therefore, we must emphasize “...the duty of spouses to consciously work to overcome, even at the cost of sacrifice and renunciation, the obstacles that arise against the fulfillment of marriage...” (IOANNES PAULUS II, Allocutio ad Tribunal Rotae Romanae, 5 febbraio 1987, in: *Acta Apostolicae Sedis*, 79 (1987), p. 1457, n. 5).

The Pontiff added “...a true incapacity can be hypothesized solely in the presence of a serious anomaly that, however it is defined, must substantially impair the person’s capacity to understand and to will” (IOANNES PAULUS II, Allocutio ad Tribunal Rotae Romanae, 5 febbraio 1987, in: *Acta Apostolicae Sedis*, vol. LXXIX, 1987, p. 1456, n. 7).

8. – The incapacity in consideration regards the essential obligations, and thus it is necessary for these to be identified. The content of the term “*obligationes essentialis matrimonii*” is deduced by way of “*relationem*” from a combined reading of the dispositions of cann. 1055 and 1056: it regards the “*consortium totius vitae*”, “*ordinatio ad bonum coniugum et ad bonum prolis*”, and the goods of unity and indissolubility.

The essential obligations may be qualified as the active and omissive behaviors necessary for the constitution of the consortium of conjugal life. They refer to the spouse’s capacity to satisfy the legitimate “conjugal” demands of the partner.

The treatment of causes of marriage nullity *ex can.* 1095 presents a great challenge, because these cases presuppose the knowledge of the psychological mechanisms that allow for a free choice to be made. Therefore, it is opportune to seek the collaboration of experts recognized as such on account of their real competence in the psychiatric and psychological sciences.

The opinion of the Expert is procedurally placed among the proofs. The psychiatric or psychological expert report is a very specific medical diagnosis, which ought to provide the judge with certainty regarding the technical analysis of certain facts that are a signal or indication of a consensual incapacity in the contracting parties (Cfr. cann. 1574 e 1680).

The expert medical report should deduce the greater or lesser seriousness of the anomalies at the origin of the incapacity; it should relate them to the moment of the exchange of consent, analyzing

its intellectual, volitive and operative aspects; it should complete a detailed analysis of the entire personality of the subject, both on his or her own and in relation to the other party.

IN FACTO

9. – The Petitioner accused the nullity of her marriage due to a defect of discretion of judgment and/or inability to assume on the part of one or both parties.

This marital history presents, as is often the case, complex and painful elements. In its evaluation, it will be indispensable to remember what Pope Francis so masterfully called to mind in his admirable allocution pronounced on the 24th of January 2014, on the occasion of the inauguration of the judicial year of the Roman Rota, namely that: “Part of human maturity is also to be able to immerse oneself in the mentality and legitimate aspirations of the community in which one carries out one’s service. Like this, he will become an interpreter of the *animus communitatis* which characterizes that portion of the People of God affected by his work. He will also be able to exercise justice in a way adapted to the exigencies of the concrete situation, and not in a legalistic and abstract way. As a result, superficial knowledge of the situation of people awaiting his judgment will not suffice; rather, he will feel the need to enter more deeply into the situation of the parties involved, studying in depth the documents and every element relevant to the judgment (...) with imperturbable and impartial equidistance (...) imitating the Good Shepherd who cares for the wounded lamb (...) As you carry out your juridical work, do not forget that you are pastors! In every case, every profession and every cause, people are waiting for justice.”

In our case, it is evident that both parties, despite having different backgrounds, arrived at their wedding with considerable affective immaturity and without any profound development in their knowledge of one another, also because of the fact that they had very few possibilities to spend time together since the groom was at sea with the Merchant Marine.

Based on the results of the Court-appointed Expert report, however, it seems like the level of gravity and the influence of the parties’ respective problems were different with regard to their capacity to express and free and knowing consent, regardless of their presumed and apparent good intentions.

The Petitioner, who has currently undertaken a good spiritual itinerary, at the time of the wedding was indisputably deprived of the necessary interior freedom to choose a truly oblatinal relationship, since she was subject to serious subconscious conditioning that led her to uncontrollably seek to primarily satisfy her own personal needs rather than realize the true good of the other person, i.e. the so-called *bonum coniugum*.

Substantially, she polarized her interest in trying to aid a fragile person, not with a genuinely altruistic spirit, but with the aim of fulfilling her own voids of affection and care going all the way back to her childhood, and so to feel gratified.

The Respondent’s problems, on the other hand, appeared to affect him in a less determining way and were also intensified also by the person of the bride. They did not seem to carry the absolute and objective solidity that Rotal Jurisprudence foresees when it underlines, now in the vast majority, that the *incapacitas absumentis onera coniugalia* must be absolute and not relative to a specific partner.

This led this College, with regard to the man, to be inclined to apply the principle of *favor matrimonii* as per canon 1060 C.I.C. with regard to the ground of nullity attributed to him in the terms laid out by can. 1095 nn. 2 - 3 C.I.C.

It must also be emphasized that, since the couple approached this tribunal in a constructive way, loyally accepting to enter into discussion and actively collaborating with the procedural investigation, this not only made it possible to arrive at sure juridical results, but also could help them to better build up their future with the help of the instruments that the Christian community can provide.

10. – The declarations of both parties converged in pointing out their reciprocal weaknesses, which are also found in the direct examination of the witnesses.

The Petitioner was born in a family composed of a father, mother, and a brother seven years her junior.

Lucia described a painful history: her father worked long shifts at the port and thus was rarely present. Her mother worked in the police force, and was imposing and non-existent from an affective point of view. Lucia never had a good relationship with her younger brother, perceiving that her mother favored him over herself.

At age 16, it seems that Lucia ran away from home. Also on this occasion she perceived her mother's indifference. Only at age 18, however, did she stably move away from the home, thanks to her job at a cleaning company and an apartment provided by her father.

Lucia narrated her own life, explaining: "At age 19 I left home (...) There were rules and my mother was very strict, (...) not giving me any freedom, so I wanted to leave home (...) My father was less strict, and he was there when I needed him, but he wasn't at home very much and I was not very close with him (...) I was going out with a boy who was normal at the beginning but then he started using drugs (...) I thought that I could help him stop (...) Then he died (...) I only got to know Renzo (...) a little since he was on a ship in Japan or Australia (...) He was very jealous (...) His mother told us that since it was a small town people talked, and that we should get married (...) There wasn't time to think about our defects and evaluate (...) In the end, though, it was really a frenzy (...) I had a relationship with Claudio (...) After his work started to go downhill, he started drinking (...) I tried to get him to stop, but to no avail" (Sess. I, n. 3).

In the clinical interview with the Expert, the Petitioner brought up that she had run away from home at age 16 for two days, and above all that she suffered a shock at age 17 when her brother, with whom she shared a bedroom, tried to touch her in her sleep (p. 9) and "for fear of being told on, tried to pit her mother against her" (Ibidem).

As evidenced by our Expert: "It is clinically relevant that the greater part of the traumatic facts that emerged during the interview and reported here were omitted in the deposition contained in the acts" (p. 17), since Lucia "employs the defense mechanism of repression, abstaining from recounting painful episodes (...) and diminishing the weight of their emotional consequences (...)" She also employs the mechanism of rationalization, that is to say the attempt to 'justify' a fact or relational process that the person found to be distressing (...) These two defense mechanisms (Freud 1937) are considered archaic/primitive, typical of a personality that is immature and not very structured" (Ibidem).

11. – The husband confirmed that Lucia "wanted her freedom early on, going to live on her own (...) I was a sailor (...) During the periods when I would disembark, living with her, it seemed like everything was going well (...) My mother did not want us to cohabit and this fostered the decision to marry. Lucia was the one who took care of everything. I was at sea and I disembarked shortly before the wedding (...) If I had continued to go off to sea, we would not have left each other (...) Giovanna was born and in the beginning we were happy. But then every sort of relation between me and Lucia stopped when the child was, I think, 3 or 4" (Sess. II, nn. 3, 5 – 6 and 8 – 9).

The context presented up to this point was emphasized also by the bride's mother's testimony, who recalled: "She was rebellious (...) And actually at 18 she left home (...) Then she met a boy (...) and went to live with him. She left him later because he had a drug problem (...) They were telling my daughter and Renzo that they should get married, otherwise there would be too much gossip going around town (...) He was away for long periods of time, because he was on the petroleum ships (...) Before marriage they spent little time together (...) They decided everything in a hurry (...) Renzo wasn't satisfied with his land job and the two would argue (...) In the end she fell out of love" (Sess. VI, n. 3, 5 – 6 and 8 - 9).

Similarly, her friend recalled: "Lucia left home early (...) They met when they were very young. Renzo was a sailor (...) They did not see each other much and so problems didn't come up (...) In

my opinion, they didn't plan out how they were going to live after the wedding (...) After the birth of their daughter, everything fell apart" (Sess. III, nn. 3 e 5 - 9).

Another witness stated: "Lucia went to live on her own when she was really very young (...) Her mother-in-law had put pressure on them both to get married (...) She has always been a believer, but recently she started practicing her faith more (...) She worked as a barista and Renzo was here in Livorno; he sailed for a living (...) They saw each other very little, since he was at sea for months at a time" (Sess. IV, n. 3 - 6).

Ultimately, in the same way, another witness maintains that "It was her great desire for independence that led her to leave her family of origin early, but the severity of her home environment definitely was a factor as well (...) Lucia was longing for a man who would be close to her, who would truly love her and with whom she could start a family. Unfortunately, the time they spent together was not consistent and when they were together everything seemed great, since they saw each other so little (...) The relationship between them turned stormy right away" (Sess. V, nn. 3 and 5 - 9).

12. – Parallel to everything that has been said up to this point is the Expert report, which is thoroughly concordant in maintaining that Rossi, "at the time of the wedding with Mr. Verdi, presented a framework with immature personality development, an insecure-avoidant attachment style, and an affective dependence linked to her early experiences of emotional deprivation, instability and distrust in her family of origin, which contributed to her development of very strong maladaptive mental schemes of 'submission' and 'self-sacrifice' (pp. 26 – 27) since "The extreme level of time and energy investment in her partner is nothing other than the need to fill the void left during her childhood and adolescence by inadequate family figures. Making partners happy, never disagreeing, and pleasing them is the way in which affectively dependent persons attempt to have control, nourish a hypertrophic self-esteem, and achieve emotional fulfillment (...) In personalities inclined toward affective dependence or co-dependence, submission to the other person or the renunciation of one's need for autonomy in favor of the satisfaction of their need for attachment, that is for love, lead the subject to remain bound in dysfunctional relationships rather than remaining alone, since the latter seems like the confirmation of their own imperfection or undesirability" (pp. 15 – 16).

On the other hand, the husband "does not present a clinical profile with psychiatric relevance. In many ways, he appears to be a 'psychologically adequate' person. However, from what emerged in the acts and from the clinical interview, his personality framework seems to be characterized by psychological immaturity, egocentricity, superficiality, introspective difficulty, and a not very developed emotional life" (p. 22), which did not deprive him of the possibility to choose marriage, even though they "might have negatively influenced his capacity to reason with regard to the decision to contract the marriage bond" (p. 27).

Dr. Bianchi, found that, in the Petitioner, "The diagnosed situation had an influence on Ms. Rossi's ability to assume and fulfill the essential obligations of marriage: a) the decision to marry was made in a psychological context where the perception and choice of the other party were unrealistic due to her normal psycho-affective development being compromised. b) c) d) not necessarily compromised" (p. 27) since "the perception and choice of the other party were unrealistic due to her normal psycho-affective development being compromised" (Ibidem) and that "entailed the impossibility and not mere difficulty to assume the conjugal obligations (... since) there is a personality state present that made her the bearer of a strong feeling of inferiority and affective dependency, a psychological fragility and affective immaturity that made it impossible for her to knowingly assume the obligations of marriage" (p. 28).

In contrast, it was pointed out in the same context that "The personality framework of Mr. Verdi negatively influenced his capacity to assume and fulfill the obligations of marriage cited above, since there was a state of affective and personal immaturity present, with a compromised capacity

to enter into an authentic interpersonal and conjugal relationship due to his egocentricity. The situation diagnosed entailed mere difficulty rather than impossibility” (p. 28).
Definitively, in light of what results from the acts, this College retains to have arrived at moral certainty in order to issue an affirmative sentence on both of the invoked grounds of nullity, but only with regard to the Petitioner, and applies to both parties a prudential prohibition to remarry without the authorization of the competent Ordinary, Our Tribunal having been consulted.

CONCLUSION

Therefore, after having carefully examined the results of the instructed acts and having diligently pondered, both in law and in fact, all of the elements of the cause,
WE

the Undersigned Judges, gathered as a college, having only God before our eyes and having invoked the Holy Spirit, establish, declare and definitively sentence that, to the doubt thus formulated:

“If the nullity of the marriage in question is proven due to the defect of discretion of judgment and/or due to the incapacity to assume the obligations of marriage, on the part of one and/or the other spouse, in accordance with can. 1095 n. 2-3 CIC”

the response will be:

AFFIRMATIVE, only in part, that is CONSTAT the nullity of the marriage in question due to defect of discretion of judgement and inability to assume the obligations of marriage on the part of the woman, Petitioner in the cause, in accordance with can. 1095 nn. 2-3 del C.I.C.;
NON CONSTAT due to the defect of discretion of judgment or inability to assume the obligations of marriage on the part of the man, Respondent in the cause, in accordance with can. 1095 nn. 2-3 del C.I.C.

The College has also decided to place a prudential **PROHIBITION ON BOTH PARTIES** to pass to a new marriage without the consent of the proper Ordinary, after having consulted the Ecclesiastical Tribunal.

We thus establish and order that this Sentence be executed in accordance with the Sacred Canons.

The party that retains himself unjustly burdened by this Sentence, and in the same way the Promoter of Justice and the Defender of the Bond, enjoy the right to propose a complaint of nullity or an **appeal** against the sentence in accordance with Cann. 1619-1640 C.I.C.

Any eventual instance adverse to the sentence must be proposed ***before This Tribunal within the peremptory time limit of 15 (fifteen) days from the receipt of the notification of this sentence.***

If, within the time limit indicated, no such adverse instance should be presented, the present sentence will become immediately executive, in accordance with the Motu Proprio “Mitis Judex Dominus Jesus” (ad I° e can. 1679).

In that case, **both parties** are prohibited from passing to a new canonical marriage without the authorization of the competent Ordinary, having consulted the Interdiocesan Tribunal of Liguria.

The judicial expenses have been waived in accordance with the norms of the Italian Bishops Conference.

Thus decided in _____, at the Seat of the Ecclesiastic Tribunal, on the 28th of June 2019.

_____ *Praeses*

_____ *Judge Ponens*

_____ *Judge*

IV. BIBLIOGRAPHY ON PSYCHO-AFFECTIVE IMMATURITY

A.- FOR THE PRACTICAL CASE

A. STANKIEWICZ, *La relazione tra mancanza di libertà interna e discrezione di giudizio*, in *Verità del consenso e capacità di donazione*, in *Temi di diritto matrimoniale e processuale canonico*, a cura di H. Franceschi – M. A. Ortiz, Subsedia canonica – 5, Edusc, Roma 2009, p. 221-240.

P. BIANCHI, *Disturbi di personalità e immaturità in relazione al can. 1095. Profili canonici*, in *Quaderni di diritto ecclesiale* 3 (2010) p. 360-373.

L. JANIRI – A. DI GIOIA, *Immaturità psico-affettiva e nullità matrimoniale: considerazioni psicologiche, inquadramento psicopatologico e argomentazioni psichiatrico-forensi*, in *Quaderni dello Studio Rotale* 20 (2010), p. 209-229.

C.J. ERRÁZURIZ M., *L'immaturità, specie quella affettiva, e la nullità del matrimonio*, in ID., *Il matrimonio e la famiglia quale bene giuridico ecclesiale*, Subsidia Canonica – 20, Edusc, Roma 2016, p. 313-330 (versione originale: C.J. ERRÁZURIZ M., *Inmadurez afectiva e incapacidad consensual*, in *Consentimiento matrimonial e inmadurez afectiva*, a cura di J.I. Bañares – J. Bosch, Pamplona 2005, p. 113-130).

B.- BASIC BIBLIOGRAPHICAL INDICATIONS ON PSYCHO-AFFECTIVE IMMATURITY

F. VANNI, *Immaturità psicologica: dimensioni psicosociali e rilevanza canonistica*, in: *Monitor Ecclesiasticus* 111 (1986), p. 337-343.

E. COLAGIOVANNI, *Immaturità: per un approccio interdisciplinare alla comprensione ed applicazione del can. 1095, n. 2 e n. 3*, in *Monitor Ecclesiasticus* 113 (1988), p. 337-359.

D. DE CARO, *L'immaturità psico – affettiva nel matrimonio canonico*, in *L'immaturità psico-affettiva nella giurisprudenza della Rota Romana*, Studi giuridici – 52 LEV, Città del Vaticano 1990, p. 1-14.

J.M. PINTO GOMEZ, *L'immaturità affettiva nella giurisprudenza rotale*, in *L'immaturità psico-affettiva nella giurisprudenza della Rota Romana*, Studi giuridici – 52 LEV, Città del Vaticano 1990, p. 15-56.

C. GULLO, *L'immaturità psico-affettiva nell'evolversi della giurisprudenza rotale*, in *L'immaturità psico-affettiva nella giurisprudenza della Rota Romana*, Studi giuridici – 52 LEV, Città del Vaticano 1990, p. 95-138.

A. STANKIEWICZ, *La giurisprudenza della Rota Romana sull'immaturità affettiva*, in *Iustitia in caritate*, a cura di J.J. Conn – L. Sabbarese, Roma 2005, p. 357-372.

C. J. ERRÁZURIZ M., *Inmadurez afectiva e incapacidad consensual*, in *Consentimiento matrimonial e inmadurez afectiva*, a cura di J.I. Bañares – J. Bosch, Pamplona 2005, p. 113-130.

C. BARBIERI – A. LUZZAGO – L. MUSSELLI, *Psicopatologia forense e matrimonio canonico*, Studi giuridici – 67, Città del Vaticano 2005, p. 73-102.

G. ZUANAZZI, *Psicologia e psichiatria nelle cause matrimoniali canoniche*, Studi giuridici – 73, Città del Vaticano 2006, p. 173-175.

P. BIANCHI, *Disturbi di personalità e immaturità e capacità matrimoniale*, in *Temi di diritto matrimoniale e processuale canonico*, a cura di H. Franceschi – M. A. Ortiz, Subsidia canonica – 5, Edusc, Roma 2009, p. 191-220.

A. AMATI, *L'immaturità psico-affettiva e matrimonio canonico*, Città del Vaticano 2009, p. 133-134.

L. JANIRI – A. DI GIOIA, *Immaturità psico-affettiva e nullità matrimoniale: considerazioni psicologiche, inquadramento psicopatologico e argomentazioni psichiatrico-forensi*, in *Quaderni dello Studio Rotale* 20 (2010), p. 209-229.

P. BIANCHI, *Disturbi di personalità e immaturità in relazione al can. 1095. Profili canonici*, in *Quaderni di diritto ecclesiale* 3 (2010) p. 360-373.

C.M. CONRNAGGIA, *Disturbi di personalità e immaturità in relazione al can. 1095. Profili clinici*, in: *Quaderni di diritto ecclesiale* 23 (2010), p. 375.

H. FRANCESCHI, *Problemi interpretativi del can. 1095 e questioni “de iure condendo”*, in *Ius et matrimonium*, a cura di H. Franceschi – M. A. Ortiz, Subsidia canonica – 18, Edusc, Roma 2015, p. 237-273.

C. JEANTIN, *Immaturité postmoderne et contrefaçons du mariage. Les officialités devant de nouveaux signes des temps*, in *L'Année canonique* 57 (2016), p. 39-71

7th Renewal Course of Marriage Law and Canonical Procedure

Practical Case on the Exclusion of children

Prof. Francesco Catozzella

1 - Libellus (8.05.2016)

The undersigned lawyer presents the ritual libellus so that, for the reasons set out below, is declared null and void the marriage contracted by Mrs. Giovanna Neri on 28.04.1993 in the parish church of XX with Mr. Matteo Rossi.

From the age of 17, Mrs. Giovanna Neri has been suffering from SLE (systemic lupus erythematosus), a disease that seriously affects the immune system. The first signs of the disease appeared in the spring of 1989 and the explosion occurred in the summer period of that year: Giovanna showed widespread skin irritation [...]. She was then hospitalized for about three months at the Hospital of XX where the disease was diagnosed. The prescribed therapy included the repeated use of plasma transfusions to eliminate harmful antibodies from the blood, as well as the taking of cortisone drugs in very high doses, to which was added an anti-malarial. Since the beginning of SLE Giovanna has relied on the specialist care of Prof. Michele Blu, rheumatologist and lecturer at the University of XX, who still follows the patient with periodic checks, because it is a chronic disease that does not allow a definitive recovery.

The experience of the disease was for Giovanna, especially in the early days, very hard and painful, with danger to her life. She was able to cope with the many difficulties thanks to the constant presence and help of her parents, to whom she was even more deeply attached.

Giovanna met Matteo about 2 years after the onset of SLE, which she treated by continuing to take medication. After a short time the two young people considered themselves engaged. Giovanna immediately informed Matthew of his illness and he did not raise any problems for his girlfriend's state of health. The relationship was serene and the only discordant note concerned the different way of understanding and living the religious dimension. Giovanna was a believer and a practitioner. Matthew, on the other hand, although he did not call himself an atheist, had developed a philosophical spirituality close to Buddhism.

At the end of 1992 Giovanna unexpectedly found herself pregnant. Accompanied by her mother, she immediately went to Prof. Blu, who told her that she was expecting a child. The doctor was very explicit about the serious risks for both the unborn child and the mother, expressing deep concern about the reflections of pregnancy on the disease. He also harshly stigmatized the fact that Giovanna had become pregnant without having previously consulted with him, expressing his firm opposition to future pregnancies. He pointed out that only if the disease had shown clear signs of improvement over time (not before a few years), it would be possible to plan another pregnancy, adopting in advance all the precautions and medical precautions of the case, since pregnancy, by changing the maternal immune system, has a negative impact on SLE, which is an autoimmune disease. He also specified that only rarely does the SLE regress to such an extent as to limit the risks related to pregnancy.

Giovanna, supported by Matteo and her family, decided to carry on with her pregnancy, despite the risk of an exacerbation of the disease and of malformations for the unborn child (particularly of deafness).

The wedding was celebrated on 28.04.1993. Pregnancy, as foreseen by Prof. Blu, was very difficult and required continuous hospital checks, which put the mother to the test. The period immediately before the birth was particularly hard hit. Everything worked out for the best both for the mother and for Ugo, who was born healthy on 13.09.1993.

Giovanna (like Matteo) made her own and scrupulously put into practice the instructions of Prof. Blu, who recommended to avoid another pregnancy. Since oral contraception is contraindicated because of the particularity of the disease from which Giovanna was affected, the spouses in the early years of marriage made constant and careful use of condoms. It was only later that his wife was able to take the contraceptive pill and this use continued until she separated from her husband.

Giovanna adhered to the procreative ban of Prof. Blu, although her ideal was a family with two children. Even on the advice of his father-in-law, head of geriatrics, he did not feel able to relive the fear felt during the unexpected pregnancy, putting his health at risk again and running other risks of malformation of the fetus. Only if the development of the disease had reduced those risks, she would, with the prior positive opinion of her doctor, have opened herself up to the prospect of a second child.

In the first years of marriage the spouses by mutual agreement categorically excluded the offspring for the reasons set out above. Being absolutely opposed to having another child, they never admitted potentially fruitful relationships, in the shared conviction that the disease did not allow for alternatives or derogations.

The desire for a second child, who had long been totally dormant in Giovanna, was progressively awakened by the improvement in her state of health, evidenced in particular by the fact that in 1996 the periodic checks took place in more distant temporal spaces. Then, after about two and a half years of married life, she hinted at her husband to feel this desire, but he cut off any possibility of dialogue about the children, saying that it was not a good idea to challenge luck a second time and that the precarious economic conditions did not allow the family to grow.

In 1997, after about a year of positive signals, Prof. Blu announced that the disease had entered the remission phase. At the next check-up, her husband was present, Giovanna asked Prof. Blu if, given the entrance of the disease in the remission phase, it was possible at that point to envisage a second pregnancy. Never before she had discussed the theme of a second child with the Specialist in charge, mindful of what he had told her at the time of her unforeseen pregnancy.

The doctor advised against another pregnancy, since the risks continued to exist even if to a lesser degree. But, given the improvement achieved, expressed its willingness to plan a pregnancy, so as to reduce as much as possible the risks. This did not happen because of the unchanged unavailability of her husband to a second child. Giovanna, having noted Matteo's refusal, continued to take the contraceptive pill and put aside the idea of having another child.

This was followed by a period of increasing difficulty in marital relations. [...] The spouses, who lived in the house of their wife's parents, were about to take out a mortgage for the purchase of a house where they could live on their own, when in October 1999 her husband announced that he wanted to give up the purchase of the house, intending to end the marriage. The legal separation was approved on 5.07.2000. The divorce followed on 10.12.2003.

Experienced a previous lawsuit for invalidity, which was rejected with negative results, excluding indissolubility and children by her husband (Court XX, which issued a negative decision; Court of Appeal, which admitted the request of the defendant to waive the application; Court of Rota Romana, which rejected the request of the defendant to reinstate the

appeal), Mrs. Giovanna Neri has carefully analyzed her experience, marked by the disease she has been suffering from the age of 17, reflecting in particular on the correlation between the disease *de qua* and her willingness to marry in relation to the offspring. In the awareness that she did not give her full consent, based on all the above presented and argued, Mrs. Giovanna Neri addresses the Court of First Instance in order to denounce the invalidity of her marriage for the exclusion of the offspring by the woman.

2 - Note of the texts: a) Giada Verde, mother of the actress; b) Barbara Neri, sister of the actress.

3 - Statement by Prof. Michele Blu

I, the undersigned, Prof. Michele Blu, at the request of Mrs. Giovanna Neri, my patient since 1989, declare the following.

Mrs. Giovanna is suffering from *systemic lupus erythematosus*. The disease began in April 1989 [...] Suspected of SLE, she was admitted on 22.7.1989 to the Hospital of XX where the tests accomplished during hospitalization confirmed the diagnosis. Then, on 15.9.1989, she was transferred to the pediatric clinic of the University of XX where she was given therapy [...]. The patient was then transferred to Rheumatology for appropriate treatment. During her stay, she continued her treatment with high-dose cortisone and underwent plasma-bearing treatment to quickly remove harmful auto-antibodies. The same therapy continued after discharge on 19.12.1989. Since then, I have been seeing the patient regularly for periodic check-ups, which are still in progress, although progressively less frequent.

In December 1992 Giovanna contacted me asking for an urgent appointment. She told me there about her pregnancy. I remember that Giovanna's mother was also present. I had to inform the patient of the risks of toxicity to the embryo and the fetus, since she had been taking corticosteroid and antimalarial therapy for years. I also informed her of the risks she was running because of the change of her maternal immune system following pregnancy. It should be borne in mind that SLE is an autoimmune disease affecting the skin and internal organs.

Giovanna immediately expressed her intention to continue her pregnancy, despite the risks she was facing. I took note of this decision and, while assuring her of my full support in that difficult circumstance, I warned her severely, expressing not only my strong concern for the ongoing pregnancy but also my opposition to further pregnancy, except in the case of a significant improvement in the disease, which was not, however, appreciable for a few years. I also express myself in the same terms with Giovanna's then boyfriend, Matteo Rossi.

Giovanna and Matteo assured me that they would take all the necessary contraceptive precautions, as in fact happened. As for the contraceptive methods, I would like to point out that due to SLE Giovanna could not initially take estroprogestin therapy due to contraindications related to the disease. This contraceptive could only be used after about three years.

Since 1997 the disease has shown signs of remission. I have to stress that this development is very rare and concerns a very low percentage (7%) of SLE cases.

Shortly afterwards, Giovanna came to me at a periodic check-up accompanied by her husband Matteo and asked me if, given the remission in progress, she could think of a second child. First of all, I specified that, despite the improvement of the disease, risks for both the mother and the foetus could not be excluded. I added that if they still decided on a second child, they would have to inform me and, unlike what happened in the past, plan the pregnancy with me to diminish the risks.

There were no requests to plan a second pregnancy, because later Giovanna told me that her

husband, despite the improvement of the disease, remained unwilling to take risks to have another child and that she herself did not feel it because the marriage was getting worse.

4 - Annexes: (a) Order of the General Court YY of 2 May 2008 allowing the waiver of the application brought by Mrs. Neri in the appeal proceedings against the negative judgment of the Court of First Instance in Case XX; (b) Application for reinstatement of the case brought by Mrs. YY of 2nd May 2008 allowing the waiver of the application brought by Mrs. Neri on 3.02.2015 in front of the Rota Romana; (c) Decree of the Dean of the Rota Romana, dated 19.03.2015, rejecting the request, «attento quod alter iudicii gradus apud territoriale Forum appellationis iam ad actorum publicationem pervenerat».

5 - Decree of admission of the libellus and citation of the parts (10.05.2016).

6 - Decree by which the Shift is appointed for the handling of the case by ordinary process and the doubt is agreed in the following terms: "*If it consists of the nullity of this marriage by exclusion of the offspring by the woman, actress in question*" (25.07.2016).

7 - Deposition of the acting party (16.01.2017)

1) At the time of the engagement and the marriage I was inserted in the parish both because I practiced the sacramental life and because I had been part of the scout group of my country. I add that I approached marriage with a firm conviction of faith and, however young and inexperienced, believing in the indissolubility of the sacrament. Unfortunately, we did not take part in any preparation courses.

2) At the time of his engagement, Matteo was close to Eastern philosophies: he said that he was in search of himself. [...] During the marriage, he came closer and closer to Buddhism, to the point of completely embracing that religion and philosophy. [...]

3) When I was 17, I discovered that I had SLE. It was the summer of 1989. The first symptoms were the inflammations of all the glands [...]. Within a couple of months I even went so far as to be no longer fully conscious and it was the primary of pediatrics who diagnosed me with SLE and saved me. It must be said that this disease had just been discovered, there were few cases in Italy and also for this reason they delayed to diagnose it. I was in the hospital from July to December 1989. The treatments I received were mainly Plaquenil (antimalarial), a lot of cortisone and 24 blood transfusions. With the disease I had some gaps in my memory that only with time I did manage to recover, thanks to the help of my parents. Moreover, I was still not lucid and fully conscious, even when I was discharged from the hospital. Twice when I was in hospital, the head of pediatrics saved my life. When I found out what I had, I was entrusted to Dr. Blu, in the rheumatology department. He is still my reference doctor. In these last years I see him once a year, but when I was with Matteo about every three months. The disease is chronic: it cannot be cured, but it can simply be kept under control.

Psychologically, it was devastating. I, who felt strong, who was used to not bowing to anything in the world, was forced to accept the limits that the disease had imposed on me. I'd changed.

4-5) I met Matteo, still in full care for my illness (at the time I went once a month to Dr. Blu), at a party. There I found him in front of me and it was a lightning strike for me. We were both 20 years old. For both of us, it was our first experience. At the time I was rather fragile, reluctant to get in touch with others [...]. Matteo had also suffered from alopecia when he was

a child, since he was 10 years old. As a result of this, he too had become a silent and closed, I would even say quarrelsome, person. In any case, he immediately opened up to me and I myself felt in tune with him: we felt that we had many meeting points.

6) In a short time we introduced ourselves to the respective families and the engagement was very linear and serene, without quarrels and interruptions. We had no plans to be together: at first we were just happy to hang out, but we still needed to get to know each other. Then it happened that, when I was 21 old, I got pregnant. I must say in all sincerity that we had not had a complete relationship, they were passionate gestures of knowledge of our bodies, but especially a lot of inexperience, because we touched each other with dirty hands. We certainly didn't talk about children at the time: we didn't even talk about marriage.

7) When I found myself pregnant, I fell into a state of anxiety and fear. Dr. Blu, to whom I had told that I had a boyfriend, warned me not to run the risk of having pregnancies, because this would further lower my immune defenses. I was also taking drugs that could cause malformations and deafness to the fetus. I had reassured the doctor that there was not such risk because we did not have complete reports. I informed Matteo on the phone about the outcome of the pregnancy examination and I remember his silence on the phone. Then he told me that if the situation is like that, we'd get married sooner. I remember that when I called, my parents were also present and they were very worried about me and my health.

8) When I discovered the pregnancy, when I went to Dr. Blu with my mother, I was harshly recovered by him. He asked me what I wanted to do and I understood from his expressions and his gaze that he would opt for an abortion. I clearly said that I would never do such a thing in my heart, so I took responsibility for the pregnancy and Matteo supported me in this choice. Of course, it was a risky pregnancy and also a very heavy one: every 15 days I had the controls at the hospital, both of the blood and of the ultrasound. I had an interview with Dr. Blu in the second month of my pregnancy.

Dr. Blu was very categorical in saying, also present my mother, that we should no longer have pregnancies. I fully adhered to what I saw as a command. He told me that the course of the disease should be checked, which could be positive or negative, but linked to uncertainty. In this regard, I would add that the doctor was honest and clear, without giving me illusory hopes: he did not tell me, for example, that I could have children in 10 years, because the disease could wake up at any time and in any case at the time when I was pregnant the disease was still in existence. At a subsequent meeting Dr. Blu repeated the same things to me, both Matteo and my mother were present. The doctor justified this imposition both because of my low immune defences (which decrease further with pregnancy) and because of the high toxicity of the drugs I was taking.

9) For me what Dr. Blu had said was like a command from the Eternal Father: I realized that I really [did a number](#) and I could not afford other mistakes. Moreover, I was very afraid for my child, because the risk of malformation was very high. Actually, Ugo was born healthy, but the last two weeks before the birth were full of worry and fatigue, and there were various complications.

I fully adhered to the procreative prohibition expressed by the doctor: I spoke with Matteo about this and he also agreed, as my in-laws and my parents agreed. Among other things, Matteo's father was a primary doctor. Matteo and his family were aware of my illness from the beginning of our relationship.

10) As I said, neither I nor Matthew wanted to have other children when we got married. For my part, the condition for opening up to my children was that Dr. Blu gave me his favourable opinion. My intentions about the offspring were known to our respective families,

including my mother and sister who are witnesses in this process. I don't deny that I would have had the desire to have more children, a desire that I began to feel when Ugo was about 4 years old, but between saying and doing there was a big difference.

11) We got married quickly without any preparation, simply to give birth to Ugo within a family context. [...] When Ugo was about 2 years old, Matteo joined his sister's boyfriend and opened a PP business, but this experience lasted about a year and was disastrous.

During this period, the first setbacks began between me and Matteo; he had enrolled at the Conservatory and I felt him more and more distant from me, not only affectively but also from the point of view of family and work collaboration. The first quarrels began. And I later discovered that the first betrayals began on his part: he said that he was seeing a special friend, but for me it was a completely different kind of frequentation. However, I do not have the evidence to say with certainty that he betrayed me, but I can say that at the time we did not have, if not rarely, intimate relationships. I would also add that the economic problem between us has always been present as a sore point.

Our marital relationships have never been potentially fruitful. I could not take the pill, so it was Matteo who used the condom and we agreed in this.

12) My desire to have a second child began to emerge when Ugo was about 4-5 years old. At that time we both went back to my parents in XX, Matteo had closed that particular friendship and it seemed to me that things were going better. However, I felt that something had broken, I saw Matteo very centered on himself and I had no longer the confidence in him that I had at the beginning. Since we were thinking of buying a house, my desire to have another child was born in this context. I would add that Dr. Blu had not yet given me any positive response regarding a possible second pregnancy. I, with my wish, continued to remain closed to any other children. Matteo was of this opinion. I was still being followed and taking drugs, even if the doses were low. At this moment I have a memory void about the drugs, it seems to me that at the time I was not taking them anymore, but Dr. Blu was still categorical in saying that we do not have to have children.

13) In about 1998 Dr. Blu told us that we could schedule a second child. Before then he had never expressed himself positively: I had only asked him once again when Ugo was about 4-5 years old. At that time Matteo was seeing another woman and in my opinion he betrayed me or at least I felt betrayed. He has always denied betrayal [...].

When Dr. Blu gave us the Ok for a second child, Matteo was categorical in not wanting to know anything about it. He told me that he didn't want it because of my health or because of the economic aspect.

14-15) When we started building our house Matteo was initially enthusiastic, but within two weeks he went into crisis and literally disappeared from my life. Since then we have not lived together and after a couple of months he asked for separation. I told him to let us help him. I hadn't yet understood that there was another woman in his life. It was the year 1999. I wanted a divorce when I bought already a house.

16) I currently live alone in my house. I'm in a new relationship but I'm not living together. Matteo lived with the woman I was talking about for several years, then he had other relationships and now he has a young companion. [...]

17-18) I recognize the libellus as mine. I started this cause to feel free before God, I recognize that I still feel tied to my marriage with Matteo. In this way I could also completely change my life both from the Christian point of view and from the personal and affective one.

I don't think Matteo is credible, but from his point of view he could be sincere. My mother and sister know our marriage story well: we have practically always lived in my

parents' house. My sister, when Ugo was about two years old, got married and went to live outside. Since then, she's dated us less.

8 - Deposition of the defendant (17.01.2017)

1) *I confirm what Giovanna said in the libellus about my journey of faith. Already when I met Giovanna, I embraced Buddhist practice. [...]*

2) Giovanna never hid her illness from me, we talked about it among ourselves. I remember she had been out of the acute phase of her illness for about a couple of years when I met her, but she was still on medication and was followed by Dr. Blu. In my opinion, Giovanna reacted positively to the disease, in the sense that she tried to deal with it with determination and grit. I remember that she was and is a strong woman [...]. I also remember that her family gave her a lot of strength, especially her mother, to whom she was particularly attached.

3-4) We met at a birthday party at the age of about 20. When we got together, our relationship had no plans: we liked each other and we liked to be together, but we were still too young to think about our future. When Giovanna became pregnant, I was in fifth grade because I had previously interrupted my studies. Giovanna was already graduated and when I met her she was already working in a riding school. It was absolutely not our plan to have children. We had not yet faced this issue.

5) Pregnancy was discovered at less than a year of frequentation and was an unexpected situation. There was no real sexual life among us, nor would there be any logistical opportunity. I don't even remember if we'd had a full report. For me, the news of the pregnancy was like a cold shower. I think we both experienced mixed feelings: curiosity, amazement, but also fear. [...]

6) As soon as Giovanna knew about the pregnancy, she asked for a meeting with Dr. Blu. I do not remember if I was present at that first appointment, I was certainly present at an interview in which the doctor summoned me. I remember that the doctor was particularly concerned about both the pregnancy and Giovanna. Thinking about it now, it seems strange to me not to have heard speaking about an abortion, because the concern that the doctor had about this, could make one think of this. In fact, I never heard of this hypothesis and we both agreed in carrying on the pregnancy and in taking on our responsibility. Dr. Blu said there was a risk that the child would have hearing problems, and he also feared that pregnancy would weaken Giovanna's immune system as she had to stop taking Plaquenil. There was the risk that the disease might return to an acute phase.

With the birth, which had been planned because of the need for caesarean section, Dr. Blu breathed a sigh of relief and took a stand telling us that not to have any other pregnancies. Ugo, our son, was born when we were already married.

7) I have to say that Giovanna faced her pregnancy well and also continued to work, although I do not remember until which month. She often went to checkups, both for the unborn child and for herself, in fact she frequently did blood tests. When Professor Blu told us that not to have any more pregnancies, I think we were all a bit in agreement with that. We didn't have a couple's project that could say that we wanted other children, also because we were a couple to be built and invented. We had found ourselves in a role that we hadn't even imagined or wanted, even though we later accepted it. Giovanna then made her own the doctor's prohibition to have no more pregnancies. But he never had any doubts about continuing Ugo's pregnancy.

I remember that the difficulties of pregnancy were mainly at the end: Giovanna was hospitalized for a time that seemed eternal to me and there were serious risks for the health of the child, it seemed to us that the doctors did not intervene and I was angry because they did not want to take responsibility for making a c-section. Then I found a doctor who accepted and also allowed me to stay in the operating room.

When Giovanna came home I don't remember that she had any particular psychological suffering, but she probably felt the need for protection and help for her son. We had an apartment in ZZ where we both agreed to live, but she felt lonely because I was working at night in a brewery at the time. That's why Giovanna went to live with her parents and after a few months I left the apartment and moved to her parents' house. In the meantime, I got a XX job.

8) I really believe that Giovanna would never have been willing to conceive another child without the positive opinion of the doctor. We both depended on the doctor's judgment for that. It wasn't even a topic of discussion because it wasn't something that depended on us. At the time of the wedding Giovanna was still pregnant, she was in the fifth month. If Dr. Blu had given the okay, I think Giovanna would have wanted more children.

9) After the birth of Ugo we have never had potentially fruitful marital relationships. At the beginning of the marriage, I was the one who was careful with the condom. Then, when Giovanna's health allowed it, Dr. Blu prescribed the use of the pill that she began to take regularly. We agreed on that and I didn't even ask myself the problem.

10) In relation to what is written in the libellus, I confirm both the fact that I was present at the checkup with Giovanna and Dr. Blu in 1997, and the fact that the doctor was willing to follow her for a second pregnancy. But I was against it for various reasons. First of all because I still saw all the risks to Giovanna's health in going to another pregnancy. Secondly, because of our economic situation and the desire to keep spaces for personal growth: at the time I studied at the conservatory in TT and at night I was a porter in a hotel, also having the fifth year of high school to attend as an evening school. I was therefore very busy in my days and I remember that Giovanna also worked, she was always a woman who worked hard. I just didn't think it was the right context for having another child.

11) Giovanna had never mentioned to me before that she wanted another child, or at least I don't remember it. By the way, it may also be that, not wanting to hear this topic, I easily forgot it.

12) I remember that when we went to live in PP, for about a year and for work reasons, our relationship as a couple had its first hesitations. On the other hand, I must also say that it was the first time that we were really alone with Ugo. In fact, it was also the only time we lived alone. This new situation put in evidence our differences. We remained faithful to one another, I was, and I have no reason to say that Giovanna was not.

13) Back from PP we went to live again with Giovanna's parents. I continued my studies at the conservatory [...]. At that time Giovanna proposed me to buy a house and I refused categorically: for me it meant being bound in a moment in which I began to deeply desire a different lifestyle, especially I wanted to turn to music. In fact, I was the one who separated me, Giovanna proposed me a course of couple, but I refused. By character I take a lot to make a decision, I like to think about it, but then once taken I carry it forward with determination.

14-15) I do not currently have a new report, although I have had one in recent years. I live alone and have no other children. I have no idea if Giovanna is having a new relationship now, she certainly hasn't had any other children. I read the libellus and found it to be consistent with our affective and matrimonial experiences.

9 - Deposition of Mrs. Giada Verde, mother of the actress (19.01.2017)

1-2) I am Giovanna's mother and I can say that I have always had a good relationship with her. Giovanna has always had a strong and determined character, with clear points to reach. We have educated her in Christian values and she has always been a believer and a practitioner. [...]

Matteo is a friendly person who knows how to be loved, but over time I have also discovered him a liar on some aspects. For example, he said to go home at 1 a.m., but actually came home at 4 a.m. or 5 a.m., saying that the police had stopped him. Actually, later I heard from my brother that they'd seen him at the bar with other women. I don't know when he joined Buddhism, but I remember that during his marriage he said he wanted to go to Nepal to find himself.

3) Giovanna fell ill at 17 years of SLE. She'd lost a lot of weight and even run the risk of dying. From the physical and psychological point of view, the experience of the disease was devastating for Giovanna, and from the point of view of her personality she closed a lot in that period. [...]

4-5) When Giovanna met Matteo, the illness was not yet dormant: it was felt and it was still seen on her body. He still went to Dr. Blu three or four times a year. However, Matteo knew all about this: I remember that when they met they talked for a long time about their respective health problems. [...]

6) I remember that their engagement was linear, every month they celebrated being together again. In this period they didn't talk about children: they were just getting to know each other and, by the way, for my daughter it was her first experience, it didn't even seem true to her that anyone could become attached to her. You could tell they were in love.

7) Giovanna found herself pregnant about a year and a half of dating. The disease was a serious and heavy thing, but educating my daughter with certain values and finding her pregnant was a hard blow to me. I have to admit, though, that she didn't expect it either. I don't know what happened, because from what I know they didn't even have a full report. When she discovered the pregnancy, Giovanna was not worried, but not even serene, because she could not understand what had happened. She was very confused and so I saw Matteo. I remember that when my daughter called him to tell him about the outcome of the exam, Matteo first made a long silence and then said "better, so we get married right away," as it actually took place. Matteo's family said that it was not necessary to get married immediately and indeed, even though I saw them in love, I was rather apprehensive. But Matteo was determined and when they went to the parish priest, during the prenuptial investigation, he found that there was nothing that could block them: they seemed made for each other.

8) After discovering the pregnancy, I took Giovanna to Prof. Blu and I remember that she got very angry. There had never been any discussion of children until then, because it was not really a topic that could be centered on their relationship, since they were just beginning. The professor said that the baby could be born malformed and deaf and also Giovanna's illness at the time of delivery could explode again. The whole pregnancy was at risk and in order to avoid negative consequences for the child she had to immediately stop taking Plaquenil. The professor was therefore clear in saying the problems that could be faced (I remember that he showed us terrible statistics), but Giovanna was determined from the beginning in wanting to carry on the pregnancy. The professor was also very clear in saying that there should be no more pregnancies in the most absolute way, because of his illness.

9) Giovanna loved and loves children, so she was attentive to the moment she was living and said she would think about the future later. I can also say that she relied on Prof. Blu

blindly and therefore made her own the doctor's ban on having other pregnancies. Giovanna had a difficult pregnancy, twice a month I took her to the hospital for check-ups. But I must also say that she was happy and faced these difficulties with joy. In addition, Matteo supported her on this journey and he too was happy.

10) Giovanna did not intend to give birth to other children at the time of the wedding, because everything was in precarious balance because of the disease. You can say that much depended on the professor's judgment, because if he had given the Ok you could also think of having other children but certainly after years. In addition, SLE is a disease that has to do with mood: if there were moments of depression (I feared it when Matteo left) the disease could explode again, because it is linked to the immune system. I can add that Matteo seemed happy to have only had one son: he said that he "had given", in the sense that for him one was enough. When Ugo was born, he felt a bit put aside not only by Giovanna but also by us. He used to say that laughing and joking, but I think there was a kernel of truth.

Giovanna openly said she didn't want any other children than Ugo, because the pregnancy had left its mark on her. I think if the disease hadn't been there, everything would have been easier. Ugo was born after the wedding: the wedding was in fact celebrated when she was in the fifth month.

11) I cannot say whether they had potentially fruitful marital relationships, because Giovanna no longer confided herself to me. But I can assure you that there were no more pregnancies. I remember that after childbirth he resumed taking the Plaquenil. I am asked if Giovanna was also taking the pill and I answer that probably yes, because I remember that when she went to Dr. Blu we also talked about this and the dosage to be taken. I would add that Matteo agreed not to have other children, as I have already said.

12) Giovanna, when Ugo was about 4 years old, began to have the desire to have another child. She had never made this wish before, at least with me. The disease, with due precautions, seemed under control, but despite this Matteo was against having other children.

13) I don't know if Prof. Blu had agreed to have another son, because by now Giovanna was going to him with her husband. I wasn't involved in these conversations, I heard them talking sometimes at home, but I didn't interfere.

14-15) Since they returned from PP, where they had been for work, I saw that Matteo was increasingly distant from his wife. Matteo left the house when Ugo was 6 years old. Giovanna tried in every way to bring her husband nearer to herself, but she did not succeed. The separation was desired by him just after she had asked him for another son. [...]

16) For me Matteo is not a sincere and credible person: he is sunny, but not sincere. Giovanna, on the other hand, is an outspoken person who says things the way they are.

10 - Deposition of Barbara Neri, sister of the actress (19.01.2017)

1) I am Giovanna's older sister. I have always had a good relationship with her and I would say also of confidence [...] I also had a good relationship with Matteo.

2) Giovanna is a good and helpful woman, but the various vicissitudes she has experienced and especially since the last separation have made her rather strong and determined. In the family we were educated christianly and Giovanna has always been a believer and practitioner. We were and are a very close family. Matteo is a person who takes you, fascinating, but who also knows how to make a good impression on you, always has the last word. Besides, he's selfish, he's a free spirit. [...]

3) Giovanna fell ill with SLE at the age of 17. Since then she spent more than 3 months in hospital to figure out what the disease was about. It is a disease that does not allow a definitive recovery: it is in remission but will never heal. [...]

4-5) The disease was still very present when Giovanna met Matteo at a party. He still had several check-ups a year and still took a lot of drugs. Giovanna was at her first affective experience and I don't think Matteo had any other experiences.

6) When I saw them together I understood that they were both very much in love. I liked to see them together because they respected each other and that was a good thing. There was no desire to have children: they had just met and, moreover, they were very young.

7) It had been about a year and a half since they had been dating each other, perhaps even less, when Giovanna found herself pregnant. It was an unexpected situation and I say this also with reference to the fact that she has always denied having had complete relationships. You could tell they were just inexperienced. They were moments of concern, but also of amazement. I remember that when I took the positive test home myself, Giovanna was already on the phone with Matteo and she immediately told him that she was pregnant. He said it was better, so they'd get married sooner. At that age, I'd say they were a little unconscious.

8) Giovanna immediately went to Prof. Blu with my mother, because we were really worried. He made it clear that the risks to my sister's life and to the child's health were very high, so much that, if I remember correctly, he made it clear that it would be better to terminate the pregnancy. But my sister and Matteo decided to carry on with it and that's why I admired them. The risks for the unborn child were to be born deaf and dumb or blind, because of the medicines that Giovanna was taking. The professor absolutely recommended not to have any other pregnancies.

9) I remember that for Giovanna at the beginning there was so much fear that the disease would worsen: they even gave her the ban on breastfeeding to avoid a similar risk. Surely for her what the professor said had to be observed to the letter and I can say that my mother also helped her to respect the commands of the professor. It seems to me that at that time Giovanna and my mother were almost in symbiosis, precisely because of the disease. It was a difficult pregnancy, it was always under control and there was always a lot of fear. I still believe that the joy of having a child prevailed over everything else. I can say this also for Matteo because I remember him happy.

10) I believe that the professor's recommendation prevailed over everything at the time of the wedding and that therefore Giovanna would not have opened up to have other children without his positive opinion. In fact, the first child arrived unexpectedly, but a second child would not have had the same path. That Prof. Blu had forbidden other children was something that I also knew, but that Giovanna didn't want them in practice is something that I derive from her behavior, from the fact that actually no others arrived and from the fact that the disease was always present.

11) I remember that my sister could not take the pill because of the medication she was taking and therefore it was Matteo who used the condom. Their sexual intercourses were therefore not open to life. They were very careful and agreed on this; they did not want to take risks.

12) When Ugo was about 3 or 4 years old, Giovanna began to thin out the medical examinations and if I remember correctly she took much less medication. It was at that time that she began to express her desire to have another child. I've never heard her express herself

like this before. Matteo, however, never wanted any more, I do not remember how he justified this refusal but I clearly remember that he was clear and resolute in this regard.

13) Giovanna consulted with the professor to have another son and I know that he had said that at this point you could program. Before then, the doctor had never been asked about this subject. In any case, Matteo remained firm about his refusal.

14) In fact, they always lived with my parents, because they couldn't afford to be autonomous. I only remember a short time at ZZ outside the house, at the beginning of the wedding, and about a year in the mountains at PP when they ran an inn, Ugo was about 4 years old and I think it was at that time that they moved away affectively. Of the last phase of their married life I cannot report much because I frequented them less [...]

15) I have serious doubts about Matteo's sincerity and credibility: it seems strange, because I love him, but I can't help noticing that he is able to turn the discourses to his advantage. My sister is sincere and credible: lies are not part of her.

11 - Note of the Principal of the case (4.09.2017): the libellus and the depositions of the negative case concerning the exclusion of indissolubility and offspring by man are acquired in the records.

12 - Acts of the previous case

- libellus introduced by Giovanna Neri (3.10.2005)

I met Matteo at a birthday party in March 1991 and immediately we felt a strong connection between us, so much that in the short span of a few days we considered ourselves engaged. Our premarital attendance lasted about a year and during this period we had some great experiences together. Despite our differences, some of which are very deep, such as in the religious field, we had a lot in common, and I felt attracted to that young man who was so intelligent and elegant.

In January 1993 I realized that I was expecting a son and peacefully we both turned to marriage. Matteo agreed to the celebration of the religious rite out of respect for my faith and the expectations of families.

Pregnancy was not easy, especially because of concerns about the health of the unborn child. I, in fact, had been ill with SLE, a serious autoimmune disease for which I was about to die, and at the time of pregnancy I had to take a drug therapy potentially harmful to the fetus. In the end everything went well, and while I would have liked to have another child, Matteo married with the clear intention of not giving birth to others so as not to risk my health.

The married life was happy for 4 years, but the economic difficulties and the length of Matteo's studies and commitments slowly wore out our relationship. We were on the verge of committing ourselves with a long mortgage for the purchase of our coveted home when Matteo told me that he intended to leave me and was unshakable in his decision. I suffered enormously from it, even though I knew that Matteo had been married with different perspectives from mine, and, afterwards, I understood that he believed it was possible to dissolve the marriage if the circumstances became unsustainable.

Today, wishing to live my faith fully within the Church, I ask that this Court declare my marriage null and void because of the exclusion of indissolubility and offspring on the part of my husband.

- Deposition of the actress (17.01.2006)

1) Matteo comes from a Christian and practicing family. But he claimed that, for various reasons of his life, he did not practice. According to him, the priests were all fake, hypocritical, interested only in money. He later approached Buddhism through his uncle.

2) In the engagement we never had a full sexual intercourse, even if we had a lot of intimacy between us. According to the teachings of the Church I have always tried not to have complete relationships and Matteo respected me in this. [...] Despite this attention I became pregnant, probably because of the inexperience of both.

3) There was in us the desire to marry, but we did not have time to gradually mature in this path. We were talking about a future marriage, beyond time, so the engagement would have to last a long time. We felt very united, very in agreement on everything except the religious dimension of life. Matteo was rather indifferent so he didn't attend the Church.

4) The only reason for perplexity with reference to Matteo was his position towards religion. But it is also true that our dialogue was conditioned by an excessive infatuation: it was the feeling that was the master.

5) At the age of 17 I found myself ill with SLE: it is an immune disease that has affected me in the dermatological apparatus. It's a chronic disease that remains latent. I have always spoken clearly about all this, and immediately, with Matteo since our first meeting. [...]

6) It was not easy for me to accept pregnancy, especially as I was afraid of my illness. It should be borne in mind that the therapy I was treated with (Plaquenil) could cause congenital deafness to the fetus and exacerbate my disease. I had also previously taken large amounts of cortisone that was not harmless to the fetus. Matteo said to the telephone communication of my pregnancy: "Well, then I'll marry you first". I had also suggested that he wait, perhaps to live together, to better prepare ourselves for Christian marriage. Matteo, on the other hand, had no doubts and wanted us to get married immediately. [...]

7) I tried to make Matteo understand the sense and meaning of Christian marriage: I was willing to wait to celebrate it with greater awareness and adequate preparation. Matteo instead was very happy to marry me in the Church and immediately. I started working nine months after Ugo was born. Matteo had more difficulty finding a job, but he always worked hard. We have also managed a hotel, a bar and a restaurant in the mountains. But the thing ended negatively so we had to leave this activity and return to my parents. In the meantime Matteo had enrolled in the conservatory. He used to frequent different companies and in these he met a girl to whom he was affectionately attached. He then completed his studies as a surveyor, enrolled in the conservatory, we started to look for a house together, but, as soon as the deposit of the house was given, in October 1999, he abandoned the matrimonial roof and after three months he asked for separation.

7-8) When the mountain work story was over, I asked my husband to have another child. I had in fact seen my husband more serene, more available because he had left the woman with whom he had a relationship. But our dialogue was very low, we had very little time in common, we had almost no more time for our sexual life either. Matteo did not accept my request for another son, leading to justification for my illness and economic aspect that was still precarious. During the engagement we never had an opportunity to talk about children: it was too short and there was no time to ask ourselves this problem. I have never been able to understand Matteo's position with regard to children. I do not even remember statements or expressions for or against them. I, thinking of our married life, dreamed and wished to have two children. In addition to the two reasons mentioned above, to exclude other children, Matteo also had to take into account his increased egocentricity that led him to focus on himself and his musical career.

9-13) Pregnancy, at the beginning, led us to unite even more. We lived the first years of marriage in a positive way, despite the economic difficulties. The birth of Ugo has increased our cohesion. In the first three years of my son's life, Matteo was everything for the home and the family.

14) When Ugo was 2 years old, I had expressed to Matthew the desire for another son. My husband was not available because of the economic hardship we were facing. Later, returning from the mountain, as I said before, I returned to express the desire for a son, but still Matteo proved himself unavailable. I have not had any more pregnancies, avoid with a condom and in recent years with the pill. We were both careful to avoid unwanted pregnancies.

15-18) Our married life was serene only in the first three years. After one working experience in the mountains, Matteo took the path of the conservatory. I was happy, I had no obstacles because I wanted him serene. But in the conservatory he encountered a completely different life and his family had become a ball and chain. In the first three years of our marriage, I'm sure we've both remained faithful. For my part also afterwards. [...]

- Deposition of the defendant (24.01.2006)

1) Before marriage, Giovanna and I were in tune with the ideals of life, but not in their application. Giovanna was anchored in religious principles, while I appealed to human values, also because I am more rational, more concrete.

2-3) After discovering the pregnancy, we were overwhelmed by the events, there was no material time to deepen the step of the wedding: at that time the wedding seemed the most normal step. We were good together at the time. There were practical difficulties because I was still studying. We faced the concrete problems, with which we were confronted, with the wedding, but nothing else because, as I repeat, we did not have the time and, besides, we were good together. We were still in the phase of falling in love, where more space was given to affectivity than to reasoning. [...]

4-5) I had been clearly informed by Giovanna about her illness. It didn't bother me at all anyway. We were aware that this was a risky pregnancy. We'd looked into it and had our own concerns. In the first impact Giovanna was shocked to find herself pregnant. She was afraid and, in my opinion, her greatest fear was that I could wash my hands of it. Of course, I too was shocked at first, but we both took responsibility. [...]

6-7) We have decided together to marry by Christian marriage. We have not put forward any other solutions. Marriage was a consequential step in accepting the child. [...]

8-12) Before the wedding we faced the problem of children only because we were waiting for Ugo. Personally, I was against having other children. This attitude of mine stemmed from Giovanna's state of health and also from economic reasons: we still had no security. I currently have this son whom I love very much, but I am not willing to accept others: Ugo already completes my life. [...]

13) After the marriage, Giovanna soon revealed herself to be a very mama's girl. Born Ugo, he went back to his parents for help. She couldn't get away from them anymore and in the end, after a year, I went to live with her to her parents. I've been through all this a little bit bad. The birth of Ugo has tied us very closely, not only between the two of us, but also with our families of origin.

14) Giovanna occasionally expressed the desire for a second child, but I immediately interrupted her by telling her not to challenge her luck. We'd done well once, and we shouldn't have tried again. We were both careful not to get pregnant. Giovanna used the pill.

15-17) The first problems arose when we moved to PP for work reasons. The work management activity had begun to pose important problems to us. I went back to the conservatory. Then there was a progressive detachment. Then we separated.

18) I believe that Giovanna introduced this cause because of problems of conscience.

- Deposition of the defendant's sister and brother (31.01.2006): *in actis*

13 - Second deposition of the plaintiff (3.11.2017)

1) *During the premarital investigation to the question whether «accepts the task of maternity without excluding the good of procreation», you stated that you accept to be the mother of the child you were expecting. Did this mean for you to refuse to have other children from the union with Matteo?*

I wanted to have more children with Matteo, because my dream had always been to have at least two children. But I actually couldn't have any more.

2) *When you informed Dr. Blu of the pregnancy, you say that he was «very categorical in saying, present also my mother, that we should no longer have pregnancies. I fully adhered to what I saw as a command». Was that your intention before you got married? And if Matteo, theoretically, had changed his mind, what would you have done? Would you have "followed" Matteo or the doctor?*

Yes, my intention was to have no more pregnancies until Dr. Blu had given me his consent. Only then, as he said, could I have planned another pregnancy. I would add that my illness forced me to take medication that, during pregnancy, not only caused problems for me but also for the fetus. If Matteo had told me that he wanted a son after Dr. Blu had given me his consent, I would have been happy and would not have backed down. But before that, the doctor's consent was given.

3) *Matteo claims to have agreed with what Dr. Blu said about not having children. Then he goes on to say that «we didn't have a couple's project that could say that we wanted other children, also because we were a couple to be built and invented. We had found ourselves in a role that we hadn't even imagined or wanted, even though we later accepted it». Do you agree with that statement? If so, what did it mean for you to be a couple to build and invent?*

I do not agree with what Matteo says, that is, that we were «a couple to be built and invented». I've known since the beginning of my marriage and even before what it meant to be a wife and a mother. Also in the early years there was a really good understanding between us.

4) *In the libellus of the previous case you state that after the firstborn you would have liked to have another child, but «Matteo married with the clear intention of not giving birth to others, for not risking my health». Would you have wanted more children at the time of the wedding or not?*

I repeat that I would have liked more children, but unfortunately we had different ideas in this regard. But I think we didn't even discuss this at the time before the wedding. He always made a lot of excuses, but when Dr. Blu began to give me permission to have a second child, I realized that Matteo had never really wanted other children. Moreover, at the time, our relationship was already broken.

5) *In the previous case you also stated that «once the mountain work story is over, I asked my husband for the possibility of having another child. ... I was thinking about our married life and I dreamed of having two children». Do you confirm that this was your wish? If so, was it always present in you during the relationship with Matteo or did it emerge only later (when Ugo was about 2 or maybe 4 years old)? In both cases, do you think there is a difference between the desire and the will to have children?*

I confirm that this was my wish and that it has always been present in my relationship with Matteo, and he knew it. In my opinion, there is a profound difference between the desire and the will to have children: from the ideal point of view I would have liked to have children, but from the point of view of the concrete and real will, I did not want and could not have children, because the disease was still active.

EXERCISE

Please answer the following questions:

1. In this specific case, can the desire to have children coexist with the antiprocreative will, or does the presence of such a desire necessarily exclude the positive act of will?

2. Given the state of health of the woman, can reasons relating to responsible procreation be invoked to justify the choice of not having other children? If so, how does this affect the legal judgment of the case?
3. In the present case can we say that the *causa excludendi* prevails over the *causa contrahendi*?
4. What is the relevance *pro nullitate* or *contra nullitatem* of the pre- and post-nuptial circumstances in the case?
5. The pre-nuptial pregnancy (recalled, as we know, in art. 14 of the MIDI application rules) what role did it play in the marriage decision? This circumstance could take on a legal significance within the setting of the case for another ground of nullity?
6. Is the reconstruction of the case in the present case coherent with the reconstruction in the previous case concerning the exclusion of offspring from human beings? Is it the same story told in a different but complementary perspective (first: exclusion by the man, then: exclusion by the woman) or two versions difficult to reconcile and the result of reinterpretation? In the light of this, how do you assess the credibility (intrinsic and extrinsic) of the woman?
7. From an preliminary point of view, would a completion of the test have been useful? In which way?
8. How do you rate the specific questions proposed by the Instructor in the actress' second statement? Are they really useful? Do they respect the provisions of can. 1564?
9. In the light of the study of the proceedings and the answers to the previous questions, how would you decide the case, affirmatively or negatively?

7th Renewal Course of Marriage Law and Canonical Procedure

Practical Case on the the boundary between Incapacity and Simulation

Prof. Héctor Franceschi

I. *Short story of the facts*

1. Francisco, the plaintiff, was born on May 24, 1950, and María, the defendant, was born on June 7, 1952. They met at the beginning of 1980 in the city of Caracas and an affective relationship immediately arose between them, which then immediately led to an official engagement and, subsequently, on September 19, 1981, to the canonical marriage, celebrated in the parish of St. Michael in Caracas, after the celebration of the civil marriage, as is always done in those countries to ensure the civil effects.

The life together lasted only two years. No children were born from their union and there was no sign of pregnancy. It was Francisco who wanted the separation and the subsequent divorce, obtained by consensus on July 9, 1984, because he accused his wife of being unfaithful to him, even though he was not right.

2. On June 10, 1987, Francisco presented a libel to the Interdiocesan Ecclesiastical Tribunal of Caracas, asking for the declaration of nullity of his marriage. The doubt was agreed with the following formula: "Conscience of marriage nothingness for: 1) serious lack of discretion in judging the rights and duties of marriage in both spouses; 2) the inability to assume the obligations of marriage for a cause of psychic nature in both spouses.

On March 10, 1989 a sentence was issued, according to which it was not established that the marriage was null and void for any of the alleged chapters.

3. Francisco presented the appeal to the Roman Rota. At the Rota the doubt was agreed with the following formula: "The nullity of the marriage is ascertained, in the case, for the exclusion of the *boni sacramenti* by the plaintiff man, *tamquam in prima instantia*, for the inability of both to assume the conjugal obligations and for the lack of discretion of judgment in both, at the level of appeal".

It is interesting to note that, in the Rotal judgment, although in the *in iure* they first dealt with the chapter on exclusion and then the chapter on incapacity, *in facto* the judges began to deal with the heads of incapacity and then moved on to the chapter on the exclusion of indissolubility.

II. *Most relevant elements of the evidentiary phase*

(A) With regard to the chapters referred in the canons 1095, 2 and 3 in both parties.

4. With regard to the woman's incapacity, it was not possible to submit her to an expert's report because she refused and also refused the participation of some witnesses who could have talked about her psychological condition. From the plaintiff's statement and from the testimony of the witnesses proposed by him, there is nothing to suggest a possible psychic incapacity in the defendant. For example, the plaintiff's mother says, "Nothing made me suppose that she was not capable of marriage," which was also confirmed by the plaintiff's sister.

5. With regard to the plaintiff, the Investigation has revealed the following elements, facts and statements.

There were in his childhood some elements that may have made it difficult for his harmonious maturation: when he was nine years old his parents divorced, and before the divorce there was a period of frequent quarrels and clashes between parents. After the divorce, the father practically disappeared from his life. However, according to the

relatives, the plaintiff received an excellent education from his mother, helped by some close relatives. Here are some statements from the mother: "He opened easily to me. Although he had the typical problems of adolescence, he was always a help to me. And a friend of the family says: "despite the absence of his father, Francisco has always been surrounded by a good, very united family". His sister says: "He has always been very applied in studies. He was in good health. Some difficulties in the relationship with the parents".

During his adolescence and youth Francisco was a diligent boy in his studies and then in his work. He was still a bit closed, uncertain in making decisions, without feeling the need to make new friends, shy in his relationship with other guys. One of the witnesses said, "He was a pretty quiet kid. He didn't like going out very much, he was "at home" and didn't feel the need to leave".

But when he reached the age of thirty-three, he was advised to start his own family. Since he had always had difficulty in relating with other boys and girls, he decided to make an advertisement in a newspaper to look for a wife: among the different possibilities that arose, he decided to choose between three girls that met his expectations. In the end, he decided for Maria, a beautiful girl for whom he had felt a strong physical attraction. Having established a stable emotional relationship with Maria, he was the first to speak of marriage, just as he was the first to think of divorce afterwards.

Shortly before the marriage, he began to have doubts about the success of that union, but he believed that it would be disrespectful and unworthy to back down, though secretly, until the last moment, he had the hope that it was Maria who backed down, but this does not happen. Among the reasons that made him doubt, there were some rumors about Maria's way of being and character and the fact that her mother did not like her so much and expressed doubts about her choice of son.

Speaking of married life, the plaintiff stated in his first statement that from the beginning there was no conjugal communion between him and his wife. In his next statement he went into more detail about the reasons, talking about suspicions about his wife's infidelity, which he then considered certain although there was no evidence to support it: "at first I had suspicions that led me to rethink my decision. I started to think about it and think about it. I found clues to his infidelity and, in the end, I was convinced, even though I didn't have certain evidence. So, I didn't feel attached to her anymore and I took back my freedom".

The witnesses heard do not show the plaintiff's inadequacy with regard to marriage obligations. Their depositions can be summarized as stated by the witness Marcela and the plaintiff's sister. Marcela says: "Francisco had the makings of a good husband and a good family man", while his sister says: "Of course, he was totally capable of taking on his commitments. He was mature. He was a very thoughtful boy."

The defendant herself declared her husband's unjustified jealousy, of which she was totally unaware until he presented her with the divorce application: "On April 8, 1983, Francisco showed me a legal document prepared by his lawyer in which he told me that he had begun the divorce process and that he would never go back on his steps regarding this decision. I asked him why and he told me that he had evidence of my infidelity with my boss at work, which was absolutely false, but there was no way to open a dialogue with him, so convinced.

6. The expert reports on the plaintiff

In the case there were two expert reports, one made by Dr. Pizzi, appointed by the Court of First Instance, and the other made by Dr. Bianco, appointed by the Court of the Roman Rota.

The first expert was able to examine the proceedings of the case and visit the expert's report, considering that the most important element to be determined in the case was the seriousness of the disturbance in the plaintiff. He didn't think it was useful to make tests. He concluded that there was no evidence that there was a psychic or at least psychological defect in the plaintiff's part. The report reads: "The first point to be underlined by the expert is that I have not found from the study of the acts and from the examination of Francisco any element that demonstrates the existence of a psychopathological state that could lead to an affirmative response to the request for nullity for psychiatric causes or even just psychological (Summ., p. 104; cf. *ibid.* p. 106 ad 4, ad 5, ad 6)".

Dr. Bianco, an office expert at the Rota, in addition to the facts learned through the proceedings of the case and through a direct meeting with the plaintiff, has conducted psychodiagnostic tests. In his conclusions, he took more account of the results of the tests than of the facts found in the proceedings and which emerged from the medical examination of the expert's report.

The expert concluded that the plaintiff would have been unable to contract the marriage rather because of the inability to assume the essential obligations of the marriage than because of a serious defect in the discretion of judgment. The expert indicated that there were, at the time of marriage, dependent personality traits and obsessive-compulsive disorder traits in him and that he had a very rigid and suspicious personality.

Prof. Bianco also maintained that Francisco today, instead, would be "capable of engaging psychologically in the existential situation of Christian marriage".

B) Regarding the exclusion of the *boni sacramenti*

The plaintiff, from his adolescence, totally abandoned religious practice and adherence to the truths of faith. He himself, with regard to church marriage, says: "If I agreed to marry in church, it was to please Maria, for me the religious content of the marriage was non-existent".

The following are the statements of the parties in both first and second instance, leaving aside the reasoning of the judges so as not to prejudice the discussion. The greatest weight is given by the plaintiff's statements in the two levels of judgment. In this regard, account should be taken of the probative value that current law gives to the parties' statements when accompanied by other evidence.

7. Statements by the plaintiff

"If I agreed to marry in church, it was to please Maria, for me the religious content of the marriage was non-existent.

"I was pervaded by the idea, as in Algeria, that the woman who betrays her husband would destroy her husband's honor... I always had this way of thinking in my mind: fidelity is the first thing. If my wife had been unfaithful, I wouldn't have felt more tied up. At the time of the marriage, I was very far from religion, I did not ask myself the question of indissolubility. For me it was a question of fidelity, of honor, and that's why I was in favor of divorce in case of infidelity of my wife.

"We realized that something was not right; if someone had made us understand what we really meant, we could both have the courage to get out of the spiral where we were trapped. I remember that the day before the wedding, Maria said to me crying: "If I had known your true personality better, I would never have married you"".

"I was quite puzzled about the union I was about to create, because in the previous months Maria had made derogatory comments about my mother... the content of these comments showed an opposition between the personality of my mother and that of my wife.

"When I married Maria, there was already a doubt about the woman I was marrying. There were a number of facts... The person I was going to marry appeared to me more and more like a woman who couldn't earn my trust. It was like starting a business that I knew would go bankrupt. As the marriage went on, I was in a state of increasing uncertainty. I wasn't quiet at the time. I was in pain and I didn't control events."

"I have decided to take precautions to defend my property (because under community of property, everything is divided between spouses in the event of separation). I have invested part of my assets to avoid having to share them in case of separation. It was the last two months before the wedding."

"Since we had intimate relationships, I considered myself morally committed. Maria had presented her resignation from work and it would not have been possible to get her job back. Professionally, I announced this wedding, received gifts. I feared that the announcement of a break would have negative effects on my profession."

"As long as loyalty is respected, there are possible solutions, but if there is infidelity, there is no remedy."

"For me it was a matter of fidelity, of honor, that's why I was in favor of divorce in case of infidelity of the woman."

"In my mind, if Maria had deceived me, I had in mind a total break-up, a divorce. For me indissolubility did not have the meaning of something irrevocable, it was erased by the infidelity of the woman. I have not accepted indissolubility."

"I didn't know exactly the truth. I had to pretend to know the truth. I had some clues about his infidelity. I had no proof, but I was convinced. So I didn't feel tied up anymore and regained my freedom".

8. Declarations by the defendant

"He didn't seem very anxious, loving, affectionate or caring... I had to take care of all the preparation for the wedding, including the religious one. It gave the impression of being totally detached. Two weeks before the wedding he was hateful...".

"My husband has always shown himself suspicious and suspicious, jealous for no reason. Since I "left pots and pans", then he automatically convinced himself that I was fooling him and so he told me". "No dialogue or discussion was possible with him. He said, "If this doesn't work, then let's get a divorce."

9. Depositions of witnesses

The witness Andres Grillo, in his deposition in the first instance, when there was still no talk of simulation, remembers that his friend Francisco told him: ""I would like to buy this house before the wedding because, if something happens - he was obviously thinking of a divorce - I do not want her to take advantage of it ...". To put it bluntly, just before the wedding it was clear that there was discomfort in him. You don't talk like that, you don't behave like that during the engagement, just before the wedding, without having anything in mind".

Andres himself states: "Unlike the custom of sharing everything with his chosen wife, he was very concerned about preserving his rights. I was aware of his lack of confidence in the future."

Mother of the plaintiff: "Especially the last week has been terrible. On the day of the civil wedding, the first thing my son said to me when he left the town hall was, "I think I made the biggest mistake of my life".

Witness Marcela, in his statement in the second instance: "A week before the wedding, he was rather upset."

Mother of the plaintiff: "Francisco always told me that he wanted above all a faithful woman to love him, because he had been strongly marked by our family history". "He said to me, "I will not be with an unfaithful woman, I will not keep her. I will file for divorce in this case."

Sister of the plaintiff: "Francisco has always said that fidelity is essential for him. The loyalty of both of us. And that if one day he learned that his wife was cheating on him, he would leave her".

III. Questions to prepare for discussion of the case

1. Do you think that the cases of canon 1095, 2 and /or 1095, 3 and the case of full or partial simulation can be given simultaneously in respect of the same person?
2. Taking into account the answer to the first question, how would you present incapacity and simulation arguments in a lawsuit? Simultaneously (*et o et/vel*), subordinately (*et quatenus negative*), alternatively (*vel*)? What are the reasons for your answer?
3. Are there many cases in the jurisprudence of the Rota Romana in which both chapters are given?
4. In this case, how would you have determined the doubt in the second instance? Why is that?
5. On the basis of the facts and evidence, do you think that in this case the marriage is null and void? If so, for which or which chapters and why? Justify the answer with the evidence in the case.
6. Do you think that the sentence, if affirmative, could be so because of one of the cases of incapacity under canon 1095 and because of the exclusion of the *boni sacramenti*?